former members of the uniformed services and their dependents to the extent that such expenses are not payable under medicare, and for other purposes; to the Committee on Armed Services.

S. 167. A bill for the relief of Alfredo Tolentino of Honolulu, Hawaii; to the Committee on Government Affairs.

By Mr. DEWINE:

S. 168. A bill to reform criminal procedure, and for other purposes; to the Committee on the Judiciary.

By Mr. CRAIG:

S. 169. A bill to amend the Immigration and Nationality Act with respect to the admission of temporary H–2A workers; to the Committee on the Judiciary.

By Mr. DEWINE:

S. 170. A bill to provide for a process to authorize the use of clone pagers, and for other purposes; to the Committee on the Judiciary.

S. 171. A bill to amend title 18, United States Code, to insert a general provision for criminal attempt; to the Committee on the Judiciary.

S. 172. A bill to amend title 18, United States Code, to set forth the civil jurisdiction of the United States for crimes committed by persons accompanying the Armed Forces outside of the United States, and for other purposes; to the Committee on the Judiciary.

S. 173. A bill to expedite State reviews of criminal records of applicants for private security officer employment, and for other purposes; to the Committee on the Judiciary.

S. 174. A bill to establish the Fallen Timbers Battlefield, Fort Meigs, and Fort Miamis National Historical Site in the State of Ohio; to the Committee on Energy and Natural Resources.

By Mr. INOUYE:

S. 175. A bill to amend chapter 81 of title 5, United States Code, to authorize the use of clinical social workers to conduct evaluations to determine work-related emotional and mental illnesses; to the Committee on Governmental Affairs.

S. 176. A bill for the relief of Susan Rebola Cardenas; to the Committee on the Judiciary.

S. 177. A bill to provide for a special application of section 1034 of the Internal Revenue Code of 1986; to the Committee on Finance.

By Mr. DEWINE:

S. 178. A bill to amend the Social Security Act to clarify that the reasonable efforts requirement includes consideration of the health and safety of the child; to the Committee on Finance.

By Mr. HATCH (for himself, Mr. LOTT, Mr. THURMOND, Mr. CRAIG, Mr. NICKLES, Mr. DOMENICI, Mr. STEVENS, Mr. ROTH, Mr. BRYAN, Mr. KOHL, Mr. GRASSLEY, Mr. GRAHAM, Mr. SPECTER, Mr. BAUCUS, Mr. THOMPSON, Mr. BREAUX, Mr. KYL, Ms. MOSELEY-BRAUN, Mr. DEWINE, Mr. ROBB, Mr. ABRAHAM, Mr. ASHCROFT, Mr. SESSIONS, Mr. D'AMATO, Mr. HELMS, Mr. LUGAR, Mr. CHAFEE, Mr. MCCAIN, Mr. JEFFORDS, Mr. WARNER, Mr. COVERDELL, Mr. COCHRAN, Mrs. HUTCHISON, Mr. MACK, Mr. GRAMM, Ms. SNOWE, Mr. ALLARD, Mr. BROWNBACK, Ms. COLLINS, Mr. ENZI, Mr. HAGEL, Mr. HUTCHINSON, Mr. ROBERTS, Mr. GORDON H. SMITH, Mr. BENNETT, Mr. BOND, Mr. BURNS, Mr. CAMPBELL, Mr. COATS, Mr. FAIRCLOTH, Mr. FRIST, Mr. GORTON, Mr. GRAMS, Mr. GREGG, Mr. INHOFE, Mr. KEMPTHORNE, Mr. MCCONNELL, Mr. MURKOWSKI, Mr. SANTORUM, Mr. SHELBY, Mr. SMITH, and Mr. THOMAS):

S.J. Res. 1. A joint resolution proposing an amendment to the Constitution of the United States to require a balanced budget; to the Committee on the Judiciary.

By Mr. HOLLINGS (for himself, Mr. SPECTER, Mr. DASCHLE, Mr. DORGAN, Mr. SHELBY, Mr. REID, Mr. FORD, and Mr. REED):

S.J. Res. 2. A joint resolution proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections; to the Committee on the Judiciary.

By Mr. THURMOND:

S.J. Res. 3. A joint resolution proposing an amendment to the Constitution of the United States relating to voluntary school prayer; to the Committee on the Judiciary.

S.J. Res. 4. A joint resolution proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mr. ROTH (for himself and Mr. MOYNIHAN):

S.J. Res. 5. A joint resolution waiving certain provisions of the Trade Act of 1974 relating to the appointment of the United States Trade Representative; to the Committee on Finance.

By Mr. KYL (for himself and Mrs. FEINSTEIN):

S.J. Res. 6. A joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims; to the Committee on the Judiciary.

By Mr. GRAMM:

S.J. Res. 7. A joint resolution proposing an amendment to the Constitution of the United States to require a balanced budget; to the Committee on the Judiciary.

By Mr. KYL:

S.J. Res. 8. A joint resolution proposing an amendment to the Constitution of the United States to provide that expenditures for a fiscal year shall exceed neither revenues for such fiscal year nor 19 per centum of the Nation's gross domestic product for the last calendar year ending before the beginning of such fiscal year; to the Committee on the Judiciary.

By Mr. KYL (for himself, Mr. ABRAHAM, Mr. BROWNBACK, Mr. COVERDELL, Mr. CRAIG, Mr. FAIRCLOTH, Mr. GRAMS, Mr. HAGEL, Mr. HELMS, Mrs. HUTCHISON, Mr. HUTCHINSON, Mr. INHOFE, Mr. MCCAIN, Mr. SANTORUM, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH, and Mr. THOMPSON):

S.J. Res. 9. A joint resolution proposing an amendment to the Constitution of the United States to require two-thirds majorities for increasing taxes; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MACK (for himself, Mr. GRAMM, Mr. FIRST, Mr. D'AMATO, and Mr. SPECTER):

S. Res. 15. A resolution expressing the sense of the Senate that the Federal commitment to biomedical research should be increased substantially over the next 5 years; to the Committee on Appropriations.

By Mr. LUGAR:

S. Res. 16. A resolution expressing the sense of the Senate that the income tax should be eliminated and replaced with a national sales tax; to the Committee on Finance.

S. Res. 17. A resolution on the ratification of the Chemical Weapons Convention; to the Committee on Foreign Relations.

By Mr. FAIRCLOTH:

S. Res. 18. A resolution to express the sense of the Senate regarding reduction of the national debt; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977 with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. MOYNIHAN (for himself, Mr. HELMS, Mr. LEAHY, Mr. JEFFORDS, Mr. DODD, Mr. FEINGOLD, and Mr. WELLSTONE):

S. Res. 19. A resolution expressing the sense of the Senate regarding United States opposition to the prison sentence of Tibetan ethnomusicologist Ngawang Choephel by the Government of the People's Republic of China; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. COVERDELL (for himself, Mr. COATS, Mr. GREGG, Mr. LOTT, Mr. BOND, Mr. ABRAHAM, Mr. ALLARD, Mr. ASHCROFT, Mr. CRAIG, Mr. DEWINE, Mr. DOMENICI, Mr. FAIRCLOTH, Mr. GORTON, Mr. GRAMS, Mr. HAGEL, Mr. HATCH, Mrs. HUTCHISON, Mr. HUTCHINSON, Mr. KYL, Mr. MCCAIN, Mr. MCCONNELL, Mr. MURKOWSKI, Mr. NICKLES, Mr. SMITH, Mr. THURMOND, and Mr. WARNER):

S. 1. A bill to provide for safe and affordable schools; to the Committee on Finance.

THE SAFE AND AFFORDABLE SCHOOLS ACT OF 1997

Mr. COVERDELL. Mr. President, for people to remain free, they must be educated. It is at the foundation of our liberty. This bill that has just been referred owes a great debt to Senator COATS of Indiana, Senator GREGG of New Hampshire, Senator ROTH of Delaware, Senator JEFFORDS of Vermont, Senator BOND of Missouri, Senator SHELBY of Alabama, and Senator GRASSLEY of Iowa.

Mr. President, there is a grave condition in our elementary and high schools across the land. Forty-six percent of our students have made at least one change in daily routine because of concerns about personal safety. Twenty-nine percent said it was easy to get illegal drugs. Seventy-nine percent have friends who are regular drinkers. Sixty-eight percent can buy marijuana within a day. Sixty-two percent have friends who use marijuana.

During the last 15 years, Mr. President, tuition at 4-year public colleges and universities rose 234 percent. In contrast, median household income rose only 82 percent, putting an ever tighter squeeze on those families that choose to and desire to send their children to college.

Since 1990, American college students have borrowed over $100 billion, and borrowing among students and families to seek their higher education has skyrocketed.

Mr. President, since 1965, the United States has spent half a trillion dollars—$500 billion—on Federal education

programs, yet 66 percent of 17-year-olds do not read at a proficient level, and reading scores have been declining for three decades. Moreover, 75 percent of fourth graders nationally scored below the proficient level of reading.

Mr. President, the Safe and Affordable Schools Act believes that no family—no family—in America should be forced to send their student to an unsafe, violent, and drug-infested school. I repeat, no family should be forced—forced—to put their child in a school that is certifiably unsafe, certifiably drug ridden.

This act will provide choice for children attending unsafe schools and provide an escape route from those kinds of schools. This act will ensure safe and drug-free schools and offers a grant program to those schools who are building better safety in the school place.

It is hard to believe, Mr. President, that 40 percent of our students today do not feel safe in school. One in five are taking a weapon to school. There are 2,000 acts of violence every hour in American classrooms.

Every student who chooses to go to college ought to have an affordable plan to do it. At the center point of this legislation is the Bob Dole Educational Investment Account. This will allow a family to put $1,000 a year, after tax, into an investment account of their choice, and when they are ready to send their child to school, the funds withdrawn from that account will occur with no tax liability. In other words, a plan setting forth, under the name of our former colleague, an opportunity for families to plan for their child's future education.

It will provide for the deduction of student loan interest. It will protect State prepaid tuition plans. It will provide and extend employer-provided educational assistance, and it will make nontaxable work-study awards, all geared toward making it possible for that family, that student, to provide for their higher education.

The Presiding Officer is very familiar with the Federal Government's propensity to force unfunded mandates on State and local governments. Such is the case with the individuals in the Disabilities Education Act, which was mandated by the Federal Government but never really paid for by the Federal Government. We are only making about a 7 percent to 8 percent contribution.

This act will authorize spending up to $10 billion over the next 7 years so that the Federal Government will be a true partner in that mandate and fund upwards to 40 percent of this act that was imposed on State government, freeing those State governments of funds that they can use to better improve their educational system.

Mr. President, when students arrive at college they ought to be proficient in the basic skills. I just cited figures that said they are not. This act will promote adult education and family literacy. The legislation provides $400 million in the form of block grants to States to establish programs to combat illiteracy. The bill creates a separate $100 million fund to provide incentive grants to encourage local innovation in addressing the problem of illiteracy.

Mr. President, I began my remarks by saying that one of the fundamental extensions of freedom is education. This has always been the case in America. We have come to a time when the schoolroom is not safe. Therefore, the education that must emanate there is severely impaired. This education is a function of the States. The Federal Government has a role in leadership and innovation and assistance. That is at the core of this legislation we are offering today.

Mr. President, I appreciate the opportunity to describe the act today.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1

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 ''Safe and Affordable Schools Act of 1997''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) in too many of our Nation's elementary and secondary schools the test confronting our Nation's children is survival, not learning;

(2) our Nation's schools will not be restored to excellence unless parents, States, and local communities take the lead; and

(3) the Federal Government's role in education is quite properly to encourage, not to mandate.

(b) PURPOSE.—The purpose of this Act is—

(1) to ensure that parents, local communities and States have the primary role in educating our Nation's children;

(2) to restore excellence to our Nation's schools;

(3) to give local communities and States maximum flexibility in administering Federal education programs;

(4) to allow education reforms to be tailored to the unique needs of local communities and States;

(5) to place the highest priority on providing our Nation's students with safe, drug-free learning environments;

(6) to ensure that the choice of whether to attend college is to the greatest extent possible the result of individual student desire and initiative, not the result of economic circumstances that leave young parents wondering how they can best provide such an education in the face of staggering college tuition costs;

(7) to focus resources on adult education, realizing that education often is a lifelong process; and

(8) to promote literacy by attacking our Nation's unacceptably high level of illiteracy.

TITLE I—SAFE AND DRUG-FREE SCHOOLS INITIATIVE

Subtitle A—Student Opportunity and Safety

SEC. 111. SHORT TITLE.

This subtitle may be cited as the ''Student Opportunity and Safety Act''.

SEC. 112. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds as follows:

(1) Violence, crime, and illegal drug activity have increased significantly in our Nation's public schools.

(2) It is estimated that 3,000,000 violent acts or thefts occur in or near schools, and that one in five public high school students carries a weapon.

(3) The incidence of violence, and criminal and illegal drug activity within public elementary and secondary schools threatens the school environment and interferes with the learning process.

(4) 2,000,000 more children are using drugs in 1997 than were doing so in 1993. For the first time in the 1990s, over half of our Nation's graduating high school seniors have experimented with drugs and approximately 1 out of every 4 of the students have used drugs in the past month.

(5) After 11 years of declining marijuana use among children aged 12 to 17, such use doubled between 1992 and 1995. The number of 8th graders who have used marijuana in the past month has more than tripled since 1991.

(6) More of our Nation's school children are becoming involved with hard core drugs at earlier ages, as use of heroin and cocaine by 8th graders has more than doubled since 1991.

(7) Students have a right to be safe and secure in their persons while attending school.

(8) Low-income families whose children attend high poverty public schools generally lack the financial ability to enroll their children in private schools or the opportunity to choose to enroll their children in public schools less impacted by poverty, illegal drugs, or violence, while such alternatives are typically available to more affluent families.

(9) Numerous research studies, including the 1993 National Assessment of the Chapter 1 Program, have concluded that students attending high poverty public schools have much lower levels of academic achievement than other students, regardless of the income level of the family of such students.

(10) Federally supported efforts to meet the educational needs of disadvantaged children attending high poverty schools have had little, if any, success in improving student achievement, especially in the highest poverty schools and school districts.

(11) Evidence obtained from systematic evaluations of school choice demonstration projects that involve public and private, including sectarian, schools will make an important contribution toward resolving debates over the most effective means of improving the academic achievement of disadvantaged children.

(12) It is increasingly important that children from families of all income levels meet high standards of academic achievement, in order to exercise the responsibilities of citizenship and to compete in globally competitive markets.

(b) PURPOSE.—It is the purpose of this subtitle—

(1) to provide children from low-income families who attend unsafe schools with the option of attending safer schools;

(2) to improve schools and academic programs by providing certain low-income parents with increased consumer power and dollars to choose safer and drug-free schools and programs that such parents determine best fit the needs of their children;

(3) to engage more fully certain low-income parents in their children's schooling;

(4) through families, to provide at the school site new dollars that teachers and principals may use to help certain children achieve high educational standards; and

(5) to demonstrate, through a discretionary demonstration grant program, the effects of

projects that provide certain low-income families with more of the same choices regarding all schools, including public, private, or sectarian schools, that wealthier families have.

SEC. 113. DEFINITIONS.

As used in this subtitle—

(1) the term ''choice school'' means any public or private school, including a private sectarian school or a public charter school, that—

(A) is involved in a demonstration project assisted under this subtitle; and

(B) is not an unsafe school;

(2) the term ''eligible child'' means a child in any of the grades 1 through 12—

(A) whose family income does not exceed 185 percent of the poverty line; and

(B) who would normally be assigned to attend an unsafe school in the absence of—

(i) a demonstration project under this subtitle; or

(ii) participation, prior to the date of enactment of this Act, in a school choice program;

(3) the term ''eligible entity'' means a public agency, institution, or organization, such as a State, a State or local educational agency, a consortium of public agencies, or a consortium of public and private nonprofit organizations, that can demonstrate, to the satisfaction of the Secretary, its ability to—

(A) receive, disburse, and account for Federal funds; and

(B) carry out the activities described in its application under this subtitle;

(4) the term ''evaluating agency'' means any academic institution, consortium of professionals, or private or nonprofit organization, with demonstrated experience in conducting evaluations, that is not an agency or instrumentality of the Federal Government;

(5) the term ''local educational agency'' has the same meaning given such term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801);

(6) the term ''parent'' includes a legal guardian or other individual acting in loco parentis;

(7) the term ''poverty line'' means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved;

(8) the term ''school'' means a school that provides elementary education or secondary education (through grade 12), as determined under State law;

(9) the term ''Secretary'' means the Secretary of Education;

(10) the term ''State'' means each of the 50 States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico; and

(11) the term ''unsafe school'' means a school that has serious crime, violence, illegal drug, and discipline problems, as indicated by conditions that may include high rates of—

(A) expulsions and suspensions of students from school;

(B) referrals of students to alternative schools for disciplinary reasons, to special programs or schools for delinquent youth, or to juvenile court;

(C) victimization of students or teachers by criminal acts, including robbery, assault and homicide;

(D) enrolled students who are under court supervision for past criminal behavior;

(E) possession, use, sale or distribution of illegal drugs;

(F) enrolled students who are attending school while under the influence of illegal drugs;

(G) possession or use of guns or other weapons;

(H) participation in youth gangs; or

(I) crimes against property, such as theft or vandalism.

SEC. 114. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $50,000,000 for the fiscal year 1998, and such sums as may be necessary for each of the fiscal years 1999 through 2002, to carry out this subtitle.

SEC. 115. PROGRAM AUTHORIZED.

(a) RESERVATION.—From the amount appropriated pursuant to the authority of section 114 in any fiscal year, the Secretary shall reserve and make available to the Comptroller General of the United States 2 percent for evaluation of programs assisted under this subtitle in accordance with section 121.

(b) GRANTS.—

(1) IN GENERAL.—From the amount appropriated pursuant to the authority of section 114 and not reserved under subsection (a) for any fiscal year, the Secretary shall award grants to eligible entities to enable such entities to carry out at least 20, but not more than 30, demonstration projects under which low-income parents receive education certificates for the costs of enrolling their eligible children in a choice school.

(2) AMOUNT.—The Secretary shall award grants under paragraph (1) for fiscal year 1998 so that—

(A) not more than 2 grants are awarded in amounts of $5,000,000 or less; and

(B) grants not described in subparagraph (A) are awarded in amounts of $3,000,000 or less.

(3) CONTINUING ELIGIBILITY.—The Secretary shall continue a demonstration project under this subtitle by awarding a grant under paragraph (1) to an eligible entity that received such a grant for a fiscal year preceding the fiscal year for which the determination is made, if the Secretary determines that such eligible entity was in compliance with this subtitle for such preceding fiscal year.

(4) PRIORITY.—The Secretary shall give priority to awarding a grant under paragraph (1) to an eligible entity that—

(A) is conducting a school choice program, involving public or private schools, on the date of enactment of this Act; and

(B) operates a school choice program, involving public and private schools, that is authorized by Federal law.

(c) USE OF GRANTS.—Grants awarded under subsection (b) shall be used to pay the costs of—

(1) providing education certificates to low-income parents to enable such parents to pay the tuition, the fees, the allowable costs of transportation, if any, and the costs of complying with section 119(a)(1), if any, for their eligible children to attend a choice school; and

(2) administration of the demonstration project, which shall not exceed 15 percent of the amount received in the first fiscal year for which the eligible entity provides education certificates under this subtitle or 10 percent in any subsequent year, including—

(A) seeking the involvement of choice schools in the demonstration project;

(B) providing information about the demonstration project, and the schools involved in the demonstration project, to parents of eligible children;

(C) making determinations of eligibility for participation in the demonstration project for eligible children;

(D) selecting students to participate in the demonstration project;

(E) determining the amount of, and issuing, education certificates;

(F) compiling and maintaining such financial and programmatic records as the Secretary may prescribe; and

(G) collecting such information about the effects of the demonstration project as the evaluating agency may need to conduct the evaluation described in section 121.

(d) SPECIAL RULE.—Any school participating in the demonstration program under this subtitle shall comply with title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and not discriminate on the basis of race, color, or national origin.

(e) SUPPLEMENT NOT SUPPLANT.—Each eligible entity receiving funds under this subtitle shall use such funds to supplement and not supplant the amount of funds that would, in the absence of such Federal funds, be made available from other sources to carry out the activities assisted under this subtitle.

(f) SUPPLEMENTATION OF FUNDING.—Each eligible entity receiving funds under this section is encouraged to supplement the funding received under this subtitle with funding received from State, local, or private sources.

(g) EDUCATION CERTIFICATES.—

(1) ASSISTANCE TO FAMILIES, NOT CHOICE SCHOOLS.—Education certificates provided under this subtitle shall be considered to be aid to families, not choice schools. A parent's use of an education certificate at a choice school under this subtitle shall not be construed to be Federal financial aid or assistance to that choice school.

(2) TAXES AND DETERMINATIONS OF ELIGIBILITY FOR OTHER FEDERAL PROGRAMS.—Education certificates provided under this subtitle shall not be considered as income to an eligible child or the parent of such eligible child for Federal, State, or local tax purposes or for determining eligibility for any other Federal program.

SEC. 116. AUTHORIZED PROJECTS; PRIORITY.

(a) AUTHORIZED PROJECTS.—The Secretary may award a grant under this subtitle only for a demonstration project that—

(1) involves at least one local educational agency that—

(A) receives funds under section 1124A of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6334); and

(B) is among the 20 percent of local educational agencies receiving funds under section 1124A of such Act (20 U.S.C. 6334) in the State and having the highest number or greatest percentage of children described in section 1124(c) of such Act (20 U.S.C. 6333(c)); and

(2) includes the involvement of a sufficient number of public and private choice schools, including sectarian schools, to allow for a valid demonstration project.

(b) PRIORITY.—In awarding grants under this subtitle, the Secretary shall give priority to demonstration projects—

(1) in which choice schools offer an enrollment opportunity to the broadest range of eligible children;

(2) that involve diverse types of choice schools; and

(3) that will contribute to the geographic diversity of demonstration projects assisted under this subtitle, including awarding grants for demonstration projects in States that are primarily rural and awarding grants for demonstration projects in States that are primarily urban.

SEC. 117. APPLICATIONS.

(a) IN GENERAL.—Any eligible entity that wishes to receive a grant under this subtitle shall submit an application to the Secretary at such time and in such manner as the Secretary may prescribe.

(b) CONTENTS.—Each application described in subsection (a) shall contain—

(1) information demonstrating the eligibility for participation in the demonstration program of the eligible entity;

(2) a description of how the eligible entity will determine a school to be a unsafe school in accordance with section 113(11);

(3) with respect to choice schools—

(A) a description of the types of potential choice schools that will be involved in the demonstration project;

(B)(i) a description of the procedures used to encourage public and private schools to be involved in the demonstration project; and

(ii) a description of how the eligible entity will annually determine the number of spaces available for eligible children in each choice school;

(C) an assurance that each choice school will not impose higher standards for admission or participation in its programs and activities for eligible children provided education certificates under this subtitle than the choice school does for other children;

(D) an assurance that the eligible entity will terminate the involvement of any choice school that fails to comply with the conditions of its involvement in the demonstration project; and

(E) a description of the extent to which choice schools will accept education certificates under this subtitle as full or partial payment for tuition and fees;

(4) with respect to the participation in the demonstration project of eligible children—

(A) a description of the procedures to be used to make a determination of eligibility for participation in the demonstration project for an eligible child;

(B) a description of the procedures to be used to ensure that, in selecting eligible children to participate in the demonstration project, the eligible entity will—

(i) apply the same criteria to both public and private school eligible children; and

(ii) give priority to eligible children from the lowest income families;

(C) a description of the procedures to be used to ensure maximum choice of schools for participating eligible children; and

(D) a description of the procedures to be used to ensure compliance with section 119(a)(1), which may include—

(i) the direct provision of services by a local educational agency; and

(ii) arrangements made by a local educational agency with other service providers;

(5) with respect to the operation of the demonstration project—

(A) a description of the procedures to be used for the issuance and redemption of education certificates under this subtitle;

(B) a description of the procedures by which a choice school will make a pro rata refund of the education certificate under this subtitle for any participating eligible child who withdraws from the school for any reason, before completing 75 percent of the school attendance period for which the education certificate was issued;

(C) a description of the procedures to be used to provide the parental notification described in section 120;

(D) an assurance that the eligible entity will place all funds received under this subtitle into a separate account, and that no other funds will be placed in such account;

(E) an assurance that the eligible entity will cooperate with the Comptroller General of the United States and the evaluating agency in carrying out the evaluations described in section 121; and

(F) an assurance that the eligible entity will—

(i) maintain such records as the Secretary may require; and

(ii) comply with reasonable requests from the Secretary for information; and

(6) such other assurances and information as the Secretary may require.

SEC. 118. EDUCATION CERTIFICATES.

(a) EDUCATION CERTIFICATES.—

(1) AMOUNT.—The amount of an eligible child's education certificate under this subtitle shall be determined by the eligible entity, but shall be an amount that provides to the recipient of the education certificate the maximum degree of choice in selecting the choice school the eligible child will attend.

(2) CONSIDERATIONS.—

(A) IN GENERAL.—Subject to such regulations as the Secretary shall prescribe, in determining the amount of an education certificate under this subtitle an eligible entity shall consider—

(i) the additional reasonable costs of transportation directly attributable to the eligible child's participation in the demonstration project; and

(ii) the cost of complying with section 119(a)(1).

(B) SCHOOLS CHARGING TUITION.—If an eligible child participating in a demonstration project under this subtitle was attending a public or private school that charged tuition for the year preceding the first year of such participation, then in determining the amount of an education certificate for such eligible child under this subtitle the eligible entity shall consider—

(i) the tuition charged by such school for such eligible child in such preceding year; and

(ii) the amount of the education certificates under this subtitle that are provided to other eligible children.

(3) SPECIAL RULE.—An eligible entity may provide an education certificate under this subtitle to the parent of an eligible child who chooses to attend a school that does not charge tuition or fees, to pay the additional reasonable costs of transportation directly attributable to the eligible child's participation in the demonstration project or the cost of complying with section 119(a)(1).

(b) ADJUSTMENT.—The amount of the education certificate for a fiscal year may be adjusted in the second and third years of an eligible child's participation in a demonstration project under this subtitle to reflect any increase or decrease in the tuition, fees, or transportation costs directly attributable to that eligible child's continued attendance at a choice school, but shall not be increased for this purpose by more than 10 percent of the amount of the education certificate for the fiscal year preceding the fiscal year for which the determination is made. The amount of the education certificate may also be adjusted in any fiscal year to comply with section 119(a)(1).

(c) MAXIMUM AMOUNT.—Notwithstanding any other provision of this section, the amount of an eligible child's education certificate shall not exceed the per pupil expenditure for elementary or secondary education, as appropriate, by the local educational agency in which the public school to which the eligible child would normally be assigned is located for the fiscal year preceding the fiscal year for which the determination is made.

SEC. 119. EFFECT ON OTHER PROGRAMS.

(a) EFFECT ON OTHER PROGRAMS.—

(1) IN GENERAL.—An eligible child participating in a demonstration project under this subtitle, who, in the absence of such a demonstration project, would have received services under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) shall be provided such services.

(2) PART B OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.—Nothing in this subtitle shall be construed to affect the requirements of part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).

(b) COUNTING OF ELIGIBLE CHILDREN.—Notwithstanding any other provision of law, any local educational agency participating in a demonstration project under this subtitle may count eligible children who, in the absence of such a demonstration project, would attend the schools of such agency, for purposes of receiving funds under any program administered by the Secretary.

(c) SECTARIAN INSTITUTIONS.—Nothing in this subtitle shall be construed to supersede or modify any provision of a State constitution that prohibits the expenditure of public funds in or by sectarian institutions.

SEC. 120. PARENTAL NOTIFICATION.

Each eligible entity receiving a grant under this subtitle shall provide timely notice of the demonstration project to parents of eligible children residing in the area to be served by the demonstration project. At a minimum, such notice shall—

(1) describe the demonstration project;

(2) describe the eligibility requirements for participation in the demonstration project;

(3) describe the information needed to make a determination of eligibility for participation in the demonstration project for an eligible child;

(4) describe the selection procedures to be used if the number of eligible children seeking to participate in the demonstration project exceeds the number that can be accommodated in the demonstration project;

(5) provide information about each choice school, including information about any admission requirements or criteria for each choice school participating in the demonstration project; and

(6) include the schedule for parents to apply for their eligible children to participate in the demonstration project.

SEC. 121. EVALUATION.

(a) ANNUAL EVALUATION.—

(1) CONTRACT.—The Comptroller General of the United States shall enter into a contract, with an evaluating agency that has demonstrated experience in conducting evaluations, for the conduct of an ongoing rigorous evaluation of the demonstration program under this subtitle.

(2) ANNUAL EVALUATION REQUIREMENT.—The contract described in paragraph (1) shall require the evaluating agency entering into such contract to annually evaluate each demonstration project under this subtitle in accordance with the evaluation criteria described in subsection (b).

(3) TRANSMISSION.—The contract described in paragraph (1) shall require the evaluating agency entering into such contract to transmit to the Comptroller General of the United States—

(A) the findings of each annual evaluation under paragraph (1); and

(B) a copy of each report received pursuant to section 122(a) for the applicable year.

(b) EVALUATION CRITERIA.—The Comptroller General of the United States, in consultation with the Secretary, shall establish minimum criteria for evaluating the demonstration program under this subtitle. Such criteria shall provide for—

(1) a description of the implementation of each demonstration project under this subtitle and the demonstration project's effects on all participants, schools, and communities in the demonstration project area, with particular attention given to the effect of parent participation in the life of the school and the level of parental satisfaction with the demonstration program; and

(2) a comparison of the educational achievement of, and the incidences of violence and drug activity related to, all students in the demonstration project area, including a comparison of similar—

(A) students receiving education certificates under this subtitle; and

(B) students not receiving education certificates under this subtitle.

SEC. 122. REPORTS.

(a) REPORT BY GRANT RECIPIENT.—Each eligible entity receiving a grant under this subtitle shall submit to the evaluating agency entering into the contract under section 121(a)(1) an annual report regarding the demonstration project under this subtitle. Each such report shall be submitted at such time, in such manner, and accompanied by such information, as such evaluating agency may require.

(b) REPORTS BY COMPTROLLER GENERAL.—

(1) ANNUAL REPORTS.—The Comptroller General of the United States shall report annually to the Congress on the findings of the annual evaluation under section 121(a)(2) of each demonstration project under this subtitle. Each such report shall contain a copy of—

(A) the annual evaluation under section 121(a)(2) of each demonstration project under this subtitle; and

(B) each report received under subsection (a) for the applicable year.

(2) FINAL REPORT.—The Comptroller General shall submit a final report to the Congress within 6 months after the conclusion of the demonstration program under this subtitle that summarizes the findings of the annual evaluations conducted pursuant to section 121(a)(2).

Subtitle B—Common Sense School Safety

SEC. 141. SHORT TITLE.

This subtitle may be cited as the ''Common Sense School Safety Act''.

CHAPTER I—PUPIL SAFETY AND FAMILY CHOICE

SEC. 151. PUPIL SAFETY AND FAMILY SCHOOL CHOICE.

Subpart 1 of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) is amended by inserting after section 1115A of such Act (20 U.S.C. 6316) the following:

''SEC. 1115B. PUPIL SAFETY AND FAMILY SCHOOL CHOICE.

''(a) IN GENERAL.—If a student is eligible to be served under section 1115(b), or attends a school eligible for a schoolwide program under section 1114, and becomes a victim of a violent criminal offense while in or on the grounds of a public elementary school or secondary school that the student attends and that receives assistance under this part, then the local educational agency may use funds provided under this part to pay the supplementary costs for such student to attend another school. The agency may use the funds to pay for the supplementary costs of such student to attend any other public or private elementary school or secondary school, including a sectarian school, in the same State as the school where the criminal offense occurred, that is selected by the student's parent. The State educational agency shall determine what actions constitute a violent criminal offense for purposes of this section.

''(b) SUPPLEMENTARY COSTS.—The supplementary costs referred to in subsection (a) shall not exceed—

''(1) in the case of a student for whom funds under this section are used to enable the student to attend a public elementary school or secondary school served by a local educational agency that also serves the school where the violent criminal offense occurred, the costs of supplementary educational services and activities described in section 1114(b) or 1115(c) that are provided to the student;

''(2) in the case of a student for whom funds under this section are used to enable the student to attend a public elementary school or secondary school served by a local educational agency that does not serve the school where the violent criminal offense occurred but is located in the same State—

''(A) the costs of supplementary educational services and activities described in section 1114(b) or 1115(c) that are provided to the student; and

''(B) the reasonable costs of transportation for the student to attend the school selected by the student's parent; and

''(3) in the case of a student for whom funds under this section are used to enable the student to attend a private elementary school or secondary school, including a sectarian school, the costs of tuition, required fees, and the reasonable costs of such transportation.

''(c) CONSTRUCTION.—Nothing in this Act or any other Federal law shall be construed to prevent a parent assisted under this section from selecting the public or private elementary school or secondary school that a child of the parent will attend within the State.

''(d) CONSIDERATION OF ASSISTANCE.—Assistance used under this section to pay the costs for a student to attend a private school shall not be considered to be Federal aid to the school, and the Federal Government shall have no authority to influence or regulate the operations of a private school as a result of assistance received under this section.

''(e) CONTINUING ELIGIBILITY.—A student assisted under this section shall remain eligible to continue receiving assistance under this section for at least 3 academic years without regard to whether the student is eligible for assistance under section 1114 or 1115(b).

''(f) STATE LAW.—All actions undertaken under this section shall be undertaken in accordance with State law and may be undertaken only to the extent such actions are permitted under State law.

''(g) TUITION CHARGES.—Assistance under this section may not be used to pay tuition or required fees at a private elementary school or secondary school in an amount that is greater than the tuition and required fees paid by students not assisted under this section at such school.

''(h) SPECIAL RULE.—Any school receiving assistance provided under this section shall comply with title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and not discriminate on the basis of race, color, or national origin.

''(i) ASSISTANCE; TAXES AND OTHER FEDERAL PROGRAMS.—

''(1) ASSISTANCE TO FAMILIES, NOT SCHOOLS.—Assistance provided under this section shall be considered to be aid to families, not schools. Use of such assistance at a school shall not be construed to be Federal financial aid or assistance to that school.

''(2) TAXES AND DETERMINATIONS OF ELIGIBILITY FOR OTHER FEDERAL PROGRAMS.—Assistance provided under this section to a student shall not be considered to be income of the student or the parent of such student for Federal, State, or local tax purposes or for determining eligibility for any other Federal program.

''(j) PART B OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.—Nothing in this section shall be construed to affect the requirements of part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).

''(k) SECTARIAN INSTITUTIONS.—Nothing in this section shall be construed to supersede or modify any provision of a State constitution that prohibits the expenditure of public funds in or by sectarian institutions.

''(l) MAXIMUM AMOUNT.—Notwithstanding any other provision of this section, the amount of assistance provided under this part for a student shall not exceed the per pupil expenditure for elementary or secondary education, as appropriate, by the local educational agency that serves the school where the criminal offense occurred for the fiscal year preceding the fiscal year for which the determination is made.''.

SEC. 152. TRANSFER OF REVENUES.

(a) IN GENERAL.—Notwithstanding any other provision of Federal law, a State, a State educational agency, or a local educational agency may transfer any non-Federal public funds associated with the education of a student who is a victim of a violent criminal offense while in or on the grounds of a public elementary school or secondary school served by a local educational agency to another local educational agency or to a private elementary school or secondary school, including a sectarian school.

(b) DEFINITIONS.—For the purpose of subsection (a), the terms ''elementary school'', ''secondary school'', ''local educational agency'', and ''State educational agency'' have the meanings given such terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

CHAPTER II—VICTIM ASSISTANCE PROGRAMS

SEC. 161. AMENDMENTS TO VICTIMS OF CRIME ACT OF 1984.

(a) VICTIM COMPENSATION.—Section 1403 of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended by adding at the end the following:

''(f) VICTIMS OF SCHOOL VIOLENCE.—Notwithstanding any other provision of law, an eligible crime victim compensation program may expend funds granted under this section to offer compensation to elementary and secondary school students who are victims of elementary and secondary school violence (as school violence is defined under applicable State law).''.

(b) VICTIM AND WITNESS ASSISTANCE.—Section 1404(c) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(c)) is amended by adding at the end the following:

''(4) ASSISTANCE FOR VICTIMS OF AND WITNESSES TO SCHOOL VIOLENCE.—Notwithstanding any other provision of law, the Director may make a grant under this section for a demonstration project or for training and technical assistance services to a program that assists local educational agencies (as local educational agency is defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801)) in developing, establishing, and operating programs that are designed to protect victims of and witnesses to incidents of elementary and secondary school violence (as school violence is defined under applicable State law), including programs designed to protect witnesses testifying in school disciplinary proceedings.''.

CHAPTER III—INNOVATIVE PROGRAMS TO IMPROVE UNSAFE SCHOOLS

SEC. 171. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the continued presence in schools of violent students who are a thereat to both teachers and other students is incompatible with a safe learning environment;

(2) unsafe school environments place students who are already at risk of school failure for other reasons in further jeopardy;

(3) recently, over one-forth of high school students surveyed reported being threatened at school;

(4) 2,000,000 more children are using drugs in 1997 than were doing so a few short years prior to 1997;

(5) nearly 1 out of every 20 students in 6th through 12th grade uses drugs on school grounds;

(6) more of our children are becoming involved with hard drugs at earlier ages, as use of heroin and cocaine by 8th graders has more than doubled since 1991; and

(7) greater cooperation between schools, parents, law enforcement, the courts, and the community is essential to making our schools safe from drugs and violence.

SEC. 172. PURPOSE.

It is the purpose of this chapter—

(1) to urge States, State educational agencies, and local educational agencies to provide comprehensive services to victims and witnesses of school violence;

(2) to urge States, State educational agencies, and local educational agencies to remove violent and drug selling student offenders from school premises;

(3) to urge States, State educational agencies, and local educational agencies to report violent crimes and drug dealing on school grounds to appropriate law enforcement authorities;

(4) to provide incentive grants for States, State educational agencies, and local educational agencies to involve parents, former armed forces personnel, and community volunteers in efforts to improve school safety; and

(5) to provide incentive grants to States, State educational agencies, and local educational agencies to develop innovative programs to improve the safety of our Nation's schools and to better serve at-risk students.

SEC. 173. DEFINITIONS.

In this chapter:

(1) ELEMENTARY SCHOOL, LOCAL EDUCATIONAL AGENCY, SECONDARY SCHOOL, AND STATE EDUCATIONAL AGENCY.—The terms ''elementary school'', ''local educational agency'', ''secondary school'', and State educational agency'' have the meanings given the terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Education.

SEC. 174. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this chapter.

SEC. 175. PROGRAM AUTHORIZED.

(a) IN GENERAL.—The Secretary is authorized to award grants to States, State educational agencies, and local educational agencies to develop, establish, or conduct innovative programs to improve unsafe elementary schools or secondary schools.

(b) PRIORITY.—The Secretary shall give priority to awarding grants under subsection (a) to programs that—

(1) provide parent and teacher notification of crimes or drug activity occurring at school;

(2) provide for the suspension, delay, or restriction of driving privileges of persons under the age of 18 who have a conviction, an adjudication in a juvenile proceeding, or a finding in a school disciplinary proceeding, involving illegal drugs;

(3) programs that link local educational agencies with community-based mentoring programs in order to link individual at-risk youth with responsible, individual adults who serve as mentors for the purpose of—

(A) discouraging at-risk youth from—

(i) using illegal drugs;

(ii) violence;

(iii) using dangerous weapons;

(iv) criminal activity; and

(v) involvement in gangs;

(B) increasing youth participation in, and enhancing the ability of such youth to benefit from, elementary and secondary education;

(C) promoting personal and social responsibility;

(D) encouraging at-risk youth participation in community service and community activities; and

(E) providing general guidance to at-risk youth;

(4) programs that include cooperative efforts between the Secretary and the Secretary of Defense to share the training and salary costs of former members of the Armed Forces who are hired as teachers and assigned to teach in public elementary schools and secondary schools, especially those programs located in communities that are adversely affected by the recent closing or substantial downsizing of a military base or facility; and

(5) programs to enhance school security measures that may include—

(A) equipping schools with metal detectors, fences, closed circuit cameras, and other physical security measures;

(B) providing increased police patrols in and around elementary schools and secondary schools, including canine patrols;

(C) mailings to parents at the beginning of the school year stating that the possession of a gun or other weapon, or the sale of drugs in school, will not be tolerated by school authorities; and

(D) gun hotlines.

SEC. 176. APPLICATION.

(a) IN GENERAL.—Each State, State educational agency, or local educational agency desiring a grant under this chapter shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

(b) CONTENTS.—Each application submitted under subsection (a) shall contain an assurance that the State or agency has implemented or will implement policies that—

(1) provide protections for victims and witnesses to school crime, including protections for attendance at school disciplinary proceedings;

(2) expel students who, on school grounds, sell drugs, or who commit a violent offense that causes serious bodily injury of another student or teacher; and

(3) require referral to law enforcement authorities or juvenile authorities of any student who on school grounds—

(A) commits a violent offense resulting in serious bodily injury; or

(B) sells drugs.

(c) SPECIAL RULE.—For purposes of paragraphs (2) and (3) of subsection (b), State law shall determine what constitutes a violent offense or serious bodily injury.

CHAPTER IV—NOTIFICATION FOR JUVENILE JUSTICE AND LAW ENFORCEMENT PURPOSES

SEC. 181. NOTIFICATION FOR JUVENILE JUSTICE AND LAW ENFORCEMENT PURPOSES.

The Secretary of Education, not later than 90 days after the date of enactment of this Act, shall prepare and distribute to State educational agencies and local educational agencies a notice regarding the extent of permissible disclosure of educational records under subparagraphs (E) and (J) of section 444(b) of the General Education Provisions Act (20 U.S.C. 1232g), including under the regulations issued pursuant to such subparagraphs.

TITLE II—AMENDMENTS TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 201. SHORT TITLE.

This title may be cited as the ''State Education Flexibility Act''.

SEC. 202. AMENDMENTS TO ESEA.

Subsection (b) of section 6301 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7351) is amended—

(1) in paragraph (7), by striking ''and'' after the semicolon;

(2) in paragraph (8), by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

''(9) programs using scholarships or vouchers provided to a parent by a local educational agency that permit the parent to select the public or private, including sectarian, school that the parent's child will attend, which programs may be similar to the program assisted under title I of the Safe and Affordable Schools Act of 1997, except that the provisions of sections 6402 and 14507, and any generally applicable provision relating to a prohibition against the use of Federal funds for religious worship or instruction, shall not apply to any program operated pursuant to this paragraph;

''(10) education reform projects that provide same gender schools, as long as comparable educational opportunities are offered for students of both sexes; and

''(11) education reform projects that reward teachers, administrators, and schools with cash bonuses and other incentives for significantly improving the academic performance of their students.''.

TITLE III—TAX INCENTIVES FOR HIGHER EDUCATION

SEC. 300. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This title may be cited as the ''Affordable College Act''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 301. BOB DOLE EDUCATION INVESTMENT ACCOUNTS.

(a) IN GENERAL.—Part VIII of subchapter F of chapter 1 (relating to qualified State tuition programs) is amended by adding at the end the following new section:

''SEC. 530. BOB DOLE EDUCATION INVESTMENT ACCOUNTS.

''(a) GENERAL RULE.—A Bob Dole education investment account (hereafter in this section referred to as an 'education investment account') shall be exempt from taxation under this subtitle. Notwithstanding the preceding sentence, the education investment account shall be subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable organizations).

''(b) LIMITATIONS ON ACCOUNTS.—

''(1) ACCOUNT MAY NOT BE ESTABLISHED FOR BENEFIT OF MORE THAN 1 INDIVIDUAL.—An education investment account may not be established for the benefit of more than 1 individual.

''(2) SPECIAL RULE WHERE MORE THAN 1 ACCOUNT.—If, at any time during a calendar year, 2 or more education investment accounts are maintained for the benefit of an individual, only the account first established shall be treated as a Bob Dole education investment account for purposes of this section. This paragraph shall not apply to the extent more than 1 account exists solely by reason of a rollover contribution.

''(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) BOB DOLE EDUCATION INVESTMENT ACCOUNT.—The term 'Bob Dole education investment account' means a trust created or organized in the United States exclusively for the purpose of paying the qualified higher education expenses of the account holder, but only if the written governing instrument creating the trust meets the following requirements:

''(A) No contribution will be accepted—

''(i) unless it is in cash,

''(ii) except in the case of rollover contributions from another education investment account, in excess of $1,000 for any calendar year, and

''(iii) after the date on which the account holder attains age 18.

''(B) The trustee is a bank (as defined in section 408(n)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which that person will administer the trust will be consistent with the requirements of this section.

''(C) No part of the trust assets will be invested in life insurance contracts (other than contracts the beneficiary of which is the trust and the face amount of which does not exceed the amount by which the maximum amount which can be contributed to the education investment account exceeds the sum of the amounts contributed to the account for all taxable years).

''(D) The assets of the trust shall not be commingled with other property except in a common trust fund or common investment fund.

''(E) Any balance in the education investment account on the day after the date on which the individual for whose benefit the trust is established attains age 30 (or, if earlier, the date on which such individual dies) shall be distributed within 30 days of such date to the account holder (or in the case of death, the beneficiary).

''(2) TIME WHEN CONTRIBUTIONS DEEMED MADE.—A taxpayer shall be deemed to have made a contribution on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof).

''(3) QUALIFIED HIGHER EDUCATION EXPENSES.—

''(A) IN GENERAL.—The term 'qualified higher education expenses' has the same meaning given such term by section 529(e)(3), except that such expenses shall be reduced by any amount described in section 135(d)(1) (relating to certain scholarships and veterans benefits).

''(B) STATE TUITION PLANS.—Such term shall include amounts paid or incurred to purchase tuition credits or certificates, or to make contributions to an account, under a qualified State tuition program (as defined in section 529(b)).

''(4) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' has the meaning given such term by section 135(c)(3).

''(5) ACCOUNT HOLDER.—The term 'account holder' means the individual for whose benefit the education investment account is established.

''(d) TAX TREATMENT OF DISTRIBUTIONS.—

''(1) IN GENERAL.—Except as otherwise provided in this subsection, any amount paid or distributed out of an education investment account shall be included in gross income of the payee or distributee for the taxable year in the manner prescribed by section 72. For purposes of the preceding sentence, rules similar to the rules of section 408(d)(2) shall apply.

''(2) DISTRIBUTION USED TO PAY EDUCATIONAL EXPENSES.—Paragraph (1) shall not apply to any payment or distribution out of an education investment account to the extent such payment or distribution is used exclusively to pay the qualified higher education expenses of the account holder.

''(3) SPECIAL RULE FOR APPLYING SECTION 2503.—If any payment or distribution from an education investment account is used exclusively for the payment to an eligible educational institution of the qualified higher education expenses of the account holder, such payment shall be treated as a qualified transfer for purposes of section 2503(e).

''(4) ADDITIONAL TAX FOR DISTRIBUTIONS NOT USED FOR EDUCATIONAL EXPENSES.—

''(A) IN GENERAL.—The tax imposed by this chapter for any taxable year on any taxpayer who receives a payment or distribution from an education investment account which is includible in gross income under paragraph (1) shall be increased by 10 percent of the amount which is so includible.

''(B) EXCEPTION FOR DISABILITY, DEATH, OR SCHOLARSHIP.—Subparagraph (A) shall not apply if the payment or distribution is—

''(i) made on account of the death or disability of the account holder, or

''(ii) made on account of a scholarship (or allowance or payment described in section 135(d)(1) (B) or (C)) received by the account holder to the extent the amount of the payment or distribution does exceed the amount of the scholarship, allowance, or payment.

''(C) EXCESS CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—Subparagraph (A) shall not apply to the distribution to a contributor of any contribution paid during a taxable year to an education investment account to the extent that such contribution, when added to previous contributions to the account during the taxable year, exceeds $1,000 if—

''(i) such distribution is received on or before the day prescribed by law (including extensions of time) for filing such contributor's return for such taxable year, and

''(ii) such distribution is accompanied by the amount of net income attributable to such excess contribution.

Any net income described in clause (ii) shall be included in the gross income of the contributor for the taxable year in which such excess contribution was made.

''(5) ROLLOVER CONTRIBUTIONS.—Paragraph (1) shall not apply to any amount paid or distributed from an education investment account to the extent that the amount received is paid into another education investment account for the benefit of the account holder not later than the 60th day after the day on which the holder receives the payment or distribution. The preceding sentence shall not apply to any payment or distribution if it applied to any prior payment or distribution during the 12-month period ending on the date of the payment or distribution.

''(6) SPECIAL RULES FOR DEATH AND DIVORCE.—Rules similar to the rules of section 220(f) (7) and (8) shall apply.

''(e) TAX TREATMENT OF ACCOUNTS.—Rules similar to the rules of paragraphs (2) and (4) of section 408(e) shall apply to any education investment account, and any amount treated as distributed under such rules shall be treated as not used to pay qualified higher education expenses.

''(f) COMMUNITY PROPERTY LAWS.—This section shall be applied without regard to any community property laws.

''(g) CUSTODIAL ACCOUNTS.—For purposes of this section, a custodial account shall be treated as a trust if the assets of such account are held by a bank (as defined in section 408(n)) or another person who demonstrates, to the satisfaction of the Secretary, that the manner in which he will administer the account will be consistent with the requirements of this section, and if the custodial account would, except for the fact that it is not a trust, constitute an account described in subsection (b)(1). For purposes of this title, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of such account shall be treated as the trustee thereof.

''(h) REPORTS.—The trustee of an education investment account shall make such reports regarding such account to the Secretary and to the account holder with respect to contributions, distributions, and such other matters as the Secretary may require under regulations. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations.''

(b) TAX ON PROHIBITED TRANSACTIONS.—Section 4975 (relating to prohibited transactions) is amended—

(1) by adding at the end of subsection (c) the following new paragraph:

''(5) SPECIAL RULE FOR EDUCATION INVESTMENT ACCOUNTS.—An individual for whose benefit an education investment account is established and any contributor to such account shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be an education investment account by reason of the application of section 530 to such account.''; and

(2) in subsection (e)(1), by striking ''or'' at the end of subparagraph (D), by redesignating subparagraph (E) as subparagraph (F), and by inserting after subparagraph (D) the following new subparagraph:

''(E) a education investment account described in section 530, or''.

(c) FAILURE TO PROVIDE REPORTS ON EDUCATION INVESTMENT ACCOUNTS.—Section 6693 (relating to failure to provide reports on individual retirement accounts or annuities) is amended—

(1) by inserting ''**OR ON EDUCATION INVESTMENT ACCOUNTS**'' after ''**ANNUITIES**'' in the heading of such section, and

(2) in subsection (a)(2), by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following new subparagraph:

''(C) section 530(h) (relating to education investment accounts).''

(d) COORDINATION WITH SAVINGS BOND EXCLUSION.—Section 135(d)(1) is amended by striking ''or'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting '', or'' , and by inserting at the end the following new subparagraph:

''(E) a payment or distribution from an education investment account (as defined in section 530).''

(e) CLERICAL AMENDMENTS.—

(1) The table of sections for part VIII of subchapter F of chapter 1 is amended by adding at the end the following new item:

''Sec. 530. Bob Dole education investment accounts.''

(2)(A) The heading for part VIII of subchapter F of chapter 1 is amended to read as follows:

''PART VIII—HIGHER EDUCATION SAVINGS ENTITIES''.

(B) The table of parts for subchapter F of chapter 1 is amended by striking the item relating to part VIII and inserting:

''Part VIII. Higher education savings entities.''

(3) The table of sections for subchapter B of chapter 68 is amended by striking the item

relating to section 6693 and inserting the following new item:

''Sec. 6693. Failure to provide reports on individual retirement accounts or annuities or on education investment accounts.''

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 302. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE PROGRAMS.

(a) PERMANENT EXTENSION.—Section 127 of the Internal Revenue Code of 1986 (relating to exclusion for educational assistance programs) is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(b) REPEAL OF LIMITATION ON GRADUATE EDUCATION.—The last sentence of section 127(c)(1) of such Code is amended by striking '', and such term also does not include any payment for, or the provision of any benefits with respect to, any graduate level course of a kind normally taken by an individual pursuing a program leading to a law, business, medical, or other advanced academic or professional degree''.

(c) EFFECTIVE DATES.—

(1) EXTENSION.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1996.

(2) GRADUATE EDUCATION.—The amendment made by subsection (b) shall apply with respect to expenses relating to courses beginning after June 30, 1996.

SEC. 303. MODIFICATIONS OF TAX TREATMENT OF QUALIFIED STATE TUITION PROGRAMS.

(a) EXCLUSION OF DISTRIBUTIONS USED FOR EDUCATIONAL PURPOSES.—Subparagraph (B) of section 529(c)(3) is amended to read as follows:

''(B) DISTRIBUTIONS FOR QUALIFIED HIGHER EDUCATION EXPENSES.—Subparagraph (A) shall not apply to any distribution to the extent—

''(i) the distribution is used exclusively to pay qualified higher education expenses of the distributee, or

''(ii) the distribution consists of providing a benefit to the distributee which, if paid for by the distributee, would constitute payment of a qualified higher education expense.''

(b) QUALIFIED HIGHER EDUCATION EXPENSES TO INCLUDE ROOM AND BOARD.—Section 529(e)(3) is amended to read as follows:

''(3) QUALIFIED HIGHER EDUCATION EXPENSES.—The term 'qualified higher education expenses' means the cost of attendance (within the meaning of section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087ll), as in effect on the date of the enactment of the Affordable College Act) of a designated beneficiary at an eligible educational institution (as defined in section 135(c)(3)).''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 304. DEDUCTION FOR INTEREST ON EDUCATION LOANS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 221 as section 222 and by inserting after section 220 the following new section:

''SEC. 221. INTEREST ON EDUCATION LOANS.

''(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction for the taxable year an amount equal to the interest paid by the taxpayer during the taxable year on any qualified education loan.

''(b) MAXIMUM DEDUCTION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the deduction allowed by subsection (a) for the taxable year shall not exceed $2,500.

''(2) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

''(A) IN GENERAL.—If the modified adjusted gross income of the taxpayer for the taxable year exceeds $45,000 ($65,000 in the case of a joint return), the amount which would (but for this paragraph) be allowable as a deduction under this section shall be reduced (but not below zero) by the amount which bears the same ratio to the amount which would be so allowable as such excess bears to $20,000.

''(B) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means adjusted gross income determined—

''(i) without regard to this section and sections 135, 911, 931, and 933, and

''(ii) after application of sections 86, 219, and 469.

For purposes of sections 86, 135, 219, and 469, adjusted gross income shall be determined without regard to the deduction allowed under this section.

''(C) INFLATION ADJUSTMENT.—In the case of any taxable year beginning after 1997, the $45,000 and $65,000 amounts referred to in subparagraph (A) shall be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section (1)(f)(3) for the calendar year in which the taxable year begins, by substituting '1996' for '1992'.

''(D) ROUNDING.—If any amount as adjusted under subparagraph (C) is not a multiple of $50, such amount shall be rounded to the nearest multiple of $50.

''(c) DEPENDENTS NOT ELIGIBLE FOR DEDUCTION.—No deduction shall be allowed by this section to an individual for the taxable year if a deduction under section 151 with respect to such individual is allowed to another taxpayer for the taxable year beginning in the calendar year in which such individual's taxable year begins.

''(d) LIMIT ON PERIOD DEDUCTION ALLOWED.—A deduction shall be allowed under this section only with respect to interest paid on any qualified education loan during the first 60 months (whether or not consecutive) in which interest payments are required. For purposes of this paragraph, any loan and all refinancings of such loan shall be treated as 1 loan.

''(e) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED EDUCATION LOAN.—The term 'qualified education loan' means any indebtedness incurred to pay qualified higher education expenses—

''(A) which are incurred on behalf of the taxpayer, the taxpayer's spouse, or any dependent of the taxpayer as of the time the indebtedness was incurred,

''(B) which are paid or incurred within a reasonable period of time before or after the indebtedness is incurred, and

''(C) which are attributable to education furnished during a period during which the recipient was at least a half-time student.

Such term includes indebtedness used to refinance indebtedness which qualifies as a qualified education loan. The term 'qualified education loan' shall not include any indebtedness owed to a person who is related (within the meaning of section 267(b) or 707(b)(1)) to the taxpayer.

''(2) QUALIFIED HIGHER EDUCATION EXPENSES.—The term 'qualified higher education expenses' means the cost of attendance (as defined in section 472 of the Higher Education Act of 1965, 20 U.S.C. 1087ll, as in effect on the day before the date of the enactment of this Act) of the taxpayer or the taxpayer's spouse at an eligible educational institution, reduced by the sum of—

''(A) the amount excluded from gross income under section 135 by reason of such expenses, and

''(B) the amount of the reduction described in section 135(d)(1).

For purposes of the preceding sentence, the term 'eligible educational institution' has the same meaning given such term by section 135(c)(3), except that such term shall also include an institution conducting an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility which offers postgraduate training.

''(3) HALF-TIME STUDENT.—The term 'half-time student' means any individual who would be a student as defined in section 151(c)(4) if 'half-time' were substituted for 'full-time' each place it appears in such section.

''(4) DEPENDENT.—The term 'dependent' has the meaning given such term by section 152.

''(f) SPECIAL RULES.—

''(1) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under this section for any amount for which a deduction is allowable under any other provision of this chapter.

''(2) MARRIED COUPLES MUST FILE JOINT RETURN.—If the taxpayer is married at the close of the taxable year, the deduction shall be allowed under subsection (a) only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

''(3) MARITAL STATUS.—Marital status shall be determined in accordance with section 7703.''.

(b) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62 is amended by inserting after paragraph (16) the following new paragraph:

''(17) INTEREST ON EDUCATION LOANS.—The deduction allowed by section 221.''

(c) REPORTING REQUIREMENT.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by inserting after section 6050R the following new section:

''SEC. 6050S. RETURNS RELATING TO EDUCATION LOAN INTEREST RECEIVED IN TRADE OR BUSINESS FROM INDIVIDUALS.

''(a) EDUCATION LOAN INTEREST OF $600 OR MORE.—Any person—

''(1) who is engaged in a trade or business, and

''(2) who, in the course of such trade or business, receives from any individual interest aggregating $600 or more for any calendar year on 1 or more qualified education loans, shall make the return described in subsection (b) with respect to each individual from whom such interest was received at such time as the Secretary may by regulations prescribe.

''(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

''(1) is in such form as the Secretary may prescribe,

''(2) contains—

''(A) the name, address, and TIN of the individual from whom the interest described in subsection (a)(2) was received,

''(B) the amount of such interest received for the calendar year, and

''(C) such other information as the Secretary may prescribe.

''(c) APPLICATION TO GOVERNMENTAL UNITS.—For purposes of subsection (a)—

''(1) TREATED AS PERSONS.—The term 'person' includes any governmental unit (and any agency or instrumentality thereof).

''(2) SPECIAL RULES.—In the case of a governmental unit or any agency or instrumentality thereof—

''(A) subsection (a) shall be applied without regard to the trade or business requirement contained therein, and

''(B) any return required under subsection (a) shall be made by the officer or employee appropriately designated for the purpose of making such return.

''(d) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

''(1) the name and address of the person required to make such return, and

''(2) the aggregate amount of interest described in subsection (a)(2) received by the person required to make such return from the individual to whom the statement is required to be furnished.

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

''(e) QUALIFIED EDUCATION LOAN DEFINED.—For purposes of this section, except as provided in regulations prescribed by the Secretary, the term 'qualified education loan' has the meaning given such term by section 221(e)(1).

''(f) RETURNS WHICH WOULD BE REQUIRED TO BE MADE BY 2 OR MORE PERSONS.—Except to the extent provided in regulations prescribed by the Secretary, in the case of interest received by any person on behalf of another person, only the person first receiving such interest shall be required to make the return under subsection (a).''.

(2) ASSESSABLE PENALTIES.—Section 6724(d) (relating to definitions) is amended—

(A) in paragraph (1)(B), by redesignating clauses (x) through (xv) as clauses (xi) through (xvi), respectively, and by inserting after clause (ix) the following new clause:

''(x) section 6050S (relating to returns relating to education loan interest received in trade or business from individuals),'', and

(B) in paragraph (2), by striking ''or'' at the end of the next to last subparagraph, by striking the period at the end of the last subparagraph and inserting '', or'', and by adding at the end the following new subparagraph:

''(Z) section 6050S(d) (relating to returns relating to education loan interest received in trade or business from individuals).''

(d) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 is amended by striking the last item and inserting the following new items:

''Sec. 221. Interest on education loans.

''Sec. 222. Cross reference.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to any qualified education loan (as defined in section 221(e)(1) of the Internal Revenue Code of 1986, as added by this section) incurred on, before, or after the date of the enactment of this Act, but only with respect to any loan interest payment due after December 31, 1996.

SEC. 305. EXCLUSION OF FEDERAL WORK STUDY PAYMENTS.

(a) IN GENERAL.—Section 117 (relating to exclusion of qualified scholarships) is amended by adding at the end the following new subsection:

''(e) EXCLUSION FOR WORK STUDY PAYMENTS.—Notwithstanding any other provision of this section, gross income does not include any amount received for services performed under a Federal work study program operated under section 441 of the Higher Education Act of 1965 (42 U.S.C. 2751), as in effect on the date of the enactment of this subsection.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

TITLE IV—FUNDING FOR PART B OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT

SEC. 401. FUNDING FOR PART B OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

Section 611(h) of the Individuals with Disabilities Education Act (20 U.S.C. 1411(h)) is amended by striking ''such sums as may be necessary'' and inserting ''not less than $4,107,522 for fiscal year 1998, not less than $5,607,522 for fiscal year 1999, not less than $7,107,522 for fiscal year 2000, not less than $8,607,522 for fiscal year 2001, not less than $10,107,522 for fiscal year 2002, not less than $11,607,522 for fiscal year 2003, not less than $13,107,522 for fiscal year 2004, and such sums as may be necessary for each succeeding fiscal year.''.

TITLE V—ADULT EDUCATION AND FAMILY LITERACY

Subtitle A—Adult Education Act

SEC. 511. AUTHORIZATION OF ADULT EDUCATION ACT.

The Adult Education Act (20 U.S.C. 1201 et seq.) is amended to read as follows:

''TITLE III—ADULT EDUCATION PROGRAMS

''SEC. 301. SHORT TITLE.

''This title may be cited as the ''Adult Education Act''.

''SEC. 302. STATEMENT OF PURPOSE.

''It is the purpose of this title to assist the States and the outlying areas to provide—

''(1) to adults, the basic educational skills necessary for employment and self-sufficiency; and

''(2) to adults who are parents, the educational skills necessary to be full partners in the educational development of their children.

''SEC. 303. DEFINITIONS.

''As used in this title:

''(1) ADULT EDUCATION.—The term 'adult education' means services or instruction below the postsecondary level for individuals—

''(A) who have attained 16 years of age;

''(B) who are not enrolled or required to be enrolled in secondary school;

''(C)(i) who lack sufficient mastery of basic educational skills to enable the individuals to function effectively in society; or

''(ii) who do not have a certificate of graduation from a school providing secondary education and who have not achieved an equivalent level of education; and

''(D) who lack a mastery of basic skills and are therefore unable to speak, read, or write the English language.

''(2) ADULT EDUCATION AND LITERACY ACTIVITIES.—The term 'adult education and literacy activities' means the activities authorized in section 315.

''(3) COMMUNITY-BASED ORGANIZATION.—The term 'community-based organization' means a private nonprofit organization of demonstrated effectiveness that is representative of a community or a significant segment of a community.

''(4) ELIGIBLE AGENCY.—The term 'eligible agency' means—

''(A) the individual, entity, or agency in a State or an outlying area responsible for administering or setting policies for adult education and literacy services in such State or outlying area pursuant to the law of the State or outlying area; or

''(B) if no individual, entity, or agency is responsible for administering or setting such policies pursuant to the law of the State or outlying area, the individual, entity, or agency in a State or outlying area responsible for administering or setting policies for adult education and literacy services in such State or outlying area on the date of enactment of this Act.

''(5) ELIGIBLE PROVIDER.—The term 'eligible provider', used with respect to adult education and literacy activities described in section 315(b), means a provider determined to be eligible for assistance in accordance with section 314.

''(6) ENGLISH LITERACY PROGRAM.—The term 'English literacy program' means a program of instruction designed to help individuals of limited English proficiency achieve full competence in the English language.

''(7) FAMILY LITERACY SERVICES.—The term 'family literacy services' means services that are of sufficient intensity in terms of hours, and of sufficient duration, to make sustainable changes in a family and that integrate all of the following activities:

''(A) Interactive literacy activities between parents and their children.

''(B) Training for parents on how to be the primary teacher for their children and full partners in the education of their children.

''(C) Parent literacy training.

''(D) An age-appropriate education program for children.

''(8) INDIVIDUAL OF LIMITED ENGLISH PROFICIENCY.—The term 'individual of limited English proficiency' means an individual—

''(A) who has limited ability in speaking, reading, or writing the English language; and

''(B)(i) whose native language is a language other than English; or

''(ii) who lives in a family or community environment where a language other than English is the dominant language.

''(9) INDIVIDUAL WITH A DISABILITY.—

''(A) IN GENERAL.—The term 'individual with a disability' means an individual with any disability (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)).

''(B) INDIVIDUALS WITH DISABILITIES.—The term 'individuals with disabilities' means more than 1 individual with a disability.

''(10) LITERACY.—The term 'literacy', used with respect to an individual, means the ability of the individual to speak, read, and write English, and compute and solve problems, at levels of proficiency necessary—

''(A) to function on the job, in the family of the individual, and in society;

''(B) to achieve the goals of the individual; and

''(C) to develop the knowledge potential of the individual.

''(11) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' has the meaning given such term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

''(12) OUTLYING AREA.—The term 'outlying area' means the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

''(13) POSTSECONDARY EDUCATIONAL INSTITUTION.—The term 'postsecondary educational institution' means an institution of higher education (as such term is defined in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088)) that continues to meet the eligibility and certification requirements under title IV of such Act (20 U.S.C. 1070 et seq.).

''(14) SECRETARY.—The term 'Secretary' means the Secretary of Education.

''(15) STATE.—The term 'State' means each of the several States of the United States,

the District of Columbia, and the Commonwealth of Puerto Rico.

"SEC. 304. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There are authorized to be appropriated to carry out this title (except section 321) $400,000,000 for fiscal year 1998, and such sums as may be necessary for each of the fiscal years 1999 through 2003.

''(b) RESERVATION OF FUNDS FOR NATIONAL LEADERSHIP ACTIVITIES.—For any fiscal year, the Secretary may reserve not more than $4,500,000 of the amount appropriated under subsection (a) to establish and carry out the program of national leadership and evaluation activities described in section 322.

''(c) PROGRAM YEAR.—Appropriations for any fiscal year for programs and activities carried out under part A shall be available for obligation only on the basis of a program year. The program year shall begin on July 1 in the fiscal year for which the appropriation is made.

"PART A—GRANTS TO ELIGIBLE AGENCIES

"SEC. 311. AUTHORITY TO MAKE GRANTS.

''(a) IN GENERAL.—In the case of each eligible agency that in accordance with section 313 submits to the Secretary a plan for a fiscal year, the Secretary shall make a grant for the year to the eligible agency for the purpose specified in subsection (b). The grant shall consist of the initial and additional allotments determined for the eligible agency under section 312.

''(b) PURPOSE OF GRANTS.—The Secretary may make a grant under subsection (a) only if the applicant involved agrees to expend the grant for adult education and literacy activities in accordance with the provisions of this part.

"SEC. 312. ALLOTMENTS.

''(a) INITIAL ALLOTMENTS.—From the sums available for the purpose of making grants under this part for any fiscal year, the Secretary shall allot to each eligible agency that in accordance with section 313 submits to the Secretary a plan for the year an initial amount as follows:

''(1) $100,000, in the case of an eligible agency of the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

''(2) $250,000, in the case of any other eligible agency.

''(b) ADDITIONAL ALLOTMENTS.—

''(1) IN GENERAL.—From the remainder available for the purpose of making grants under this part for any fiscal year after the application of subsection (a), the Secretary shall allot to each eligible agency that receives an initial allotment under such subsection an additional amount that bears the same relationship to such remainder as the number of qualifying adults in the State or outlying area of the agency bears to the number of such adults in all States and outlying areas.

''(2) QUALIFYING ADULT.—For purposes of this subsection, the term 'qualifying adult' means an adult who—

''(A) is at least 16 years of age, but less than 61 years of age;

''(B) is beyond the age of compulsory school attendance under the law of the State or outlying area;

''(C) does not have a certificate of graduation from a school providing secondary education and has not achieved an equivalent level of education; and

''(D) is not currently enrolled in secondary school.

''(c) SPECIAL RULE.—

''(1) IN GENERAL.—Notwithstanding any other provision of this section and using funds allotted for the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau under this section, the Secretary shall award grants to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau to carry out activities described in this part in accordance with the provisions of this part that the Secretary determines are not inconsistent with this subsection.

''(2) AWARD BASIS.—The Secretary shall award grants pursuant to paragraph (1) on a competitive basis and pursuant to recommendations from the Pacific Region Educational Laboratory in Honolulu, Hawaii.

''(3) TERMINATION OF ELIGIBILITY.—Notwithstanding any other provision of law, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not receive any funds under this part for any fiscal year that begins after September 30, 2001.

''(4) ADMINISTRATIVE COSTS.—The Secretary may provide not more than 5 percent of the funds made available for grants under this subsection to pay the administrative costs of the Pacific Region Educational Laboratory regarding activities assisted under this subsection.

"SEC. 313. AGENCY PLAN.

''For an eligible agency to be eligible to receive a grant under this part for any fiscal year, the agency shall submit to the Secretary a plan for the year that includes the following:

''(1) A description of the adult education and literacy activities that will be carried out with funds received under the grant.

''(2) A description of how such activities will be integrated with other adult education and career development activities in the State or outlying area of the agency.

''(3) A description of how the eligible agency annually will evaluate the effectiveness of the adult education and literacy activities that are carried out with funds received under the grant.

''(4) A description of the benchmarks required under section 317 and how such benchmarks will ensure continuous improvement of adult education and literacy services in the State or outlying area of the agency.

''(5) An assurance that the funds received under the grant will not be expended for any purpose other than the activities described in sections 314 and 315.

''(6) An assurance that the eligible agency will expend the funds received under the grant only in a manner consistent with the fiscal requirements in section 316.

"SEC. 314. USE OF FUNDS.

''(a) IN GENERAL.—Of the sum that is made available under this part to an eligible agency for any program year—

''(1) not less than 85 percent shall be made available to award grants in accordance with this section to carry out adult education and literacy activities;

''(2) not more than 10 percent shall be made available to carry out activities described in section 315(a); and

''(3) subject to paragraph (1), not more than 5 percent, or $50,000, whichever is greater, shall be made available for administrative expenses at the State level (or the level of the outlying area).

''(b) GRANTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), from the amount made available to an eligible agency for adult education and literacy under subsection (a)(1) for a program year, such agency shall award grants, on a competitive basis, to local educational agencies, correctional education agencies, community-based organizations of demonstrated effectiveness, volunteer literacy organizations, libraries, public or private nonprofit agencies, postsecondary educational institutions, public housing authorities, and other nonprofit institutions, that have the ability to provide literacy services to adults and families, or consortia of agencies, organizations, or institutions described in this subsection, to enable such agencies, organizations, institutions, and consortia to carry out adult education and literacy activities.

''(2) CONSORTIA.—An eligible agency may award a grant under this section to a consortium that includes a provider described in paragraph (1) and a for-profit agency, organization, or institution, if such agency, organization, or institution—

''(A) can make a significant contribution to carrying out the objectives of this title; and

''(B) enters into a contract with such provider to carry out adult education and literacy activities.

''(c) GRANT REQUIREMENTS.—

''(1) REQUIRED LOCAL ACTIVITIES.—An eligible agency shall require that each provider receiving a grant under this section use the grant in accordance with section 315(b).

''(2) EQUITABLE ACCESS.—Each eligible agency awarding a grant under this section for adult education and literacy activities shall ensure that the providers described in subsection (b) will be provided direct and equitable access to all Federal funds provided under this section.

''(3) SPECIAL RULE.—Each eligible agency awarding a grant under this section shall not use any funds made available under this title for adult education and literacy activities for the purpose of supporting or providing programs, services, or activities for individuals who are not individuals described in subparagraphs (A) and (B) of section 303(1), except that such agency may use such funds for such purpose if such programs, services, or activities are related to family literacy services.

''(4) CONSIDERATIONS.—In awarding grants under this section, the eligible agency shall consider—

''(A) the past effectiveness of a provider described in subsection (b) in providing services (especially with respect to recruitment and retention of educationally disadvantaged adults and the learning gains demonstrated by such adults);

''(B) the degree to which the provider will coordinate services with other literacy and social services available in the community; and

''(C) the commitment of the provider to serve individuals in the community who are most in need of literacy services.

''(d) LOCAL ADMINISTRATIVE COST LIMITS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), of the funds provided under this section by an eligible agency to a provider described in subsection (b), not less than 95 percent shall be expended for provision of adult education and literacy activities. The remainder shall be used for planning, administration, personnel development, and interagency coordination.

''(2) SPECIAL RULE.—In cases where the cost limits described in paragraph (1) will be too restrictive to allow for adequate planning, administration, personnel development, and interagency coordination supported under this section, the eligible agency shall negotiate with the provider described in subsection (b) in order to determine an adequate level of funds to be used for noninstructional purposes.

"SEC. 315. ADULT EDUCATION AND LITERACY ACTIVITIES.

''(a) PERMISSIBLE AGENCY ACTIVITIES.—An eligible agency may use not more than 10

percent of the funds made available to the eligible agency under this part for activities that may include—

''(1) the establishment or operation of professional development programs to improve the quality of instruction provided pursuant to local activities required under subsection (b), including instruction provided by volunteers or by personnel of a State or outlying area;

''(2) the provision of technical assistance to eligible providers of activities authorized in this section;

''(3) the provision of technology assistance to eligible providers of activities authorized in this section to enable the providers to improve the quality of such activities;

''(4) the support of State or regional networks of literacy resource centers; and

''(5) the monitoring and evaluation of the quality of and the improvement in activities authorized in this section.

''(b) REQUIRED LOCAL ACTIVITIES.—The eligible agency shall require that each eligible provider receiving a grant under section 314 use the grant to establish or operate 1 or more programs that provide instruction or services in 1 or more of the following categories:

''(1) Adult education and literacy services.

''(2) Family literacy services.

''(3) English literacy programs.

''SEC. 316. FISCAL REQUIREMENTS AND RESTRICTIONS RELATED TO USE OF FUNDS.

''(a) SUPPLEMENT NOT SUPPLANT.—Funds made available under this part for adult education and literacy activities shall supplement, and may not supplant, other public funds expended to carry out activities described in section 315.

''(b) MAINTENANCE OF EFFORT.—

''(1) DETERMINATION.—

''(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), and paragraph (2), no payments shall be made under this part for any program year to an eligible agency for adult education and literacy activities unless the Secretary of Education determines that the fiscal effort per student or the aggregate expenditures of such eligible agency for activities described in section 315 for the program year preceding the program year for which the determination is made, equaled or exceeded such effort or expenditures for activities described in such section for the second program year preceding the fiscal year for which the determination is made.

''(B) COMPUTATION.—In computing the fiscal effort or aggregate expenditures pursuant to subparagraph (A), the Secretary of Education shall exclude capital expenditures, special one-time project costs, and similar windfalls.

''(C) DECREASE IN FEDERAL SUPPORT.—If the amount made available for adult education and literacy activities under this part for a fiscal year is less than the amount made available for adult education and literacy activities under this part for the preceding fiscal year, then the fiscal effort per student or the aggregate expenditures of an eligible agency required by subparagraph (A) for such preceding fiscal year shall be decreased by the same percentage as the percentage decrease in the amount so made available.

''(2) WAIVER.—The Secretary of Education may waive the requirements of paragraph (1) (with respect to not more than 5 percent of expenditures required for the preceding fiscal year by any eligible agency) for 1 program year only, after making a determination that such waiver would be equitable due to exceptional or uncontrollable circumstances affecting the ability of the eligible agency to meet such requirements, such as a natural disaster or an unforeseen and precipitous decline in financial resources. No level of funding permitted under such a waiver may be used as the basis for computing the fiscal effort or aggregate expenditures required under this subsection for years subsequent to the year covered by such waiver. The fiscal effort or aggregate expenditures for the subsequent years shall be computed on the basis of the level of funding that would, but for such waiver, have been required.

''(c) EXPENDITURES OF NON-FEDERAL FUNDS FOR ADULT EDUCATION AND LITERACY ACTIVITIES.—For any program year for which a grant is made to an eligible agency under this part, the eligible agency shall expend, on programs and activities relating to adult education and literacy activities, an amount, derived from sources other than the Federal Government, equal to 25 percent of the amount made available to the eligible agency under this part for adult education and literacy activities.

''SEC. 317. ACCOUNTABILITY AND CONTINUOUS IMPROVEMENT.

''(a) GOAL.—Each eligible agency that receives a grant under this part shall use such grant to meet the goal of enhancing and developing more fully the literacy skills of the adult population in the State or outlying area of the agency.

''(b) BENCHMARKS.—To be eligible to receive a grant under this part, an eligible agency shall develop and identify in the agency plan, submitted under section 313, proposed quantifiable benchmarks to measure the progress of the eligible agency toward meeting the goal described in subsection (a) throughout the State or outlying area of the agency, which shall include, at a minimum, measures for participants of—

''(1) demonstrated improvements in literacy skill levels;

''(2) attainment of secondary school diplomas or general equivalency diplomas;

''(3) placement in, retention in, or completion of, postsecondary education, training, or employment; and

''(4) attainment of the literacy skills and knowledge individuals need to be productive and responsible citizens and to become more actively involved in the education of their children.

''(c) POPULATIONS.—

''(1) PERFORMANCE MEASURES.—In developing and identifying measures of progress of the eligible agency toward meeting the goal described in subsection (a), an eligible agency shall develop and identify in the agency plan, in addition to the benchmarks described in subsection (b), proposed quantifiable benchmarks for populations that include, at a minimum—

''(A) low-income individuals;

''(B) at-risk youth and young adults;

''(C) individuals with disabilities; and

''(D) individuals of limited literacy, as determined by the eligible agency.

''(2) ADDITIONAL MEASURES.—In addition to the benchmarks described in paragraph (1), an eligible agency may develop and identify in the agency plan proposed quantifiable benchmarks to measure the progress of the eligible agency toward meeting the goal described in subsection (a) for populations with multiple barriers to educational enhancement.

''PART B—NATIONAL PROGRAMS

''SEC. 321. NATIONAL INSTITUTE FOR LITERACY.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—There is established the National Institute for Literacy (in this section referred to as the ''Institute''). The Institute shall be administered under the terms of an interagency agreement entered into by the Secretary of Education with the Secretary of Labor and the Secretary of Health and Human Services (in this section referred to as the ''Interagency Group''). The Interagency Group may include in the Institute any research and development center, institute, or clearinghouse established within the Department of Education, the Department of Labor, or the Department of Health and Human Services whose purpose is determined by the Interagency Group to be related to the purpose of the Institute.

''(2) OFFICES.—The Institute shall have offices separate from the offices of the Department of Education, the Department of Labor, and the Department of Health and Human Services.

''(3) BOARD RECOMMENDATIONS.—The Interagency Group shall consider the recommendations of the National Institute for Literacy Advisory Board (in this section referred to as the ''Board'') established under subsection (d) in planning the goals of the Institute and in the implementation of any programs to achieve such goals.

''(4) DAILY OPERATIONS.—The daily operations of the Institute shall be carried out by the Director of the Institute appointed under subsection (g).

''(b) DUTIES.—

''(1) IN GENERAL.—The Institute shall improve the quality and accountability of the adult basic skills and literacy delivery system by—

''(A) providing national leadership for the improvement and expansion of the system for delivery of literacy services;

''(B) coordinating the delivery of such services across Federal agencies;

''(C) identifying effective models of basic skills and literacy education for adults and families that are essential to success in job training, work, the family, and the community;

''(D) supporting the creation of new methods of offering improved literacy services;

''(E) funding a network of State or regional adult literacy resource centers to assist State and local public and private nonprofit efforts to improve literacy by—

''(i) encouraging the coordination of literacy services;

''(ii) carrying out evaluations of the effectiveness of adult education and literacy activities;

''(iii) enhancing the capacity of State and local organizations to provide literacy services; and

''(iv) serving as a reciprocal link between the Institute and providers of adult education and literacy activities for the purpose of sharing information, data, research, expertise, and literacy resources;

''(F) supporting the development of models at the State and local level of accountability systems that consist of goals, performance measures, benchmarks, and assessments that can be used to improve the quality of adult education and literacy activities;

''(G) providing technical assistance, information, and other program improvement activities to national, State, and local organizations, such as—

''(i) improving the capacity of national, State, and local public and private organizations that provide literacy and basic skills services, professional development, and technical assistance, such as the State or regional adult literacy resource centers referred to in subparagraph (E); and

''(ii) establishing a national literacy electronic database and communications network;

''(H) working with the Interagency Group, Federal agencies, and the Congress to ensure that such Group, agencies, and the Congress have the best information available on literacy and basic skills programs in formulating Federal policy with respect to the issues of literacy, basic skills, and workforce and career development; and

''(I) assisting with the development of policy with respect to literacy and basic skills.

''(2) GRANTS, CONTRACTS, AND AGREEMENTS.—The Institute may make grants to, or enter into contracts or cooperative agreements with, individuals, public or private institutions, agencies, organizations, or consortia of such institutions, agencies, or organizations to carry out the activities of the Institute. Such grants, contracts, or agreements shall be subject to the laws and regulations that generally apply to grants, contracts, or agreements entered into by Federal agencies.

''(c) LITERACY LEADERSHIP.—

''(1) FELLOWSHIPS.—The Institute, in consultation with the Board, may award fellowships, with such stipends and allowances as the Director considers necessary, to outstanding individuals pursuing careers in adult education or literacy in the areas of instruction, management, research, or innovation.

''(2) USE OF FELLOWSHIPS.—Fellowships awarded under this subsection shall be used, under the auspices of the Institute, to engage in research, education, training, technical assistance, or other activities to advance the field of adult education or literacy, including the training of volunteer literacy providers at the national, State, or local level.

''(3) INTERNS AND VOLUNTEERS.—The Institute, in consultation with the Board, may award paid and unpaid internships to individuals seeking to assist the Institute in carrying out its mission. Notwithstanding section 1342 of title 31, United States Code, the Institute may accept and use voluntary and uncompensated services as the Institute determines necessary.

''(d) NATIONAL INSTITUTE FOR LITERACY ADVISORY BOARD.—

''(1) ESTABLISHMENT.—

''(A) IN GENERAL.—There is established a National Institute for Literacy Advisory Board. The Board shall consist of 10 individuals appointed by the President, with the advice and consent of the Senate, from individuals who—

''(i) are not otherwise officers or employees of the Federal Government; and

''(ii) are representative of entities or groups described in subparagraph (B).

''(B) ENTITIES OR GROUPS DESCRIBED.—The entities or groups referred to in subparagraph (A) are—

''(i) literacy organizations and providers of literacy services, including—

''(I) nonprofit providers of literacy services;

''(II) providers of programs and services involving English language instruction; and

''(III) providers of services receiving assistance under this title;

''(ii) businesses that have demonstrated interest in literacy programs;

''(iii) literacy students;

''(iv) experts in the area of literacy research;

''(v) State and local governments; and

''(vi) representatives of employees.

''(2) DUTIES.—The Board—

''(A) shall make recommendations concerning the appointment of the Director and staff of the Institute;

''(B) shall provide independent advice on the operation of the Institute; and

''(C) shall receive reports from the Interagency Group and the Director.

''(3) FEDERAL ADVISORY COMMITTEE ACT.—Except as otherwise provided, the Board established by this subsection shall be subject to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

''(4) TERMS.—

''(A) IN GENERAL.—Each member of the Board shall be appointed for a term of 3 years, except that the initial terms for members may be 1, 2, or 3 years in order to establish a rotation in which ⅓ of the members are selected each year. Any such member may be appointed for not more than 2 consecutive terms.

''(B) VACANCY APPOINTMENTS.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Board shall be filled in the manner in which the original appointment was made. A vacancy in the Board shall not affect the powers of the Board.

''(5) QUORUM.—A majority of the members of the Board shall constitute a quorum but a lesser number may hold hearings. Any recommendation of the Board may be passed only by a majority of the Board's members present.

''(6) ELECTION OF OFFICERS.—The Chairperson and Vice Chairperson of the Board shall be elected by the members of the Board. The term of office of the Chairperson and Vice Chairperson shall be 2 years.

''(7) MEETINGS.—The Board shall meet at the call of the Chairperson or a majority of the members of the Board.

''(e) GIFTS, BEQUESTS, AND DEVISES.—The Institute may accept, administer, and use gifts or donations of services, money, or property, both real and personal.

''(f) MAILS.—The Board and the Institute may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

''(g) DIRECTOR.—The Interagency Group, after considering recommendations made by the Board, shall appoint and fix the pay of a Director.

''(h) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Institute may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the maximum rate payable under section 5376 of title 5, United States Code.

''(i) EXPERTS AND CONSULTANTS.—The Board and the Institute may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

''(j) REPORT.—The Institute shall submit a report biennially to the Committee on Economic and Educational Opportunities of the House of Representatives and the Committee on Labor and Human Resources of the Senate. Each report submitted under this subsection shall include—

''(1) a comprehensive and detailed description of the Institute's operations, activities, financial condition, and accomplishments in the field of literacy for the period covered by the report;

''(2) a description of how plans for the operation of the Institute for the succeeding two fiscal years will facilitate achievement of the goals of the Institute and the goals of the literacy programs within the Department of Education, the Department of Labor, and the Department of Health and Human Services; and

''(3) any additional minority, or dissenting views submitted by members of the Board.

''(k) FUNDING.—Any amounts appropriated to the Secretary of Education, the Secretary of Labor, or the Secretary of Health and Human Services for purposes that the Institute is authorized to perform under this section may be provided to the Institute for such purposes.

''(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for fiscal year 1998 and such sums as may be necessary for each of the fiscal years 1999 through 2003 to carry out this section.

''SEC. 322. NATIONAL LEADERSHIP ACTIVITIES.

''The Secretary shall establish and carry out a program of national leadership activities to enhance the quality of adult education and family literacy programs nationwide. Such activities shall include the following:

''(1) Providing technical assistance to recipients of assistance under part A in developing and using benchmarks and performance measures for improvement of adult education and literacy activities, including family literacy services.

''(2) Awarding grants, on a competitive basis, to an institution of higher education, a public or private organization or agency, or a consortium of such institutions, organizations, or agencies to carry out research and technical assistance—

''(A) for the purpose of developing, improving, and identifying the most successful methods and techniques for addressing the education needs of adults; and

''(B) to increase the effectiveness of, and improve the quality of, adult education and literacy activities, including family literacy services.

''(3) Providing for the conduct of an independent evaluation and assessment of adult education and literacy activities, through studies and analyses conducted independently through grants and contracts awarded on a competitive basis. Such evaluation and assessment shall include descriptions of—

''(A) the effect of benchmarks, performance measures, and other measures of accountability on the delivery of adult education and literacy activities, including family literacy services;

''(B) the extent to which the adult education and literacy activities, including family literacy services, increase the literacy skills of adults (and of children, in the case of family literacy services), lead the participants in such activities to involvement in further education and training, enhance the employment and earnings of such participants, and, if applicable, lead to other positive outcomes, such as reductions in recidivism in the case of prison-based adult education and literacy services; and

''(C) the extent to which eligible agencies have distributed funds part A to meet the needs of adults through community-based organizations.

''(4) Carrying out demonstration programs, replicating model programs, disseminating best practices information, and providing technical assistance, for the purposes of developing, improving, and identifying the most successful methods and techniques for providing the activities assisted under part A.''.

SEC. 512. EXTENSION OF FUNCTIONAL LITERACY AND LIFE SKILLS PROGRAM FOR STATE AND LOCAL PRISONERS.

Paragraph (3) of section 601(i) of the National Literacy Act of 1991 (20 U.S.C. 1211–2(i)) is amended—

(1) by striking ''1994, and'' and inserting ''1994,''; and

(2) by inserting '', and such sums as may be necessary for each of the fiscal years 1998, 1999, 2000, 2001, 2002, and 2003'' before the period.

SEC. 513. CONFORMING ADULT EDUCATION ACT AMENDMENTS.

(a) REFUGEE EDUCATION ASSISTANCE ACT.—Subsection (b) of section 402 of the Refugee

Education Assistance Act of 1980 (8 U.S.C. 1522 note) is repealed.

(b) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—

(1) SECTION 1206 OF ESEA.—Section 1206(a)(1)(A) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6366(a)(1)(A)) is amended by striking ''an adult basic education program'' and inserting ''adult education and literacy activities''.

(2) SECTION 3113 OF ESEA.—Section 3113(1) of such Act (20 U.S.C. 6813(1)) is amended by striking ''section 312'' and inserting ''section 303''.

(3) SECTION 9161 OF ESEA.—Section 9161(2) of such Act (20 U.S.C. 7881(2)) is amended by striking ''section 312(2)'' and inserting ''section 303''.

Subtitle B—Demonstration Programs and Projects To Promote Literacy

SEC. 521. SHORT TITLE.

Title X of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8001 et seq.) is amended by adding at the end the following:

''PART N—DEMONSTRATION PROGRAMS AND PROJECTS TO PROMOTE LITERACY

''SEC. 10996. DEMONSTRATION PARTNERSHIPS TO PROMOTE LITERACY.

''(a) TRAINING DEMONSTRATION PROGRAMS AND PROJECTS.—The Secretary is authorized to make grants to, and enter into contracts and cooperative agreements with, State educational agencies, local educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions to—

''(1) provide in-service training for teachers, and, where appropriate, other staff such as teacher's aides, in language acquisition skills and systematic phonics;

''(2) provide pre-service training for teachers, and, where appropriate, other staff, in language acquisition skills and systematic phonics; and

''(3) provide training opportunities for parents, community volunteers, and other persons interested in obtaining language acquisition and systematic phonics skills for the purpose of improving their literacy or the literacy skills of children or other adults.

''(b) OTHER DEMONSTRATION PROGRAMS AND PROJECTS.—The Secretary is authorized to make grants to, and enter into contracts with, State educational agencies, local educational agencies, and private nonprofit agencies or organizations that use practices determined by replicated experimental research to be effective in preventing and responding to illiteracy in children and adults. Such grants shall be awarded for time-limited, demonstration programs and projects as follows:

''(1) FAMILY LITERACY PROGRAMS.—The Secretary shall award grants for programs that encourage parental involvement with their children in family literacy services (as defined in section 303 of the Adult Education Act). Such programs may combine literacy activities with parent training, in order to emphasize the parent's role as their child's primary teacher.

''(2) SCHOOL AND COMMUNITY PARTNERSHIPS.—The Secretary shall award grants to local educational agencies and private nonprofit organizations for the development of partnerships among schools, parents, private, nonprofit community volunteer organizations, and other community associations. Such partnerships shall demonstrate in the application submitted under subsection (c) the partnership's commitment to, and participation in, programs involving voluntary tutoring sessions for—

''(A) children in kindergarten through 4th grade; and

''(B) the parents of such children, where requested by the parent.

''(c) APPLICATION.—Each entity desiring assistance under this section shall submit an application to the Secretary, at such time, in such manner, and accompanied by such information as the Secretary may require.

''(d) ANNUAL EVALUATION.—

''(1) IN GENERAL.—In making grants and entering into contracts and cooperative agreements for demonstration programs and projects under this section, the Secretary, in cooperation with the Comptroller General, shall require all such programs and projects to be evaluated for their effectiveness using nationally recognized standardized assessments which measure reading achievement.

''(2) FUNDING.—The Secretary may provide funding for the evaluations described in paragraph (1) through—

''(A) a stated percentage of funds awarded under a grant or contracted under this subsection; or

''(B) a separate grant made by the Secretary for evaluating an individual demonstration program or project, or group of demonstration programs or projects.

''(3) RESERVATION.—The Secretary is authorized to reserve not more than 2 percent of the amount appropriated under subsection (e) for each fiscal year to fund the evaluations under this subsection.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $100,000,000 for fiscal year 1998 and such sums as may be necessary for each of the 4 succeeding fiscal years.''.

Subtitle C—National Commission on Literacy

SEC. 531. SHORT TITLE.

This subtitle may be cited as the ''National Commission on Literacy''.

SEC. 532. FINDINGS.

Congress finds as follows:

(1) Since 1965, the United States has spent over $500,000,000,000 on Federal education programs, yet 66 percent of 17-year olds do not read at a proficient level and reading scores have been declining for 3 decades. More over 75 percent of 4th graders, nationally, scored below the proficient level of reading.

(2) 85 percent of juvenile delinquents cannot read.

(3) American businesses are spending more than $30,000,000,000 in retraining employees, primarily because the employees cannot read at an adult level.

(4) In most junior colleges, at least one-third of the students must take remedial English because the students are not able to read at college level.

SEC. 533. NATIONAL COMMISSION ON LITERACY.

(a) ESTABLISHMENT.—There is hereby established a commission to be known as the ''National Commission on Literacy'' (in this subtitle referred to as the ''Commission'').

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall consist of—

(A) 5 members to be appointed by the President of the United States;

(B) 5 members to be appointed by the Speaker of the House of Representatives; and

(C) 5 members to be appointed by the Majority Leader of the Senate.

(2) APPOINTMENTS.—

(A) IN GENERAL.—The President, the Speaker of the House of Representatives, and the Majority Leader of the Senate shall each appoint as members of the Commission any United States citizen, including educators and other professionals involved in the research, study, and analysis of illiteracy.

(B) PROHIBITION.—An individual with a direct financial interest in the outcome of the Commission shall not be appointed to the Commission.

(3) CONSULTATION.—The appointments made pursuant to subparagraphs (B) and (C) of paragraph (1) shall be made in consultation with the chairpersons of the Committee on Education and the Workplace of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

(c) DUTIES.—

(1) IN GENERAL.—The Commission shall—

(A) conduct a comprehensive review of the social and economic impact of illiteracy in the United States and any correlation between such impact and welfare costs, juvenile delinquency, special education, adult literacy programs, drug addiction, and underemployment;

(B) examine matters including—

(i) a review of—

(I) requirements set for prospective reading teachers studying at colleges of education; and

(II) whether such requirements include obtaining knowledge about direct, intensive, and systematic phonics with decodable text as an important step in reading instruction;

(ii) a review of the available testing instruments that determine whether, and to what extent, children can decode the English language;

(iii) an assessment of the extent to which the use of experimentally unverified methods and teaching materials contributes to illiteracy;

(iv) a review of medical and neurological evidence regarding how individuals acquire the skill of reading;

(v) a review of the cost of illiteracy to business and industry;

(vi) an assessment of the negative impact of illiteracy on the economy in general, and in particular the impact of illiteracy on economically depressed areas; and

(vii) other issues that a majority of the members of the Commission deem appropriate to investigate in accordance with this subtitle.

(2) PUBLIC HEARINGS.—The Commission (and any committees the Commission may form) shall conduct public hearings in different geographic areas of the United States, both urban and rural, in order to receive the views of a broad spectrum of the public on the issue of literacy and on ways to enhance the reading proficiency of children, adults, and families in the United States.

(3) TESTIMONY.—The Commission is authorized to receive testimony from individuals, including—

(A) representatives of public and private organizations and institutions with an interest in the literacy of children, adults, and families in the United States;

(B) educators;

(C) religious leaders;

(D) providers of social services;

(E) representatives of organizations with children as members;

(F) elected and appointed public officials; and

(G) other individuals speaking on their own behalf.

(d) INTERIM AND FINAL REPORTS TO PRESIDENT AND CONGRESS; RECOMMENDATIONS.—

(1) INTERIM REPORTS.—The Commission may submit to the President, the Committee on Labor and Human Resources of the Senate, the Committee on Education and the Workplace of the House of Representatives, and to the public, interim reports regarding the duties of the Commission undertaken pursuant to subsection (c).

(2) FINAL REPORT.—The Commission shall submit to the President, the Committee on Labor and Human Resources of the Senate, and the Committee on Education and the Workplace of the House of Representatives a final report no later than September 30, 2000.

The final report shall set forth recommendations regarding the findings of the Commission.

(3) AVAILABILITY.—Copies of interim reports and the final report of the Commission shall be made available in sufficient quantity for public review.

(e) TIME OF APPOINTMENT OF MEMBERS; VACANCIES; SELECTION OF CHAIRMAN; QUORUM; CALLING OF MEETINGS; NUMBER OF MEETINGS; VOTING; COMPENSATION AND EXPENSES.—

(1) IN GENERAL.—The President, the Speaker of the House of Representatives, and the Majority Leader of the Senate shall make their respective appointments to the Commission not later than 60 days after the date of enactment of this Act, for terms ending 60 days after the Commission issues its final report.

(2) VACANCY.—Any vacancy that occurs during the life of the Commission shall not affect the powers of the Commission, and shall be filled in the same manner as the original appointment not later than 30 days after the vacancy occurs.

(3) CHAIRMAN.—The Majority Leader of the Senate, in consultation with the Speaker of the House of Representatives and with the President shall designate one member of the Commission as Chairman of the Commission no later than 60 days after the establishment of the Commission.

(4) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business, but the Commission may establish a lesser quorum for conducting hearings scheduled by the Commission.

(5) MEETINGS.—The Commission shall meet at the call of the Chairman of the Commission, or at the call of a majority of the members of the Commission. The initial meeting of the Commission shall be conducted no later than 30 days after the appointment of the last member of the Commission, or no later than 30 days after the date on which funds are made available for the Commission.

(6) VOTING.—Decisions of the Commission shall be according to the vote of a simple majority of the members of the Commission present and voting at a properly called meeting.

(7) RULES.—The Commission may establish by majority vote any other rules for the conduct of the Commission's business, if such rules are not inconsistent with this subtitle or other applicable law.

(8) COMPENSATION.—Each member of the Commission who is not an officer or employee of the Federal Government, or whose compensation as a member of the Commission is not precluded by a Federal, State, or local law, shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for Level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to the compensation received for their services as officers or employees of the United States.

(9) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of service for the Commission.

(f) EXECUTIVE DIRECTOR AND ADDITIONAL PERSONNEL; APPOINTMENT AND COMPENSATION; CONSULTANTS.—

(1) EXECUTIVE DIRECTOR AND ADDITIONAL PERSONNEL.—The Commission may appoint an Executive Director of the Commission, and the Commission may appoint and fix the compensation of such personnel as the Commission deems advisable. The Executive Director shall be compensated at a rate not to exceed the rate payable for Level V of the Executive Schedule under section 5316 of title 5, United States Code. Compensation of other personnel may be set without regard to the provisions of such title 5 that govern appointments in the competitive services, and the provisions of chapter 51 and subchapter III of chapter 53 of such title 5 that relate to classifications and the General Schedule pay rates, except that the rate of pay for such personnel may not exceed the rate payable for Level V of the Executive Schedule under section 5316 of such title.

(2) DETAILEES.—Any Federal Government employee, with the approval of the head of the appropriate Federal agency, may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status, benefits, or privilege.

(3) TEMPORARY OR INTERMITTENT SERVICES.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay prescribed for Level V of the Executive Schedule under section 5316 of such title.

(4) CONSTRUCTION.—Nothing in this section shall be construed to limit the ability of the Commission to enter into contracts with public or private organizations, for research necessary to carry out the Commission's duties under subsection (c).

(g) TIME AND PLACE OF HEARINGS AND NATURE OF TESTIMONY AUTHORIZED.—

(1) IN GENERAL.—The Commission may hold such hearings, sit and act at such times and places, administer such oaths, take such testimony, and receive such evidence as the Commission considers advisable.

(2) WITNESSES.—Witnesses requested to appear before the Commission shall be paid the same fees as are paid to witnesses under section 1821 of title 28, United States Code. The per diem and mileage allowances for witnesses shall be paid from funds appropriated to the Commission.

(3) SUBPOENAS.—If a person fails to supply information requested by the Commission, the Commission may by majority vote require by subpoena the production of any written or recorded information, document, report, answer, record, account, paper, computer file, or other data or documentary evidence necessary to carry out its duties under subsection (c).

(4) INFORMATION.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out its duties under subsection (c). Upon the request of the Commission, the head of such department or agency may furnish such information to the Commission.

(5) DISCLOSURE OF CONFIDENTIAL INFORMATION.—The Commission shall be considered an agency of the Federal Government for purposes of section 1905 of title 18, United States Code, and any individual employed by an entity or organization under contract to the Commission shall be subject to such section. Information obtained by the Commission, other than information available to the public, shall not be disclosed to any person in any manner, except—

(A) to Commission employees or employees of any individual, entity, or organization under contract to the Commission under subsection (f) for the purpose of receiving, reviewing, or processing such information;

(B) upon court order; or

(C) when publicly released by the Commission in an aggregate or summary form that does not directly or indirectly disclose—

(i) the identity of any person or business entity; or

(ii) any information which could not be released under section 1905 of title 18, United States Code.

(h) SUPPORT SERVICES.—The Comptroller General shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(i) DEFINITIONS.—In this subtitle:

(1) ILLITERACY.—The term ''illiteracy'' means the lack of ability to read and write competently.

(2) STATE.—The term ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(3) SYSTEMATIC PHONICS.—The term ''systematic phonics'' means the direct teaching of a pre-planned sequence of relationships between speech sounds and all their letter equivalents.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of the fiscal years 1998, 1999, and 2000, such sums as may be necessary to carry out this section.

By Mr. ROTH (for himself and Mr. LOTT):

S. 2. A bill to amend the Internal Revenue Code of 1986 to provide tax relief for American families, and for other purposes; to the Committee on Finance.

THE AMERICAN FAMILY TAX RELIEF ACT

Mr. ROTH. Mr. President, the comedian Henny Youngman told a joke that highlights America's family friendly tax system.

''The people who make our taxes are very nice,'' he said. ''They're letting me keep my mother.''

Certainly, our tax laws were never quite this bad, but the humor hinted at the fact that the laws were not altogether family friendly. The family, in fact, has taken it right in the pocketbook. More and more, we are hearing that oft-quoted fact that today the average American family spends more on taxes than it spends on food, clothing and shelter combined. Today, many families need a second earner to make ends meet, because too much of their income is taken by Government.

At the end of World War II, the median income for a family of four was $3,468. At the time, the first $2,667 of income for such families were tax exempt, meaning that three-quarters of median family income was exempt from taxation.

Over the years, inflation ate away at the value of the standard deduction and personal exemptions. The result was that average families paid more and more of their income in taxes.

In 1983, the median family income for a family of four was $29,184, but only the first $8,783 of income was exempt from tax—less than one-third. As my good friend and distinguished colleague, DANIEL PATRICK MOYNIHAN, has

pointed out with these statistics, Government tax policies have adversely affected family life.

In 1948, a family of four at the median income level paid 2 percent—2 percent—of its income in Federal taxes. Today, a family of four pays 24 percent.

The time has come to address this disturbing trend. Our tax policies must be changed in light of current realities and critical needs. The American family has been shackled with the excess burden of taxes, I believe, in part because family was such a constant and stable foundation for our society, an enduring unit that could be depended on to carry the burden. But the consequences of that burden and other economic and social factors have succeeded in ravaging the family. Indeed, in society today, the family is under assault, and too many of the policies that are coming out of Washington are increasing the problem rather than providing the solution.

As chairman of the Senate Finance Committee, I intend to work with my colleagues to address these policies and trends, and I laud the spirit of the tax bill introduced today and believe that we can build bipartisan support to advance its overall objectives. The American Family Tax Relief Act is a strong first step towards restoring a sense of economic equilibrium to our families and offers a $500-per-child tax credit, a capital gains tax cut, estate and gift tax relief, and expanded individual retirement accounts.

At one time or another, each of these proposals has found bipartisan support, and I believe Senators on both sides of the aisle will see this bill as a strong first step toward achieving a mutually shared objective. This legislation sets the spirit for debate. It has the welfare and future of the family at heart.

As introduced, this bill calls for a permanent $500-per-child tax credit for children under 18 years of age. The capital gains tax cut allows individuals to deduct 50 percent of their capital gains and allows families that sell their homes at a loss to treat it as a capital loss for purposes of a tax deduction. This bill allows an individual to pass up to $1 million tax free as a gift during life or at the time of death. It excludes from estate taxes the first $1.5 million in value of certain qualified family-owned businesses or farm interests and 50 percent of the value in excess of $1.5 million.

The American Family Tax Relief Act expands the power and availability of IRAs by permitting homemakers to have IRAs, regardless of their spouse's participation in a pension program, and by raising income limits to include more families. It also creates a backloaded IRA that permits after-tax contribution and tax-free withdrawals of earnings after the taxpayer reaches age 59½. This is a provision I have sought for some time, along with allowing for penalty-free withdrawal for education expenses, which is also included in the package.

Again, Mr. President, this is a strong place to start. I appreciate the leadership—particularly our majority leader TRENT LOTT—for working with us to establish this foundation. Now we must go about the legislative process, building the consensus we need to see it implemented and achieving the real tax relief American families not only desire but need.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

S. 2

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

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''American Family Tax Relief Act''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; amendment of 1986 Code; table of contents.

TITLE I—CHILD TAX CREDIT

Sec. 101. Child tax credit.

TITLE II—CAPITAL GAINS REFORM

Subtitle A—Taxpayers Other Than Corporations

Sec. 201. Capital gains deduction.
Sec. 202. Indexing of certain assets acquired after December 31, 1996, for purposes of determining gain.
Sec. 203. Modifications to exclusion of gain on certain small business stock.

Subtitle B—Corporate Capital Gains

Sec. 211. Reduction of alternative capital gain tax for corporations.

Subtitle C—Capital Loss Deduction Allowed With Respect to Sale or Exchange of Principal Residence

Sec. 221. Capital loss deduction allowed with respect to sale or exchange of principal residence.

TITLE III—ESTATE AND GIFT PROVISIONS

Sec. 301. Increase in unified estate and gift tax credit.
Sec. 302. Family-owned business exclusion.
Sec. 303. 20-year installment payment where estate consists largely of interest in closely held business.
Sec. 304. No interest on certain portion of estate tax extended under 6166.

TITLE IV—SAVINGS INCENTIVES

Sec. 401. Restoration of IRA deduction.
Sec. 402. IRA allowed for spouses who are not active plan participants.
Sec. 403. Establishment of nondeductible tax-free individual retirement accounts.
Sec. 404. Tax-free withdrawals from individual retirement plans for business startups.
Sec. 405. Tax-free withdrawals from individual retirement plans for long-term unemployed.
Sec. 406. Distributions from certain plans may be used without penalty to pay higher education expenses.

TITLE I—CHILD TAX CREDIT

SEC. 101. CHILD TAX CREDIT.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 23 the following new section:

''SEC. 24. CHILD TAX CREDIT.

''(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to $500 multiplied by the number of qualifying children of the taxpayer.

''(b) LIMITATION.—

''(1) IN GENERAL.—The amount of the credit which would (but for this subsection) be allowed by subsection (a) shall be reduced (but not below zero) by $25 for each $1,000 (or fraction thereof) by which the taxpayer's adjusted gross income exceeds the threshold amount.

''(2) THRESHOLD AMOUNT.—For purposes of paragraph (1), the term 'threshold amount' means—

''(A) $110,000 in the case of a joint return,

''(B) $75,000 in the case of an individual who is not married, and

''(C) $55,000 in the case of a married individual filing a separate return.

For purposes of this paragraph, marital status shall be determined under section 7703.

''(c) QUALIFYING CHILD.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying child' means any individual if—

''(A) the taxpayer is allowed a deduction under section 151 with respect to such individual for such taxable year,

''(B) such individual has not attained the age of 18 as of the close of the calendar year in which the taxable year of the taxpayer begins, and

''(C) such individual bears a relationship to the taxpayer described in section 32(c)(3)(B) (determined without regard to clause (ii) thereof).

''(2) EXCEPTION FOR CERTAIN NONCITIZENS.—The term 'qualifying child' shall not include any individual who would not be a dependent if the first sentence of section 152(b)(3) were applied without regard to all that follows 'resident of the United States'.

''(d) TAXABLE YEAR MUST BE FULL TAXABLE YEAR.—Except in the case of a taxable year closed by reason of the death of the taxpayer, no credit shall be allowable under this section in the case of a taxable year covering a period of less than 12 months.''

(b) CONFORMING AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 23 the following new item:

''Sec. 24. Child tax credit.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

TITLE II—CAPITAL GAINS REFORM

Subtitle A—Taxpayers Other Than Corporations

SEC. 201. CAPITAL GAINS DEDUCTION.

(a) IN GENERAL.—Part I of subchapter P of chapter 1 (relating to treatment of capital gains) is amended by redesignating section 1202 as section 1203 and by inserting after section 1201 the following new section:

''SEC. 1202. CAPITAL GAINS DEDUCTION.

''(a) GENERAL RULE.—If for any taxable year a taxpayer other than a corporation has a net capital gain, 50 percent of such gain shall be a deduction from gross income.

''(b) ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or

exchanges of capital assets which, under sections 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gain derived from the sale or exchange of capital assets.

''(c) COORDINATION WITH TREATMENT OF CAPITAL GAIN UNDER LIMITATION ON INVESTMENT INTEREST.—For purposes of this section, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer takes into account as investment income under section 163(d)(4)(B)(iii).

''(d) ADJUSTMENTS TO NET CAPITAL GAIN.—For purposes of subsection (a)—

''(1) COLLECTIBLES.—

''(A) IN GENERAL.—Net capital gain shall be computed without regard to collectibles gain.

''(B) COLLECTIBLES GAIN.—

''(i) IN GENERAL.—The term 'collectibles gain' means gain from the sale or exchange of a collectible (as defined in section 408(m) without regard to paragraph (3) thereof) which is a capital asset held for more than 1 year but only to the extent such gain is taken into account in computing gross income.

''(ii) COORDINATION WITH SECTION 1022.—Gain from the disposition of a collectible which is an indexed asset to which section 1022(a) applies shall be disregarded for purposes of this section. A taxpayer may elect to treat any collectible specified in such election as not being an indexed asset for purposes of section 1022. Any such election (and specification) once made, shall be irrevocable.

''(iii) PARTNERSHIPS, ETC.—For purposes of clause (i), any gain from the sale of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751 shall apply for purposes of the preceding sentence.

''(2) GAIN FROM SMALL BUSINESS STOCK.—Net capital gain shall be computed without regard to any gain from the sale or exchange of any qualified small business stock (within the meaning of section 1203(b)) held more than 5 years which is taken into account in computing gross income.

''(3) PRE-1997 GAIN.—

''(A) IN GENERAL.—In the case of a taxable year which includes January 1, 1997, net capital gain shall be computed without regard to pre-1997 gain.

''(B) PRE-1997 GAIN.—The term 'pre-1997 gain' means the amount which would be net capital gain under subsection (a) for a taxable year if such net capital gain were determined by taking into account only gain or loss properly taken into account for the portion of the taxable year before January 1, 1997.

''(C) SPECIAL RULES FOR PASS-THRU ENTITIES.—

''(i) IN GENERAL.—In applying subparagraph (A) with respect to any pass-thru entity, the determination of when gains and losses are properly taken into account shall be made at the entity level.

''(ii) PASS-THRU ENTITY DEFINED.—For purposes of clause (i), the term 'pass-thru entity' means—

''(I) a regulated investment company,

''(II) a real estate investment trust,

''(III) an S corporation,

''(IV) a partnership,

''(V) an estate or trust, and

''(VI) a common trust fund.

''(e) MAXIMUM RATE ON NONDEDUCTIBLE CAPITAL GAIN.—

''(1) IN GENERAL.—If a taxpayer other than a corporation has a nondeductible net capital gain for any taxable year, then the tax imposed by section 1 for the taxable year shall not exceed the sum of—

''(A) a tax computed on the taxable income reduced by the amount of the nondeductible net capital gain, at the same rates and in the same manner as if this subsection had not been enacted, plus

''(B) a tax of 28 percent of the nondeductible net capital gain.

''(2) NONDEDUCTIBLE NET CAPITAL GAIN.—For purposes of paragraph (1), the term 'nondeductible net capital gain' means an amount equal to the amount of the reduction in net capital gain under subsection (a) by reason of subsection (d).''

(b) DEDUCTION ALLOWABLE IN COMPUTING ADJUSTED GROSS INCOME.—Subsection (a) of section 62 is amended by inserting after paragraph (16) the following new paragraph:

''(17) LONG-TERM CAPITAL GAINS.—The deduction allowed by section 1202.''

(c) TECHNICAL AND CONFORMING CHANGES.—

(1)(A) Section 1 is amended by striking subsection (h).

(B)(i) Section 641(d)(2)(A) is amended by striking ''Except as provided in section 1(h), the'' and inserting ''The''.

(ii) Section 641(d)(2)(C) is amended by inserting after clause (iii) the following new clause:

''(iv) The deduction under section 1202.''

(2) Paragraph (1) of section 170(e) is amended by striking ''the amount of gain'' in the material following subparagraph (B)(ii) and inserting ''50 percent (80 percent in the case of a corporation) of the amount of gain''.

(3) Subparagraph (B) of section 172(d)(2) is amended to read as follows:

''(B) the deduction under section 1202 shall not be allowed.''

(4) The last sentence of section 453A(c)(3) is amended by striking all that follows ''long-term capital gain,'' and inserting ''the maximum rate on net capital gain under section 1201 or the deduction under section 1202 (whichever is appropriate) shall be taken into account.''

(5) Paragraph (4) of section 642(c) is amended to read as follows:

''(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 1 year, proper adjustment shall be made for any deduction allowable to the estate or trust under section 1202 (relating to capital gains deduction). In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income).''

(6) The last sentence of section 643(a)(3) is amended to read as follows: ''The deduction under section 1202 (relating to capital gains deduction) shall not be taken into account.''

(7) Subparagraph (C) of section 643(a)(6) is amended by inserting ''(i)'' before ''there shall'' and by inserting before the period '', and (ii) the deduction under section 1202 (relating to capital gains deduction) shall not be taken into account''.

(8)(A) Paragraph (2) of section 904(b) is amended by striking subparagraph (A), by redesignating subparagraph (B) as subparagraph (A), and by inserting after subparagraph (A) (as so redesignated) the following new subparagraph:

''(B) OTHER TAXPAYERS.—In the case of a taxpayer other than a corporation, taxable income from sources outside the United States shall include gain from the sale or exchange of capital assets only to the extent of foreign source capital gain net income.''

(B) Subparagraph (A) of section 904(b)(2), as so redesignated, is amended—

(i) by striking all that precedes clause (i) and inserting the following:

''(A) CORPORATIONS.—In the case of a corporation—'', and

(ii) by striking in clause (i) ''in lieu of applying subparagraph (A),''.

(C) Paragraph (3) of section 904(b) is amended by striking subparagraphs (D) and (E) and inserting the following new subparagraph:

''(D) RATE DIFFERENTIAL PORTION.—The rate differential portion of foreign source net capital gain, net capital gain, or the excess of net capital gain from sources within the United States over net capital gain, as the case may be, is the same proportion of such amount as the excess of the highest rate of tax specified in section 11(b) over the alternative rate of tax under section 1201(a) bears to the highest rate of tax specified in section 11(b).''

(D) Clause (v) of section 593(b)(2)(D) is amended—

(i) by striking ''if there is a capital gain rate differential (as defined in section 904(b)(3)(D)) for the taxable year,'', and

(ii) by striking ''section 904(b)(3)(E)'' and inserting ''section 904(b)(3)(D)''.

(9) The last sentence of section 1044(d) is amended by striking ''1202'' and inserting ''1201(b) or 1203''.

(10)(A) Paragraph (2) of section 1211(b) is amended to read as follows:

''(2) the sum of—

''(A) the excess of the net short-term capital loss over the net long-term capital gain, and

''(B) one-half of the excess of the net long-term capital loss over the net short-term capital gain.''

(B) So much of paragraph (2) of section 1212(b) as precedes subparagraph (B) thereof is amended to read as follows:

''(2) SPECIAL RULES.—

''(A) ADJUSTMENTS.—

''(i) For purposes of determining the excess referred to in paragraph (1)(A), there shall be treated as short-term capital gain in the taxable year an amount equal to the lesser of—

''(I) the amount allowed for the taxable year under paragraph (1) or (2) of section 1211(b), or

''(II) the adjusted taxable income for such taxable year.

''(ii) For purposes of determining the excess referred to in paragraph (1)(B), there shall be treated as short-term capital gain in the taxable year an amount equal to the sum of—

''(I) the amount allowed for the taxable year under paragraph (1) or (2) of section 1211(b) or the adjusted taxable income for such taxable year, whichever is the least, plus

''(II) the excess of the amount described in subclause (I) over the net short-term capital loss (determined without regard to this subsection) for such year.''

(C) Subsection (b) of section 1212 is amended by adding at the end the following new paragraph:

''(3) TRANSITIONAL RULE.—

''(A) IN GENERAL.—The amount determined under subclause (II) of paragraph (2)(A)(ii) for any taxable year shall be reduced (but not below zero) by the excess of—

''(i) the amount of the unused pre-1998 long-term capital loss for such year, over

''(ii) the sum of the long-term capital gain and the net short-term capital gain for such taxable year.

Section 1211(b)(2)(B) shall be applied without regard to 'one-half of' with respect to such excess for such taxable year.

''(B) UNUSED PRE-1998 LONG-TERM CAPITAL LOSS.—For purposes of this paragraph, the term 'unused pre-1998 long-term capital loss' means, with respect to a taxable year, the excess of—

''(i) the amount which under paragraph (1)(B) (as in effect for taxable years beginning before January 1, 1998) is treated as a

long-term capital loss for the taxpayer's first taxable year beginning after December 31, 1997, over

''(ii) the sum of—

''(I) the aggregate amount determined under subparagraph (A)(ii) for all prior taxable years beginning after December 31, 1997, and

''(II) the aggregate reductions under subparagraph (A) for all such prior taxable years.''

(11) Paragraph (1) of section 1402(i) is amended by inserting '', and the deduction provided by section 1202 shall not apply'' before the period at the end thereof.

(12) Subsection (e) of section 1445 is amended—

(A) in paragraph (1) by striking ''35 percent (or, to the extent provided in regulations, 28 percent)'' and inserting ''28 percent (or, to the extent provided in regulations, 19.8 percent)'', and

(B) in paragraph (2) by striking ''35 percent'' and inserting ''28 percent''.

(13)(A) The second sentence of section 7518(g)(6)(A) is amended—

(i) by striking ''during a taxable year to which section 1(h) or 1201(a) applies'', and

(ii) by striking ''28 percent (34 percent'' and inserting ''19.8 percent (28 percent''.

(B) The second sentence of section 607(h)(6)(A) of the Merchant Marine Act, 1936 is amended—

(i) by striking ''during a taxable year to which section 1(h) or 1201(a) of such Code applies'', and

(ii) by striking ''28 percent (34 percent'' and inserting ''19.8 percent (28 percent''.

(d) CLERICAL AMENDMENT.—The table of sections for part I of subchapter P of chapter 1 is amended by striking the item relating to section 1202 and by inserting after the item relating to section 1201 the following new items:

''Sec. 1202. Capital gains deduction.

''Sec. 1203. 50-percent exclusion for gain from certain small business stock.''

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years ending after December 31, 1996.

(2) CONTRIBUTIONS.—The amendment made by subsection (c)(2) shall apply to contributions after December 31, 1996.

(3) USE OF LONG-TERM LOSSES.—The amendments made by subsection (c)(10) shall apply to taxable years beginning after December 31, 1997.

(4) WITHHOLDING.—The amendments made by subsection (c)(12) shall apply only to amounts paid after the date of the enactment of this Act.

SEC. 202. INDEXING OF CERTAIN ASSETS ACQUIRED AFTER DECEMBER 31, 1996, FOR PURPOSES OF DETERMINING GAIN.

(a) IN GENERAL.—Part II of subchapter O of chapter 1 (relating to basis rules of general application) is amended by inserting after section 1021 the following new section:

''SEC. 1022. INDEXING OF CERTAIN ASSETS ACQUIRED AFTER DECEMBER 31, 1996, FOR PURPOSES OF DETERMINING GAIN.

''(a) GENERAL RULE.—

''(1) INDEXED BASIS SUBSTITUTED FOR ADJUSTED BASIS.—Solely for purposes of determining gain on the sale or other disposition by a taxpayer (other than a corporation) of an indexed asset which has been held for more than 3 years, the indexed basis of the asset shall be substituted for its adjusted basis.

''(2) EXCEPTION FOR DEPRECIATION, ETC.—The deductions for depreciation, depletion, and amortization shall be determined without regard to the application of paragraph (1) to the taxpayer or any other person.

''(b) INDEXED ASSET.—

''(1) IN GENERAL.—For purposes of this section, the term 'indexed asset' means—

''(A) common stock in a C corporation (other than a foreign corporation), and

''(B) tangible property,

which is a capital asset or property used in the trade or business (as defined in section 1231(b)).

''(2) STOCK IN CERTAIN FOREIGN CORPORATIONS INCLUDED.—For purposes of this section—

''(A) IN GENERAL.—The term 'indexed asset' includes common stock in a foreign corporation which is regularly traded on an established securities market.

''(B) EXCEPTION.—Subparagraph (A) shall not apply to—

''(i) stock of a foreign investment company (within the meaning of section 1246(b)),

''(ii) stock in a passive foreign investment company (as defined in section 1296),

''(iii) stock in a foreign corporation held by a United States person who meets the requirements of section 1248(a)(2), and

''(iv) stock in a foreign personal holding company (as defined in section 552).

''(C) TREATMENT OF AMERICAN DEPOSITORY RECEIPTS.—An American depository receipt for common stock in a foreign corporation shall be treated as common stock in such corporation.

''(c) INDEXED BASIS.—For purposes of this section—

''(1) GENERAL RULE.—The indexed basis for any asset is—

''(A) the adjusted basis of the asset, increased by

''(B) the applicable inflation adjustment.

''(2) APPLICABLE INFLATION ADJUSTMENT.—The applicable inflation adjustment for any asset is an amount equal to—

''(A) the adjusted basis of the asset, multiplied by

''(B) the percentage (if any) by which—

''(i) the gross domestic product deflator for the last calendar quarter ending before the asset is disposed of, exceeds

''(ii) the gross domestic product deflator for the last calendar quarter ending before the asset was acquired by the taxpayer.

The percentage under subparagraph (B) shall be rounded to the nearest 1/10 of 1 percentage point.

''(3) GROSS DOMESTIC PRODUCT DEFLATOR.—The gross domestic product deflator for any calendar quarter is the implicit price deflator for the gross domestic product for such quarter (as shown in the last revision thereof released by the Secretary of Commerce before the close of the following calendar quarter).

''(d) SUSPENSION OF HOLDING PERIOD WHERE DIMINISHED RISK OF LOSS; TREATMENT OF SHORT SALES.—

''(1) IN GENERAL.—If the taxpayer (or a related person) enters into any transaction which substantially reduces the risk of loss from holding any asset, such asset shall not be treated as an indexed asset for the period of such reduced risk.

''(2) SHORT SALES.—

''(A) IN GENERAL.—In the case of a short sale of an indexed asset with a short sale period in excess of 3 years, for purposes of this title, the amount realized shall be an amount equal to the amount realized (determined without regard to this paragraph) increased by the applicable inflation adjustment. In applying subsection (c)(2) for purposes of the preceding sentence, the date on which the property is sold short shall be treated as the date of acquisition and the closing date for the sale shall be treated as the date of disposition.

''(B) SHORT SALE PERIOD.—For purposes of subparagraph (A), the short sale period begins on the day that the property is sold and ends on the closing date for the sale.

''(e) TREATMENT OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—

''(1) ADJUSTMENTS AT ENTITY LEVEL.—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, the adjustment under subsection (a) shall be allowed to any qualified investment entity (including for purposes of determining the earnings and profits of such entity).

''(B) EXCEPTION FOR CORPORATE SHAREHOLDERS.—Under regulations—

''(i) in the case of a distribution by a qualified investment entity (directly or indirectly) to a corporation—

''(I) the determination of whether such distribution is a dividend shall be made without regard to this section, and

''(II) the amount treated as gain by reason of the receipt of any capital gain dividend shall be increased by the percentage by which the entity's net capital gain for the taxable year (determined without regard to this section) exceeds the entity's net capital gain for such year determined with regard to this section, and

''(ii) there shall be other appropriate adjustments (including deemed distributions) so as to ensure that the benefits of this section are not allowed (directly or indirectly) to corporate shareholders of qualified investment entities.

For purposes of the preceding sentence, any amount includible in gross income under section 852(b)(3)(D) shall be treated as a capital gain dividend and an S corporation shall not be treated as a corporation.

''(C) EXCEPTION FOR QUALIFICATION PURPOSES.—This section shall not apply for purposes of sections 851(b) and 856(c).

''(D) EXCEPTION FOR CERTAIN TAXES IMPOSED AT ENTITY LEVEL.—

''(i) TAX ON FAILURE TO DISTRIBUTE ENTIRE GAIN.—If any amount is subject to tax under section 852(b)(3)(A) for any taxable year, the amount on which tax is imposed under such section shall be increased by the percentage determined under subparagraph (B)(i)(II). A similar rule shall apply in the case of any amount subject to tax under paragraph (2) or (3) of section 857(b) to the extent attributable to the excess of the net capital gain over the deduction for dividends paid determined with reference to capital gain dividends only. The first sentence of this clause shall not apply to so much of the amount subject to tax under section 852(b)(3)(A) as is designated by the company under section 852(b)(3)(D).

''(ii) OTHER TAXES.—This section shall not apply for purposes of determining the amount of any tax imposed by paragraph (4), (5), or (6) of section 857(b).

''(2) ADJUSTMENTS TO INTERESTS HELD IN ENTITY.—

''(A) REGULATED INVESTMENT COMPANIES.—Stock in a regulated investment company (within the meaning of section 851) shall be an indexed asset for any calendar quarter in the same ratio as—

''(i) the average of the fair market values of the indexed assets held by such company at the close of each month during such quarter, bears to

''(ii) the average of the fair market values of all assets held by such company at the close of each such month.

''(B) REAL ESTATE INVESTMENT TRUSTS.—Stock in a real estate investment trust (within the meaning of section 856) shall be an indexed asset for any calendar quarter in the same ratio as—

''(i) the fair market value of the indexed assets held by such trust at the close of such quarter, bears to

''(ii) the fair market value of all assets held by such trust at the close of such quarter.

''(C) RATIO OF 80 PERCENT OR MORE.—If the ratio for any calendar quarter determined under subparagraph (A) or (B) would (but for this subparagraph) be 80 percent or more, such ratio for such quarter shall be 100 percent.

''(D) RATIO OF 20 PERCENT OR LESS.—If the ratio for any calendar quarter determined under subparagraph (A) or (B) would (but for this subparagraph) be 20 percent or less, such ratio for such quarter shall be zero.

''(E) LOOK-THRU OF PARTNERSHIPS.—For purposes of this paragraph, a qualified investment entity which holds a partnership interest shall be treated (in lieu of holding a partnership interest) as holding its proportionate share of the assets held by the partnership.

''(3) TREATMENT OF RETURN OF CAPITAL DISTRIBUTIONS.—Except as otherwise provided by the Secretary, a distribution with respect to stock in a qualified investment entity which is not a dividend and which results in a reduction in the adjusted basis of such stock shall be treated as allocable to stock acquired by the taxpayer in the order in which such stock was acquired.

''(4) QUALIFIED INVESTMENT ENTITY.—For purposes of this subsection, the term 'qualified investment entity' means—

''(A) a regulated investment company (within the meaning of section 851), and

''(B) a real estate investment trust (within the meaning of section 856).

''(f) OTHER PASS-THRU ENTITIES.—

''(1) PARTNERSHIPS.—

''(A) IN GENERAL.—In the case of a partnership, the adjustment made under subsection (a) at the partnership level shall be passed through to the partners.

''(B) SPECIAL RULE IN THE CASE OF SECTION 754 ELECTIONS.—In the case of a transfer of an interest in a partnership with respect to which the election provided in section 754 is in effect—

''(i) the adjustment under section 743(b)(1) shall, with respect to the transferor partner, be treated as a sale of the partnership assets for purposes of applying this section, and

''(ii) with respect to the transferee partner, the partnership's holding period for purposes of this section in such assets shall be treated as beginning on the date of such adjustment.

''(2) S CORPORATIONS.—In the case of an S corporation, the adjustment made under subsection (a) at the corporate level shall be passed through to the shareholders. This section shall not apply for purposes of determining the amount of any tax imposed by section 1374 or 1375.

''(3) COMMON TRUST FUNDS.—In the case of a common trust fund, the adjustment made under subsection (a) at the trust level shall be passed through to the participants.

''(4) INDEXING ADJUSTMENT DISREGARDED IN DETERMINING LOSS ON SALE OF INTEREST IN ENTITY.—Notwithstanding the preceding provisions of this subsection, for purposes of determining the amount of any loss on a sale or exchange of an interest in a partnership, S corporation, or common trust fund, the adjustment made under subsection (a) shall not be taken into account in determining the adjusted basis of such interest.

''(g) DISPOSITIONS BETWEEN RELATED PERSONS.—

''(1) IN GENERAL.—This section shall not apply to any sale or other disposition of property between related persons except to the extent that the basis of such property in the hands of the transferee is a substituted basis.

''(2) RELATED PERSONS DEFINED.—For purposes of this section, the term 'related persons' means—

''(A) persons bearing a relationship set forth in section 267(b), and

''(B) persons treated as single employer under subsection (b) or (c) of section 414.

''(h) TRANSFERS TO INCREASE INDEXING ADJUSTMENT.—If any person transfers cash, debt, or any other property to another person and the principal purpose of such transfer is to secure or increase an adjustment under subsection (a), the Secretary may disallow part or all of such adjustment or increase.

''(i) SPECIAL RULES.—For purposes of this section—

''(1) TREATMENT OF IMPROVEMENTS, ETC.—If there is an addition to the adjusted basis of any tangible property or of any stock in a corporation during the taxable year by reason of an improvement to such property or a contribution to capital of such corporation—

''(A) such addition shall never be taken into account under subsection (c)(1)(A) if the aggregate amount thereof during the taxable year with respect to such property or stock is less than $1,000, and

''(B) such addition shall be treated as a separate asset acquired at the close of such taxable year if the aggregate amount thereof during the taxable year with respect to such property or stock is $1,000 or more.

A rule similar to the rule of the preceding sentence shall apply to any other portion of an asset to the extent that separate treatment of such portion is appropriate to carry out the purposes of this section.

''(2) ASSETS WHICH ARE NOT INDEXED ASSETS THROUGHOUT HOLDING PERIOD.—The applicable inflation adjustment shall be appropriately reduced for periods during which the asset was not an indexed asset.

''(3) TREATMENT OF CERTAIN DISTRIBUTIONS.—A distribution with respect to stock in a corporation which is not a dividend shall be treated as a disposition.

''(4) ACQUISITION DATE WHERE THERE HAS BEEN PRIOR APPLICATION OF SUBSECTION (a)(1) WITH RESPECT TO THE TAXPAYER.—If there has been a prior application of subsection (a)(1) to an asset while such asset was held by the taxpayer, the date of acquisition of such asset by the taxpayer shall be treated as not earlier than the date of the most recent such prior application.

''(5) COLLAPSIBLE CORPORATIONS.—The application of section 341(a) (relating to collapsible corporations) shall be determined without regard to this section.

''(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter O of chapter 1 is amended by inserting after the item relating to section 1021 the following new item:

''Sec. 1022. Indexing of certain assets acquired after December 31, 1996, for purposes of determining gain.''

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to the disposition of any property the holding period of which begins after December 31, 1996.

(2) CERTAIN TRANSACTIONS BETWEEN RELATED PERSONS.—The amendments made by this section shall not apply to the disposition of any property acquired after December 31, 1996, from a related person (as defined in section 1022(g)(2) of the Internal Revenue Code of 1986, as added by this section) if—

(A) such property was so acquired for a price less than the property's fair market value, and

(B) the amendments made by this section did not apply to such property in the hands of such related person.

(d) ELECTION TO RECOGNIZE GAIN ON ASSETS HELD ON JANUARY 1, 1997.—For purposes of the Internal Revenue Code of 1986—

(1) IN GENERAL.—A taxpayer other than a corporation may elect to treat—

(A) any readily tradable stock (which is an indexed asset) held by such taxpayer on January 1, 1997, and not sold before the next business day after such date, as having been sold on such next business day for an amount equal to its closing market price on such next business day (and as having been reacquired on such next business day for an amount equal to such closing market price), and

(B) any other indexed asset held by the taxpayer on January 1, 1997, as having been sold on such date for an amount equal to its fair market value on such date (and as having been reacquired on such date for an amount equal to such fair market value).

(2) TREATMENT OF GAIN OR LOSS.—

(A) Any gain resulting from an election under paragraph (1) shall be treated as received or accrued on the date the asset is treated as sold under paragraph (1) and shall be recognized notwithstanding any provision of the Internal Revenue Code of 1986.

(B) Any loss resulting from an election under paragraph (1) shall not be allowed for any taxable year.

(3) ELECTION.—An election under paragraph (1) shall be made in such manner as the Secretary of the Treasury or his delegate may prescribe and shall specify the assets for which such election is made. Such an election, once made with respect to any asset, shall be irrevocable.

(4) READILY TRADABLE STOCK.—For purposes of this subsection, the term ''readily tradable stock'' means any stock which, as of January 1, 1997, is readily tradable on an established securities market or otherwise.

(e) TREATMENT OF PRINCIPAL RESIDENCES.—Property held and used by the taxpayer on January 1, 1997, as his principal residence (within the meaning of section 1034 of the Internal Revenue Code of 1986) shall be treated—

(1) for purposes of subsection (c)(1) of this section and section 1022 of such Code, as having a holding period which begins on January 1, 1997, and

(2) for purposes of section 1022(c)(2)(B)(ii) of such Code, as having been acquired on January 1, 1997.

Subsection (d) shall not apply to property to which this subsection applies.

SEC. 203. MODIFICATIONS TO EXCLUSION OF GAIN ON CERTAIN SMALL BUSINESS STOCK.

(a) REPEAL OF MINIMUM TAX PREFERENCE.—

(1) Subsection (a) of section 57 is amended by striking paragraph (7).

(2) Subclause (II) of section 53(d)(1)(B)(ii) is amended by striking '', (5), and (7)'' and inserting ''and (5)''.

(b) STOCK OF LARGER BUSINESSES ELIGIBLE FOR REDUCED RATES.—Paragraph (1) of section 1203(d), as redesignated by section 201, is amended by striking ''$50,000,000'' each place it appears and inserting ''$100,000,000''.

(c) REPEAL OF PER-ISSUER LIMITATION.—Section 1203, as so redesignated, is amended by striking subsection (b).

(d) OTHER MODIFICATIONS.—

(1) REPEAL OF WORKING CAPITAL LIMITATION.—Paragraph (6) of section 1203(e), as so redesignated, is amended—

(A) by striking ''2 years'' in subparagraph (B) and inserting ''5 years'', and

(B) by striking the last sentence.

(2) EXCEPTION FROM REDEMPTION RULES WHERE BUSINESS PURPOSE.—Paragraph (3) of section 1203(c), as so redesignated, is amended by adding at the end the following new subparagraph:

''(D) WAIVER WHERE BUSINESS PURPOSE.—A purchase of stock by the issuing corporation shall be disregarded for purposes of subparagraph (B) if the issuing corporation establishes that there was a business purpose for such purchase and one of the principal purposes of the purchase was not to avoid the limitations of this section.''

(e) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 1203, as so redesignated, is amended by striking ''subsections (f) and (h)'' and inserting ''subsections (e) and (g)''.

(2) Paragraph (2) of section 1203(c), as so redesignated, is amended—

(A) by striking ''subsection (e)'' each place it appears and inserting ''subsection (d)'', and

(B) by striking ''subsection (e)(4) in subparagraph (B)(ii) and inserting ''subsection (d)(4)''.

(3) Paragraph (1) of section 1203(e), as so redesignated, is amended by striking ''subsection (c)(2)'' and inserting ''subsection (b)(2)''.

(4) Paragraph (1) of section 1203(g), as so redesignated, is amended to read as follows:

''(1) IN GENERAL.—If any amount included in gross income by reason of holding an interest in a pass-thru entity meets the requirements of paragraph (2), such amount shall be treated as gain from the sale or exchange of any qualified small business stock held for more than 5 years.''

(5) Section 1203, as so redesignated, as amended by the preceding provisions of this section, is amended by redesignating subsections (c) through (k) as subsections (b) through (j), respectively.

(f) CLERICAL AMENDMENT.—Section 1203, as so redesignated, is amended by adding at the end the following new subsection:

''(k) CROSS REFERENCE.—

''For reduced rates on gain of qualified small business stock held more than 5 years, see sections 1201(b) and 1202(e).''

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to stock issued after August 10, 1993.

(2) INCREASE IN SIZE.—The amendment made by subsection (b) shall apply to stock issued after the date of the enactment of this Act.

Subtitle B—Corporate Capital Gains

SEC. 211. REDUCTION OF ALTERNATIVE CAPITAL GAIN TAX FOR CORPORATIONS.

(a) IN GENERAL.—Section 1201 is amended to read as follows:

''SEC. 1201. ALTERNATIVE TAX FOR CORPORATIONS.

''(a) GENERAL RULE.—If for any taxable year a corporation has a net capital gain, then, in lieu of the tax imposed by sections 11, 511, and 831 (a) and (b) (whichever is applicable), there is hereby imposed a tax (if such tax is less than the tax imposed by such sections) which shall consist of the sum of—

''(1) a tax computed on the taxable income reduced by the amount of the net capital gain, at the rates and in the manner as if this subsection had not been enacted, plus

''(2) a tax of 28 percent of the net capital gain.

''(b) SPECIAL RULES FOR QUALIFIED SMALL BUSINESS GAIN.—

''(1) IN GENERAL.—If for any taxable year a corporation has gain from the sale or exchange of any qualified small business stock held for more than 5 years, the amount determined under subsection (a)(2) for such taxable year shall be equal to the sum of—

''(A) 21 percent of the lesser of such gain or the corporation's net capital gain, plus

''(B) 28 percent of the net capital gain reduced by the gain taken into account under subparagraph (A).

''(2) QUALIFIED SMALL BUSINESS STOCK.—For purposes of paragraph (1), the term 'qualified small business stock' has the meaning given such term by section 1203(b), except that stock shall not be treated as qualified small business stock if such stock was at any time held by a member of the parent-subsidiary controlled group (as defined in section 1203(c)(3)) which includes the qualified small business.

''(c) TRANSITIONAL RULE.—

''(1) IN GENERAL.—In applying this section, net capital gain for any taxable year shall not exceed the net capital gain determined by taking into account only gains and losses properly taken into account for the portion of the taxable year after December 31, 1996.

''(2) SPECIAL RULE FOR PASS-THRU ENTITIES.—Section 1202(d)(3)(C) shall apply for purposes of paragraph (1).

''(d) CROSS REFERENCES.—

''For computation of the alternative tax—

''(1) in the case of life insurance companies, see section 801(a)(2),

''(2) in the case of regulated investment companies and their shareholders, see section 852(b)(3) (A) and (D), and

''(3) in the case of real estate investment trusts, see section 857(b)(3)(A).''

(b) TECHNICAL AMENDMENT.—Clause (iii) of section 852(b)(3)(D) is amended by striking ''65 percent'' and inserting ''72 percent''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years ending after December 31, 1996.

(2) QUALIFIED SMALL BUSINESS STOCK.—Section 1201(b) of the Internal Revenue Code of 1986 (as added by subsection (a)) shall apply to gain from qualified small business stock acquired on or after the date of the enactment of this Act.

Subtitle C—Capital Loss Deduction Allowed With Respect to Sale or Exchange of Principal Residence

SEC. 221. CAPITAL LOSS DEDUCTION ALLOWED WITH RESPECT TO SALE OR EXCHANGE OF PRINCIPAL RESIDENCE.

(a) IN GENERAL.—Subsection (c) of section 165 (relating to limitation on losses of individuals) is amended by striking ''and'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ''; and'', and by adding at the end the following new paragraph:

''(4) losses arising from the sale or exchange of the principal residence (within the meaning of section 1034) of the taxpayer.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales and exchanges after December 31, 1996, in taxable years ending after such date.

TITLE III—ESTATE AND GIFT PROVISIONS

SEC. 301. INCREASE IN UNIFIED ESTATE AND GIFT TAX CREDIT.

(a) ESTATE TAX CREDIT.—

(1) IN GENERAL.—Section 2010(a) (relating to unified credit against estate tax) is amended by striking ''$192,800'' and inserting ''the applicable credit amount''.

(2) APPLICABLE CREDIT AMOUNT.— Section 2010 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

''(c) APPLICABLE CREDIT AMOUNT.—For purposes of this section, the applicable credit amount is the amount of the tentative tax which would be determined under the rate schedule set forth in section 2001(c) if the amount with respect to which such tentative tax is to be computed were the applicable exclusion amount determined in accordance with the following table:

''In the case of estates of decedents dying, and gifts made, during:	**The applicable exclusion amount is:**
1997	$650,000
1998	$700,000
1999	$750,000
2000	$800,000
2001	$850,000
2002	$900,000
2003	$950,000
2004 or thereafter	$1,000,000.''

(3) CONFORMING AMENDMENTS.—

(A) Section 6018(a)(1) is amended by striking ''$600,000'' and inserting ''the applicable exclusion amount in effect under section 2010(c) for the calendar year which includes the date of death''.

(B) Section 2001(c)(2) is amended by striking ''$21,040,000'' and inserting ''the amount at which the average tax rate under this section is 55 percent''.

(C) Section 2102(c)(3)(A) is amended by striking ''$192,800'' and inserting ''the applicable credit amount in effect under section 2010(c) for the calendar year which includes the date of death''.

(b) UNIFIED GIFT TAX CREDIT.—Section 2505(a)(1) (relating to unified credit against gift tax) is amended by striking ''$192,800'' and inserting ''the applicable credit amount in effect under section 2010(c) for such calendar year''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying, and gifts made, after December 31, 1996.

SEC. 302. FAMILY-OWNED BUSINESS EXCLUSION.

(a) IN GENERAL.—Part III of subchapter A of chapter 11 (relating to gross estate) is amended by inserting after section 2033 the following new section:

''SEC. 2033A. FAMILY-OWNED BUSINESS EXCLUSION.

''(a) IN GENERAL.—In the case of an estate of a decedent to which this section applies, the value of the gross estate shall not include the lesser of—

''(1) the adjusted value of the qualified family-owned business interests of the decedent otherwise includible in the estate, or

''(2) the sum of—

''(A) $1,500,000, plus

''(B) 50 percent of the excess (if any) of the adjusted value of such interests over $1,500,000.

''(b) ESTATES TO WHICH SECTION APPLIES.—

''(1) IN GENERAL.—This section shall apply to an estate if—

''(A) the decedent was (at the date of the decedent's death) a citizen or resident of the United States,

''(B) the sum of—

''(i) the adjusted value of the qualified family-owned business interests described in paragraph (2), plus

''(ii) the amount of the gifts of such interests determined under paragraph (3),

exceeds 50 percent of the adjusted gross estate, and

''(C) during the 8-year period ending on the date of the decedent's death there have been periods aggregating 5 years or more during which—

''(i) such interests were owned by the decedent or a member of the decedent's family, and

''(ii) there was material participation (within the meaning of section 2032A(e)(6)) by the decedent or a member of the decedent's family in the operation of the business to which such interests relate.

''(2) INCLUDIBLE QUALIFIED FAMILY-OWNED BUSINESS INTERESTS.—The qualified family-

owned business interests described in this paragraph are the interests which—

''(A) are included in determining the value of the gross estate (without regard to this section), and

''(B) are acquired by any qualified heir from, or passed to any qualified heir from, the decedent (within the meaning of section 2032A(e)(9)).

''(3) INCLUDIBLE GIFTS OF INTERESTS.—The amount of the gifts of qualified family-owned business interests determined under this paragraph is the excess of—

''(A) the sum of—

''(i) the amount of such gifts from the decedent to members of the decedent's family taken into account under subsection 2001(b)(1)(B), plus

''(ii) the amount of such gifts otherwise excluded under section 2503(b),

to the extent such interests are continuously held by members of such family (other than the decedent's spouse) between the date of the gift and the date of the decedent's death, over

''(B) the amount of such gifts from the decedent to members of the decedent's family otherwise included in the gross estate.

''(c) ADJUSTED GROSS ESTATE.—For purposes of this section, the term 'adjusted gross estate' means the value of the gross estate (determined without regard to this section)—

''(1) reduced by any amount deductible under paragraph (3) or (4) of section 2053(a), and

''(2) increased by the excess of—

''(A) the sum of—

''(i) the amount of gifts determined under subsection (b)(3), plus

''(ii) the amount (if more than de minimis) of other transfers from the decedent to the decedent's spouse (at the time of the transfer) within 10 years of the date of the decedent's death, plus

''(iii) the amount of other gifts (not included under clause (i) or (ii)) from the decedent within 3 years of such date, other than gifts to members of the decedent's family otherwise excluded under section 2503(b), over

''(B) the sum of the amounts described in clauses (i), (ii), and (iii) of subparagraph (A) which are otherwise includible in the gross estate.

For purposes of the preceding sentence, the Secretary may provide that de minimis gifts to persons other than members of the decedent's family shall not be taken into account.

''(d) ADJUSTED VALUE OF THE QUALIFIED FAMILY-OWNED BUSINESS INTERESTS.—For purposes of this section, the adjusted value of any qualified family-owned business interest is the value of such interest for purposes of this chapter (determined without regard to this section), reduced by the excess of—

''(1) any amount deductible under paragraph (3) or (4) of section 2053(a), over

''(2) the sum of—

''(A) any indebtedness on any qualified residence of the decedent the interest on which is deductible under section 163(h)(3), plus

''(B) any indebtedness to the extent the taxpayer establishes that the proceeds of such indebtedness were used for the payment of educational and medical expenses of the decedent, the decedent's spouse, or the decedent's dependents (within the meaning of section 152), plus

''(C) any indebtedness not described in clause (i) or (ii), to the extent such indebtedness does not exceed $10,000.

''(e) QUALIFIED FAMILY-OWNED BUSINESS INTEREST.—

''(1) IN GENERAL.—For purposes of this section, the term 'qualified family-owned business interest' means—

''(A) an interest as a proprietor in a trade or business carried on as a proprietorship, or

''(B) an interest in an entity carrying on a trade or business, if—

''(i) at least—

''(I) 50 percent of such entity is owned (directly or indirectly) by the decedent and members of the decedent's family,

''(II) 70 percent of such entity is so owned by members of 2 families, or

''(III) 90 percent of such entity is so owned by members of 3 families, and

''(ii) for purposes of subclause (II) or (III) of clause (i), at least 30 percent of such entity is so owned by the decedent and members of the decedent's family.

''(2) LIMITATION.—Such term shall not include—

''(A) any interest in a trade or business the principal place of business of which is not located in the United States,

''(B) any interest in an entity, if the stock or debt of such entity or a controlled group (as defined in section 267(f)(1)) of which such entity was a member was readily tradable on an established securities market or secondary market (as defined by the Secretary) at any time within 3 years of the date of the decedent's death,

''(C) any interest in a trade or business not described in section 542(c)(2), if more than 35 percent of the adjusted ordinary gross income of such trade or business for the taxable year which includes the date of the decedent's death would qualify as personal holding company income (as defined in section 543(a)),

''(D) that portion of an interest in a trade or business that is attributable to—

''(i) cash or marketable securities, or both, in excess of the reasonably expected day-to-day working capital needs of such trade or business, and

''(ii) any other assets of the trade or business (other than assets used in the active conduct of a trade or business described in section 542(c)(2)), the income of which is described in section 543(a) or in subparagraph (B), (C), (D), or (E) of section 954(c)(1) (determined by substituting 'trade or business' for 'controlled foreign corporation').

''(3) RULES REGARDING OWNERSHIP.—

''(A) OWNERSHIP OF ENTITIES.—For purposes of paragraph (1)(B)—

''(i) CORPORATIONS.—Ownership of a corporation shall be determined by the holding of stock possessing the appropriate percentage of the total combined voting power of all classes of stock entitled to vote and the appropriate percentage of the total value of shares of all classes of stock.

''(ii) PARTNERSHIPS.—Ownership of a partnership shall be determined by the owning of the appropriate percentage of the capital interest in such partnership.

''(B) OWNERSHIP OF TIERED ENTITIES.—For purposes of this section, if by reason of holding an interest in a trade or business, a decedent, any member of the decedent's family, any qualified heir, or any member of any qualified heir's family is treated as holding an interest in any other trade or business—

''(i) such ownership interest in the other trade or business shall be disregarded in determining if the ownership interest in the first trade or business is a qualified family-owned business interest, and

''(ii) this section shall be applied separately in determining if such interest in any other trade or business is a qualified family-owned business interest.

''(C) INDIVIDUAL OWNERSHIP RULES.—For purposes of this section, an interest owned, directly or indirectly, by or for an entity described in paragraph (1)(B) shall be considered as being owned proportionately by or for the entity's shareholders, partners, or beneficiaries. A person shall be treated as a beneficiary of any trust only if such person has a present interest in such trust.

''(f) TAX TREATMENT OF FAILURE TO MATERIALLY PARTICIPATE IN BUSINESS OR DISPOSITIONS OF INTERESTS.—

''(1) IN GENERAL.—There is imposed an additional estate tax if, within 10 years after the date of the decedent's death and before the date of the qualified heir's death—

''(A) the material participation requirements described in section 2032A(c)(6)(B) are not met with respect to the qualified family-owned business interest which was acquired (or passed) from the decedent,

''(B) the qualified heir disposes of any portion of a qualified family-owned business interest (other than by a disposition to a member of the qualified heir's family or through a qualified conservation contribution under section 170(h)),

''(C) the qualified heir loses United States citizenship (within the meaning of section 877) or with respect to whom an event described in subparagraph (A) or (B) of section 877(e)(1) occurs, and such heir does not comply with the requirements of subsection (g), or

''(D) the principal place of business of a trade or business of the qualified family-owned business interest ceases to be located in the United States.

''(2) ADDITIONAL ESTATE TAX.—

''(A) IN GENERAL.—The amount of the additional estate tax imposed by paragraph (1) shall be equal to—

''(i) the applicable percentage of the adjusted tax difference attributable to the qualified family-owned business interest (as determined under rules similar to the rules of section 2032A(c)(2)(B)), plus

''(ii) interest on the amount determined under clause (i) at the underpayment rate established under section 6621 for the period beginning on the date the estate tax liability was due under this chapter and ending on the date such additional estate tax is due.

''(B) APPLICABLE PERCENTAGE.—For purposes of this paragraph, the applicable percentage shall be determined under the following table:

"If the event described in paragraph (1) occurs in the following year of material participation:	**The applicable percentage is:**
1 through 6	100
7	80
8	60
9	40
10	20.

''(g) SECURITY REQUIREMENTS FOR NONCITIZEN QUALIFIED HEIRS.—

''(1) IN GENERAL.—Except upon the application of subparagraph (F) or (M) of subsection (h)(3), if a qualified heir is not a citizen of the United States, any interest under this section passing to or acquired by such heir (including any interest held by such heir at a time described in subsection (f)(1)(C)) shall be treated as a qualified family-owned business interest only if the interest passes or is acquired (or is held) in a qualified trust.

''(2) QUALIFIED TRUST.—The term 'qualified trust' means a trust—

''(A) which is organized under, and governed by, the laws of the United States or a State, and

''(B) except as otherwise provided in regulations, with respect to which the trust instrument requires that at least 1 trustee of the trust be an individual citizen of the United States or a domestic corporation.

''(h) OTHER DEFINITIONS AND APPLICABLE RULES.—For purposes of this section—

''(1) QUALIFIED HEIR.—The term 'qualified heir'—

''(A) has the meaning given to such term by section 2032A(e)(1), and

''(B) includes any active employee of the trade or business to which the qualified family-owned business interest relates if such employee has been employed by such trade or business for a period of at least 10 years before the date of the decedent's death.

''(2) MEMBER OF THE FAMILY.—The term 'member of the family' has the meaning given to such term by section 2032A(e)(2).

''(3) APPLICABLE RULES.—Rules similar to the following rules shall apply:

''(A) Section 2032A(b)(4) (relating to decedents who are retired or disabled).

''(B) Section 2032A(b)(5) (relating to special rules for surviving spouses).

''(C) Section 2032A(c)(2)(D) (relating to partial dispositions).

''(D) Section 2032A(c)(3) (relating to only 1 additional tax imposed with respect to any 1 portion).

''(E) Section 2032A(c)(4) (relating to due date).

''(F) Section 2032A(c)(5) (relating to liability for tax; furnishing of bond).

''(G) Section 2032A(c)(7) (relating to no tax if use begins within 2 years; active management by eligible qualified heir treated as material participation).

''(H) Section 2032A(e)(10) (relating to community property).

''(I) Section 2032A(e)(14) (relating to treatment of replacement property acquired in section 1031 or 1033 transactions).

''(J) Section 2032A(f) (relating to statute of limitations).

''(K) Section 6166(b)(3) (relating to farmhouses and certain other structures taken into account).

''(L) Subparagraphs (B), (C), and (D) of section 6166(g)(1) (relating to acceleration of payment).

''(M) Section 6324B (relating to special lien for additional estate tax).

''(4) COORDINATION WITH OTHER ESTATE TAX BENEFITS.—If there is a reduction in the value of the gross estate under this section—

''(A) the dollar limitation applicable under section 2032A(a)(2), and

''(B) the $1,000,000 amount under section 6601(j)(3) (as adjusted),

shall each be reduced (but not below zero) by the amount of such reduction.''

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter A of chapter 11 is amended by inserting after the item relating to section 2033 the following new item:

''Sec. 2033A. Family-owned business exclusion.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1996.

SEC. 303. 20-YEAR INSTALLMENT PAYMENT WHERE ESTATE CONSISTS LARGELY OF INTEREST IN CLOSELY HELD BUSINESS.

(a) IN GENERAL.—Section 6166(a) (relating to extension of time for payment of estate tax where estate consists largely of interest in closely held business) is amended by striking ''10'' in paragraph (1) and the heading thereof and inserting ''20''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1996.

SEC. 304. NO INTEREST ON CERTAIN PORTION OF ESTATE TAX EXTENDED UNDER 6166.

(a) IN GENERAL.—Section 6601(j) (relating to 4-percent rate on certain portion of estate tax extended under section 6166) is amended—

(1) by striking the first sentence of paragraph (1) and inserting the following new sentence: ''If the time for payment of an amount of tax imposed by chapter 11 is extended as provided in section 6166, no interest on the no-interest portion of such amount shall (in lieu of the annual rate provided by subsection (a)) be paid.'',

(2) by striking ''4-percent'' each place it appears in paragraphs (2) and (3) and inserting ''no-interest'',

(3) by striking ''4-PERCENT'' in the heading of paragraph (2) and inserting ''NO INTEREST'', and

(4) by striking ''4-PERCENT RATE'' in the heading thereof and inserting ''NO INTEREST''.

(b) CONFORMING AMENDMENTS.—

(1) Section 6166(b)(7)(A)(iii) is amended by striking ''4-percent rate of interest'' and inserting ''no-interest portion''.

(2) Section 6166(b)(8)(A)(iii) is amended to read as follows:

''(iii) NO-INTEREST PORTION NOT TO APPLY.—Section 6601(j) (relating to no-interest portion) shall not apply.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1996.

TITLE IV—SAVINGS INCENTIVES

SEC. 401. RESTORATION OF IRA DEDUCTION.

(a) MODIFICATIONS OF RESTRICTIONS ON ACTIVE PARTICIPANTS.—Subparagraph (B) of section 219(g)(3) (relating to applicable dollar amount) is amended to read as follows:

''(B) APPLICABLE DOLLAR AMOUNT.—The term 'applicable dollar amount' means the following:

''(i) In the case of a taxpayer filing a joint return:

"For taxable years beginning in:	The applicable dollar amount is:
1997	$65,000
1998	$90,000
1999	$115,000
2000	$140,000

''(ii) In the case of any other taxpayer (other than a married individual filing a separate return):

"For taxable years beginning in:	The applicable dollar amount is:
1997	$50,000
1998	$75,000
1999	$100,000
2000	$125,000

''(iii) In the case of a married individual filing a separate return, zero.''.

(b) REPEAL OF RESTRICTIONS ON ACTIVE PARTICIPANTS.—

(1) IN GENERAL.—Section 219 (relating to deduction for retirement savings), as amended by section 402, is amended by striking subsection (g) and by redesignating subsection (h) as subsection (g).

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) Subsection (f) of section 219 is amended by striking paragraph (7).

(B) Paragraph (5) of section 408(d) is amended by striking the last sentence.

(C) Section 408(o) is amended by adding at the end the following new paragraph:

''(5) TERMINATION.—This subsection shall not apply to any designated nondeductible contribution for any taxable year beginning after December 31, 2000.''.

(D) Sections 408A(c)(2)(A) and 4973(b)(2)(B)(ii), as added by section 403, are each amended by striking ''(computed without regard to subsection (g) of such section)''.

(c) COORDINATION OF IRA DEDUCTION LIMIT WITH ELECTIVE DEFERRAL LIMIT.—Section 219(b) (relating to maximum amount of deduction) is amended by adding at the end the following new paragraph:

''(5) COORDINATION WITH ELECTIVE DEFERRAL LIMIT.—The amount determined under paragraph (1) with respect to any individual for any taxable year shall not exceed the excess (if any) of—

''(A) the limitation applicable for the taxable year under section 402(g)(1), over

''(B) the elective deferrals (as defined in section 402(g)(3)) of such individual for such taxable year.''

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a) and (c) shall apply to taxable years beginning after December 31, 1996.

(2) TERMINATION.—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 2000.

SEC. 402. IRA ALLOWED FOR SPOUSES WHO ARE NOT ACTIVE PLAN PARTICIPANTS.

(a) IN GENERAL.—Section 219(g)(1) of the Internal Revenue Code of 1986 is amended by striking ''or the individual's spouse''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 403. ESTABLISHMENT OF NONDEDUCTIBLE TAX-FREE INDIVIDUAL RETIREMENT ACCOUNTS.

(a) IN GENERAL.—Subpart A of part I of subchapter D of chapter 1 (relating to pension, profit-sharing, stock bonus plans, etc.) is amended by inserting after section 408 the following new section:

''SEC. 408A. IRA PLUS ACCOUNTS.

''(a) GENERAL RULE.—Except as provided in this section, an IRA Plus account shall be treated for purposes of this title in the same manner as an individual retirement plan.

''(b) IRA PLUS ACCOUNT.—For purposes of this title, the term 'IRA Plus account' means an individual retirement plan (as defined in section 7701(a)(37)) which is designated (in such manner as the Secretary may prescribe) at the time of establishment of the plan as an IRA Plus account.

''(c) TREATMENT OF CONTRIBUTIONS.—

''(1) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 for a contribution to an IRA Plus account.

''(2) CONTRIBUTION LIMIT.—The aggregate amount of contributions for any taxable year to all IRA Plus accounts maintained for the benefit of an individual shall not exceed the excess (if any) of—

''(A) the maximum amount allowable as a deduction under section 219 with respect to such individual for such taxable year (computed without regard to subsection (g) of such section), over

''(B) the amount so allowed.

''(3) CONTRIBUTIONS PERMITTED AFTER AGE 70½.—Contributions to an IRA Plus account may be made even after the individual for whom the account is maintained has attained age 70½.

''(4) MANDATORY DISTRIBUTION RULES NOT TO APPLY, ETC.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), subsections (a)(6) and (b)(3) of section 408 (relating to required distributions) and section 4974 (relating to excise tax on certain accumulations in qualified retirement plans) shall not apply to any IRA Plus account.

''(B) POST-DEATH DISTRIBUTIONS.—Rules similar to the rules of section 401(a)(9) (other than subparagraph (A) thereof) shall apply for purposes of this section.

''(5) ROLLOVER CONTRIBUTIONS.—

''(A) IN GENERAL.—No rollover contribution may be made to an IRA Plus account unless it is a qualified rollover contribution.

''(B) COORDINATION WITH LIMIT.—A qualified rollover contribution shall not be taken into account for purposes of paragraph (2).

''(6) TIME WHEN CONTRIBUTIONS MADE.—For purposes of this section, the rule of section 219(f)(3) shall apply.

''(d) DISTRIBUTION RULES.—For purposes of this title—

''(1) GENERAL RULES.—

''(A) EXCLUSIONS FROM GROSS INCOME.—Any qualified distribution from an IRA Plus account shall not be includible in gross income.

''(B) NONQUALIFIED DISTRIBUTIONS.—In applying section 72 to any distribution from an IRA Plus account which is not a qualified distribution, such distribution shall be treated as made from contributions to the IRA Plus account to the extent that such distribution, when added to all previous distributions from the IRA Plus account, does not exceed the aggregate amount of contributions to the IRA Plus account. For purposes of the preceding sentence, all IRA Plus accounts maintained for the benefit of an individual shall be treated as 1 account.

''(C) EXCEPTION FROM PENALTY TAX.—Section 72(t) shall not apply to any qualified distribution from an IRA Plus account.

''(2) QUALIFIED DISTRIBUTION.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified distribution' means any payment or distribution—

''(i) made on or after the date on which the individual attains age 59½,

''(ii) made to a beneficiary (or to the estate of the individual) on or after the death of the individual,

''(iii) attributable to the individual's being disabled (within the meaning of section 72(m)(7)), or

''(iv) which is a qualified special purpose distribution.

''(B) CERTAIN DISTRIBUTIONS WITHIN 5 YEARS.—A payment or distribution shall not be treated as a qualified distribution under clause (i) of subparagraph (A) if—

''(i) it is made within the 5-taxable year period beginning with the 1st taxable year for which the individual made a contribution to an IRA Plus account (or such individual's spouse made a contribution to an IRA Plus account) established for such individual, or

''(ii) in the case of a payment or distribution properly allocable (as determined in the manner prescribed by the Secretary) to a qualified rollover contribution (or income allocable thereto), it is made within the 5-taxable year period beginning with the taxable year in which the rollover contribution was made.

Clause (ii) shall not apply to a qualified rollover contribution from an IRA plus account.

''(3) ROLLOVERS.—

''(A) IN GENERAL.—Paragraph (1) shall not apply to any distribution which is transferred in a qualified rollover contribution to an IRA Plus account.

''(B) INCOME INCLUSION FOR ROLLOVERS FROM NON-PLUS IRAS.—In the case of any qualified rollover contribution from an individual retirement plan (other than an IRA Plus account) to an IRA Plus account established for the benefit of the payee or distributee, as the case may be—

''(i) sections 72(t) and 408(d)(3) shall not apply, and

''(ii) in any case where such contribution is made before January 1, 1999, any amount required to be included in gross income by reason of this paragraph shall be so included ratably over the 4-taxable year period beginning with the taxable year in which the payment or distribution is made.

''(C) ADDITIONAL REPORTING REQUIREMENTS.—The Secretary shall require that trustees of IRA Plus accounts, trustees of individual retirement plans, or both, whichever is appropriate, shall include such additional information in reports required under section 408(i) as is necessary to ensure that amounts required to be included in gross income under subparagraph (B) are so included.

''(4) QUALIFIED SPECIAL PURPOSE DISTRIBUTION.—For purposes of this section, the term 'qualified special purpose distribution' means any distribution to which subparagraph (B), (D), (E), or (F) of section 72(t)(2) applies.

''(e) QUALIFIED ROLLOVER CONTRIBUTION.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified rollover contribution' means a rollover contribution to an IRA Plus account from another such account, or from an individual retirement plan, but only if such rollover contribution meets the requirements of section 408(d)(3). For purposes of section 408(d)(3)(B), there shall be disregarded any qualified rollover contribution from an individual retirement plan to an IRA Plus account.

''(2) CONVERSIONS.—The conversion of an individual retirement plan to an IRA Plus account shall be treated as if it were a qualified rollover contribution.''

(b) EXCESS DISTRIBUTIONS TAX NOT TO APPLY.—

(1) Subparagraph (A) of section 4980A(d)(3) is amended by inserting ''(other than IRA Plus accounts described in section 408A(b))'' after ''retirement plans''.

(2) Section 4980A(e)(1) is amended by adding at the end the following flush sentence: ''Such term shall not include any amount distributed from an IRA Plus account or any qualified rollover contribution (as defined in section 408A(e)) from an individual retirement plan to an IRA Plus account.''

(c) EXCESS CONTRIBUTIONS.—Section 4973(b) is amended to read as follows:

''(b) EXCESS CONTRIBUTIONS.—For purposes of this section—

''(1) IN GENERAL.—In the case of individual retirement accounts or individual retirement annuities, the term 'excess contributions' means the sum of—

''(A) the amount determined under paragraph (2) for the taxable year, plus

''(B) the carryover amount determined under paragraph (3) for the taxable year.

''(2) CURRENT YEAR.—The amount determined under this paragraph for any taxable year is an amount equal to the sum of—

''(A) the excess (if any) of—

''(i) the amount contributed for the taxable year to the accounts or for the annuities or bonds (other than IRA Plus accounts), over

''(ii) the amount allowable as a deduction under section 219 for the taxable year, plus

''(B) the excess (if any) of—

''(i) the amount described in clause (i) (taking into account contributions to IRA Plus accounts) contributed for the taxable year, over

''(ii) the amount allowable as a deduction under section 219 for the taxable year (computed without regard to subsection (g) of such section).

''(3) CARRYOVER AMOUNT.—The carryover amount determined under this paragraph for any taxable year is the amount determined under paragraph (2) for the preceding taxable year, reduced by the sum of—

''(A) the distributions out of the account for the taxable year which were included in the gross income of the payee under section 408(d)(1),

''(B) the distributions out of the account for the taxable year to which section 408(d)(5) applies, and

''(C) the excess (if any) of the amount determined under paragraph (2)(B)(ii) over the amount determined under paragraph (2)(B)(i).

''(4) SPECIAL RULES.—For purposes of this subsection—

''(A) ROLLOVER CONTRIBUTIONS.—Rollover distributions described in sections 402(c), 403(a)(4), 403(b)(8), 408(d)(3), and 408A(e) shall not be taken into account.

''(B) CONTRIBUTIONS RETURNED BEFORE DUE DATE.—Any contribution which is distributed from an individual retirement plan in a distribution to which section 408(d)(4) applies shall not be taken into account.

''(C) EXCESS CONTRIBUTIONS TREATED AS CONTRIBUTIONS.—In applying paragraph (3)(C), the determination as to amounts contributed for a taxable year shall be made without regard to section 219(f)(6).''

(d) SPOUSAL IRA.—Clause (ii) of section 219(c)(1)(B) is amended to read as follows:

''(ii) the compensation includible in the gross income of such individual's spouse for the taxable year reduced by—

''(I) the amount allowed as a deduction under subsection (a) to such spouse for such taxable year, and

''(II) the amount of any contribution on behalf of such spouse to an IRA Plus account under section 408A for such taxable year.''

(e) CONFORMING AMENDMENT.—The table of sections for subpart A of part I of subchapter D of chapter 1 is amended by inserting after the item relating to section 408 the following new item:

''Sec. 408A. IRA Plus accounts.''

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 404. TAX-FREE WITHDRAWALS FROM INDIVIDUAL RETIREMENT PLANS FOR BUSINESS STARTUPS.

(a) EXCLUSION.—Section 408(d) is amended by adding at the end the following new paragraph:

''(8) DISTRIBUTIONS USED FOR BUSINESS START-UP EXPENSES.—

''(A) IN GENERAL.—Paragraph (1) shall not apply to any payments or distributions from an individual retirement plan during any taxable year to the extent the aggregate amount of such payments and distributions does not exceed the business start-up costs of the taxpayer for the taxable year.

''(B) BUSINESS START-UP COSTS.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'business start-up costs' means any amount which is paid or incurred—

''(I) in connection with a trade or business with respect to which the taxpayer is a 50-percent owner, and

''(II) on or before the date which is one year after the date on which the active conduct of such trade or business began (as determined under section 195(c)).

''(ii) CERTAIN COSTS INCLUDED.—The term 'business start-up costs' shall include—

''(I) any start-up expenditures (as defined in section 195(c)), and

''(II) any organizational expenses (as defined in section 709(b)).

''(C) DENIAL OF DOUBLE BENEFIT.—

''(i) DEDUCTIONS.—No deduction otherwise allowable under this chapter with respect to any business start-up costs taken into account under subparagraph (A) shall be allowed to the extent of the amount which would have been includible in gross income but for the application of this paragraph.

''(ii) BASIS REDUCTIONS.—If any portion of the business start-up costs taken into account under subparagraph (A) are properly chargeable to capital account, the basis of the property to which such costs are chargeable shall be reduced by the amount which would have been includible in gross income but for the application of this paragraph.

''(iii) ALLOCATION.—The Secretary shall provide rules for the allocation of amounts excluded from gross income by reason of this paragraph to business start-up costs for purposes for applying this subparagraph.

''(D) 50-PERCENT OWNER.—For purposes of clause (i), the term '50-percent owner' means any individual if the individual—

''(i) in the case of a corporation, own more than 50 percent of the value of the outstanding stock of the corporation or stock possessing more than 50 percent of the total

combined voting power of all stock of the corporation, or

''(ii) in the case of a trade or business other than a corporation, own more than 50 percent of the capital or profits interest in the trade or business.

For purposes of this subparagraph, an individual shall be treated as owning stock and capital or profits interests owned by the individual's spouse.''

(b) EXEMPTION FROM ADDITIONAL TAX.—

(1) IN GENERAL.—Section 72(t)(2) is amended by adding at the end the following new subparagraph:

''(E) DISTRIBUTIONS USED FOR BUSINESS START-UP EXPENSES.—Distributions from an individual retirement plan to the extent such distributions do not exceed the business start-up costs (as defined in section 408(d)(8)) of the taxpayer for the taxable year.''

(2) CONFORMING AMENDMENT.—Section 72(t)(2)(B) is amended by striking ''(C) or (D)'' and inserting ''(C), (D), or (E)''.

(c) EXEMPTION FROM PROHIBITED TRANSACTION.—Section 4975(d) is amended by striking ''or'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting ''; or'', and by adding after paragraph (15) the following new paragraph:

''(16) any distribution from an individual retirement plan which is used for the payment of any business start-up costs (as defined in section 408(d)(8)) of the distributee.''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 1996.

SEC. 405. TAX-FREE WITHDRAWALS FROM INDIVIDUAL RETIREMENT PLANS FOR LONG-TERM UNEMPLOYED.

(a) EXCLUSION.—Section 408(d), as amended by section 404, is amended by adding at the end the following new paragraph:

''(9) DISTRIBUTIONS TO LONG-TERM UNEMPLOYED.—

''(A) IN GENERAL.—Paragraph (1) shall not apply to any payments or distributions from an individual retirement plan during any taxable year to an individual if—

''(i) such individual has received unemployment compensation for 12 consecutive weeks under any Federal or State unemployment compensation law by reason of such separation, and

''(ii) such payments and distributions are made during the taxable year in which such unemployment compensation was paid or the succeeding taxable year.

''(B) DISTRIBUTIONS AFTER REEMPLOYMENT.—Subparagraph (A) shall not apply to any distribution or payment made after the individual has been employed for at least 60 days after the separation from employment to which subparagraph (A) applies.

''(C) SELF-EMPLOYED INDIVIDUALS.—To the extent provided in regulations, a self-employed individual shall be treated as meeting the requirements of subparagraph (A)(i) if, under Federal or State law, the individual would have received unemployment compensation but for the fact the individual was self-employed.''

(b) EXEMPTION FROM ADDITIONAL TAX.—Section 72(t)(2)(D) is amended to read as follows:

''(D) DISTRIBUTIONS TO UNEMPLOYED INDIVIDUALS.—Distributions from an individual retirement plan which are described in section 408(d)(9).''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 1996.

SEC. 406. DISTRIBUTIONS FROM CERTAIN PLANS MAY BE USED WITHOUT PENALTY TO PAY HIGHER EDUCATION EXPENSES.

(a) EXCLUSION.—Section 408(d), as amended by sections 404 and 405, is amended by adding at the end the following new paragraph:

''(10) DISTRIBUTIONS USED FOR QUALIFIED HIGHER EDUCATION EXPENSES.—

''(A) IN GENERAL.—Paragraph (1) shall not apply to any payments or distributions from an individual retirement plan during any taxable year to the extent the aggregate amount of such payments and distributions does not exceed the qualified higher education expenses of the taxpayer for the taxable year.

''(B) QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of subparagraph (A)—

''(i) IN GENERAL.—The term 'qualified higher education expenses' means the cost of attendance (within the meaning of section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087ll)) of—

''(I) the taxpayer,

''(II) the taxpayer's spouse, or

''(III) any child (as defined in section 151(c)(3)), grandchild, or ancestor of the taxpayer or the taxpayer's spouse,

at an eligible educational institution (as defined in section 135(c)(3)).

''(ii) COORDINATION WITH OTHER PROVISIONS.—The amount of qualified higher education expenses for any taxable year shall be reduced by—

''(I) any amount excludable from gross income under section 135, and

''(II) any amount described in section 135(d)(1) (relating to certain scholarships and veterans benefits).''

(b) EXEMPTION FROM ADDITIONAL TAX.—

(1) IN GENERAL.—Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans), as amended by section 402, is amended by adding at the end the following new subparagraph:

''(F) DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT PLANS FOR EDUCATIONAL EXPENSES.—Distributions to an individual from an individual retirement plan to the extent such distributions do not exceed the qualified higher education expenses (as defined in section 408(d)(10)(B)) of the taxpayer for the taxable year.''

(2) CONFORMING AMENDMENT.—Section 72(t)(2)(B), as amended by section 402, is amended by striking ''or (E)'' and inserting '', (E), or (F)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

DESCRIPTION OF S. 2—AMERICAN FAMILY TAX RELIEF ACT

INTRODUCTION

This document,[1] prepared by the staff of the Joint Committee on Taxation, provides a description of S. 2 (''American Family Tax Relief Act''). S. 2 was introduced on January 21, 1997, by Senators Roth and Lott.

Part I of the document is a summary of the bill. Part II is a description of the provisions of the bill: Title I of the bill provides a child tax credit for children under age 18; Title II relates to capital gains and loss provisions; Title III relates to estate and gift tax provisions; and Title IV relates to individual retirement account (''IRA'') provisions.

The document (Part III) also provides estimated revenue effects of the bill for fiscal years 1997–2007.

I. SUMMARY OF S. 2 (''AMERICAN FAMILY TAX RELIEF ACT'')

Child tax credit (title I)

The bill would allow taxpayers a nonrefundable tax credit of $500 for each qualifying child under the age of 18. The credit amount would not be indexed for inflation. For taxpayers with AGI in excess of certain thresholds, the allowable child credit would be reduced by $25 for each $1,000 of AGI (or fraction thereof) in excess of the threshold. For married taxpayers filing joint returns, the threshold would be $110,000. For taxpayers filing single or head of household returns, the threshold would be $75,000. For married taxpayers filing separate returns, the threshold would be $55,000. These thresholds are not indexed for inflation. The provision would be effective for taxable years beginning after December 31, 1996.

Capital gains provisions (title II)

This bill would allow individuals a deduction equal to 50 percent of net capital gain for the taxable year. The bill repeals the present-law maximum 28-percent rate. Thus, the effective rate under the regular tax on the net capital gain of an individual in the highest (i.e., 39.6 percent) marginal rate bracket would be 19.8 percent. In addition, the bill would provide an alternative tax of 28 percent on the net capital gain of a corporation if that rate is less than the corporation's regular tax rate.

The bill generally would provide for an inflation adjustment to (i.e., indexing of) the adjusted basis of certain assets for purposes of determining gain (but not loss) upon a sale or other disposition of such assets by a taxpayer other than a C corporation. To be eligible for indexing, an asset must be held by the taxpayer for more than three years.

In addition, the bill would make certain modifications related to the present-law exclusion for gain from certain small business stock. The bill would repeal the minimum tax preference applicable to such gain, increase the size of an eligible corporation from gross assets of $50 million to gross assets of $100 million, repeal the limitation on the amount of gain an individual can exclude with respect to the stock of any corporation, modify the working capital requirements, and provide corporate taxpayers an alternative rate of 21 percent on the gain from the sale or exchange of qualified small business stock (other than stock of a subsidiary corporation).

The bill would provide that losses recognized by a taxpayer on the sale of his or her personal residence may be deducted as capital losses rather than be treated as nondeductible personal losses.

The changes generally would be effective for dispositions occurring after December 31, 1996. In the case of the indexing of the basis of assets, the bill would be effective for dispositions occurring after December 31, 1996, with respect to assets the holding period of which begins after December 31, 1996.

Estate and gift tax provisions (title III)

Increases in Estate and Gift Tax Unified Credit

The bill would increase ratably the present-law unified estate and gift tax credit over an 8-year period beginning in 1997, from an effective exemption of $600,000 to an effective exemption of $1,000,000. The full $1,000,000 effective exemption would be available for decedents dying, and gifts made, after December 31, 2003.

Estate Tax Exclusion for Qualified Family-Owned Businesses

The bill would provide special estate tax treatment for qualified ''family-owned business interests'' if such interests comprise more than 50 percent of a decedent's estate. Subject to certain requirements, the bill would exclude the first $1,500,000 in value of qualified family-owned business interests from the decedent's estate and would also exclude 50 percent of the remaining value of qualified family-owned business interests. In general, a qualified family-owned business interest would be any nonpublicly-traded interest in a trade or business (regardless of

[1] This document may be cited as follows: Joint Committee on Taxation, *Description of S. 2 (''American Family Tax Relief Act'')* (JCX–2–97), January 21, 1997.

the form in which it is held) with a principal place of business in the United States if ownership of the trade or business is held at least 50 percent by one family, 70 percent by two families, or 90 percent by three families, as long as the decedent's family owns at least 30 percent of the trade or business. To qualify for the beneficial treatment, the decedent (or a member of the decedent's family) must have owned and materially participated in the trade or business for at least five of the eight years preceding the decedent's death, and each qualified heir (or a member of the qualified heir's family) would be required to materially participate in the trade or business for at least five years of each eight-year period ending within ten years after the decedent's death.

The provision would be effective for decedents dying after December 31, 1996.

Installment Payments of Estate Tax Attributable to Closely Held Business

The bill would extend the period for which Federal estate tax installments could be made under section 6166 to a maximum period of 24 years. If the election were made, the estate would pay only interest for the first four years, followed by up to 20 annual installments of principal and interest. Under the bill, there would be no interest imposed on the amount of deferred estate tax attributable to the first $1,000,000 in value of the closely held business. The interest rate imposed on the amount of deferred estate tax attributable to the value of the closely held business in excess of $1,000,000 would remain as under present law (i.e., the rate applicable to underpayments of tax under section 6621, which is the Federal short-term rate plus 3 percentage points). The provision would be effective for decedents dying after December 31, 1996.

IRA provisions (title IV)

Restoration of IRA Deduction for All Taxpayers

The bill would increase the AGI limits applicable to deductible IRA contributions for active participants in 1997, 1998, 1999, and 2000. Thereafter, the bill would repeal the limits on IRA deductions for active participants in employer-sponsored retirement plans. Thus, under the bill, after 2000, an individual would be entitled to make a $2,000 deductible IRA contribution without regard to whether the individual was an active participant in an employer-sponsored retirement plan. The bill would be effective for taxable years beginning after December 31, 1996.

Allow Full Spousal IRA Deduction for Nonworking Spouses

The bill would permit nonworking spouses to make a full deductible IRA contribution, effective for taxable years beginning after December 31, 1996.

Nondeductible Contributions to Tax-Free IRA Plus Accounts

The bill would permit taxpayers to make nondeductible contributions to new IRA Plus accounts. Generally, IRA Plus accounts would be treated in the same manner as and be subject to the same rules applicable to deductible IRAs.

Under the bill, any qualified distribution from an IRA Plus account would not be included in gross income and would not be subject to the 10-percent additional income tax on early withdrawals. A qualified distribution from an IRA Plus account would include any payment or distribution (1) made on or after the date the IRA Plus owner attains age 59½, (2) made to a beneficiary of the IRA Plus owner after death, (3) on account of disability of the IRA Plus owner, or (4) which is a qualified special purpose distribution (i.e., a distribution for medical expenses, the costs of starting a business of the IRA Plus owner or the owner's spouse, long-term unemployment, and higher education expenses).

The bill would permit amounts withdrawn from IRAs to be transferred into an IRA Plus. The amount transferred would be includible in gross income in the year the withdrawal was made, except that amounts transferred to an IRA Plus before January 1, 1999, would be includible in income rapidly over a 4-year period. The 10-percent early withdrawal tax would not apply to amounts transferred from an IRA to an IRA Plus account.

The provisions of the bill relating to IRA Plus accounts would be effective for taxable years beginning after December 31, 1996.

Penalty-Free IRA Withdrawals for Starting a Business, Long-Term Unemployment, and Post Secondary Education Expenses

The bill would permit penalty-free and tax-free withdrawals from an individual retirement arrangement (IRA) for starting a business of the IRA owner, starting a business of the spouse of the IRA owner, in the case of long-term unemployment of the IRA owner, for any reason, and for the post-secondary education expenses of the IRA owner, the spouse of the IRA owner, or a dependent child of the IRA owner or spouse. The provision would be effective for distributions after December 31, 1996.

II. DESCRIPTION OF THE BILL

A. Child tax credit for children under age 18 (title I)

Present Law

Present law does not provide tax credits based solely on the taxpayer's number of dependent children. Taxpayers with dependent children, however, generally are able to claim a personal exemption for each of these dependents. The total amount of personal exemptions is subtracted (along with certain other items) from adjusted gross income (AGI) in arriving at taxable income. The amount of each personal exemption is $2,650 for 1997, and is adjusted annually for inflation. In 1997, the amount of the personal exemption is phased out for taxpayers with AGI in excess of $121,200 for single taxpayers, $151,500 for heads of household, and $181,800 for married couples filing joint returns. These phaseout thresholds are adjusted annually for inflation.

Description of the Bill

The bill would allow taxpayers a nonrefundable tax credit of $500 for each qualifying child under the age of 18. The credit amount would not be indexed for inflation.

For taxpayers with AGI in excess of certain thresholds, the allowable child credit would be reduced by $25 for each $1,000 of AGI (or fraction thereof) in excess of the threshold. For married taxpayers filing joint returns, the threshold would be $110,000. For taxpayers filing single or head of household returns, the threshold would be $75,000. For married taxpayers filing separate returns, the threshold would be $55,000. These thresholds would not be indexed for inflation.

Effective Date

The provision would be effective for taxable years beginning after December 31, 1996.

B. Capital gains provisions (title II)

1. 50-Percent Capital Gains Deduction for Individuals (Sec. 201 of the Bill)

Present Law

In general, gain or loss reflected in the value of an asset is not recognized for income tax purposes until a taxpayer disposes of the asset. On the sale or exchange of capital assets, the net capital gain is taxed at the same rate as ordinary income, except that individuals are subject to a maximum marginal rate of 28 percent of the net capital gain. Net capital gain is the excess of the net long-term capital gain for the taxable year over the net short-term capital loss for the year. Gain or loss is treated as long-term if the asset is held for more than one year.

A capital asset generally means any property except (1) inventory, stock in trade, or property held primarily for sale to customers in the ordinary course of the taxpayer's trade or business, (2) depreciable or real property used in the taxpayer's trade or business, (3) specified literary or artistic property, (4) business accounts or notes receivable, or (5) certain U.S. publications. In addition, the net gain from the disposition of certain property used in the taxpayer's trade or business is treated as long-term capital gain. However, gain is not treated as capital gain to the extent of previous depreciation allowances (in the case of real property, generally one to the extent in excess of the allowances that would have been available under the straight-line method).

Prior to the enactment of the Tax Reform Act of 1986, individuals were allowed a deduction equal to 60 percent of net capital gain. The deduction resulted in a maximum effective tax rate of 20 percent on such gains.

Capital losses are generally deductible in full against capital gains. In addition, individuals may deduct capital losses against up to $3,000 of ordinary income in each year. Capital losses in excess of the amount deductible are carried forward indefinitely. Prior to the Tax Reform Act of 1986, individuals were required to use two dollars of long-term capital loss to offset each dollar of ordinary income.

Description of the Bill

The bill would allow individuals a deduction equal to 50 percent of net capital gain for the taxable year. The bill would repeal the present-law maximum 28-percent rate. Thus, under the bill, the effective rate under the regular tax on the net capital gain of an individual in the highest (i.e., 39.6 percent) marginal rate bracket would be 19.8 percent.

Collectibles would not be allowed the capital gains deduction; instead a maximum rate of 28 percent would apply to the gain of an individual from the sale or exchange of collectibles held for more than one year.

The bill would reinstate the rule in effect prior to the 1986 Tax Reform Act that required two dollars of the long-term capital loss of an individual to offset one dollar of ordinary income. The $3,000 limitation on the deduction of capital losses against ordinary income would continue to apply.

Effective Date

The provision would generally apply to taxable years ending after December 31, 1996.

For a taxpayer's taxable year that includes January 1, 1997, the 50-percent capital gains deduction would not apply to any amount properly taken into account before January 1, 1997. In the case of gain taken into account by a pass-through entity (i.e., a RIC, a REIT, a partnership, an estate or trust, or a common trust fund), the date taken into account by the entity would be the appropriate date for applying this rule.

The capital loss rule would apply to taxable years beginning after December 31, 1997, but would not apply to the carryover of capital losses sustained in taxable years beginning before January 1, 1998.

The bill would not affect the capital gains treatment of lump sum distributions grandfathered by the Tax Reform Act of 1986.

2. Indexing of Basis of Certain Assets for Purposes of Determining Gain (Sec. 202 of the Bill)

Present Law

Under present law, gain or loss from the disposition of any asset generally is the sales

price of the asset reduced by the taxpayer's adjusted basis in that asset. The taxpayer's adjusted basis generally is the taxpayer's cost in the asset adjusted for depreciation, depletion, and certain other amounts. No adjustment is allowed for inflation.

Description of the Bill

In general

The bill generally would provide for an inflation adjustment to (i.e., indexing of) the adjusted basis of certain assets (called ''indexed assets'') for purposes of determining gain (but not loss) upon a sale or other disposition of such assets by a taxpayer other than a C corporation. Assets held by trusts, estates, S corporations, regulated investment companies (''RICs''), real estate investment trusts (''REITs''), and partnerships are eligible for indexing, to the extent gain on such assets is taken into account by taxpayers other than C corporations.

Indexed assets

Assets eligible for the inflation adjustment generally would include common (but not preferred) stock of C corporations and tangible property that are capital assets or property used in a trade or business. To be eligible for indexing, an asset must be held by the taxpayer for more than three years.

Computation of inflation adjustment

The inflation adjustment under the provision would be computed by multiplying the taxpayer's adjusted basis in the indexed asset by an inflation adjustment percentage. The inflation adjustment percentage would be the percentage by which the gross domestic product deflator for the last calendar quarter ending before the disposition exceeds the gross domestic product deflator for the last calendar quarter ending before the asset was acquired by the taxpayer. The inflation adjustment percentage would be rounded to the nearest one-tenth of a percent. No adjustment would be made if the inflation adjustment is one or less.

Special entities

RICs and REITs

In the case of a RIC or a REIT, the indexing adjustments generally would apply in computing the taxable income and the earnings and profits of the RIC or REIT. The indexing adjustments, however, would not be applicable in determining whether a corporation qualifies as a RIC or REIT.

In the case of shares held in a RIC or REIT, partial indexing generally would be provided by the provision based on the ratio of the value of indexed assets held by the entity to the value of all its assets. The ratio of indexed assets to total assets would be determined quarterly (for RICs, the quarterly ratio would be based on a three-month average). If the ratio of indexed assets to total assets exceeds 80 percent in any quarter, full indexing of the shares would be allowed for that quarter. If less than 20 percent of the assets are indexed assets in any quarter, no indexing would be allowed for that quarter for the shares. Partnership interests held by a RIC or REIT would be subject to a look-through test for purposes of determining whether, and to what degree, the shares in the RIC or REIT are indexed.

A return of capital distribution by a RIC or REIT generally would be treated by a shareholder as allocable to stock acquired by the shareholder in the order in which the stock was acquired.

Partnership and S corporations, etc.

Under the bill, stock in an S corporation or an interest in a partnership or common trust fund would not be an indexed asset. Under the provision, the individual owner would receive the benefit of the indexing adjustment when the S corporation, partnership, or common trust fund disposes of indexed assets. Under the provision, any inflation adjustments at the entity level would flow through to the holders and result in a corresponding increase in the basis of the holder's interest in the entity. Where a partnership has a section 754 election in effect, a partner transferring his interest in the partnership would be entitled to any indexing adjustment that has accrued at the partnership level with respect to the partner and the transferee partner is entitled to the benefits of indexing for inflation occurring after the transfer.

The indexing adjustment would be disregarded in determining any loss on the sale of an interest in a partnership, S corporation or common trust fund.

Foreign corporations

Common stock of a foreign corporation generally would be an indexed asset if the stock is regularly traded on an established securities market. Indexed assets, however, would not include stock in a foreign investment company, a passive foreign investment company (including a qualified electing fund), a foreign personal holding company, or, in the hands of a shareholder who meets the requirements of section 1248(a)(2) (generally pertaining to 10-percent shareholders of controlled foreign corporations), any other foreign corporation. An American Depository Receipt (ADR) for common stock in a foreign corporation would be treated as common stock in the foreign corporation and, therefore, the basis in an ADR for common stock generally would be indexed.

Other rules

Improvements and contributions to capital

No indexing would be provided for improvements or contributions to capital if the aggregate amount of the improvements or contributions to capital during the taxable year with respect to the property or stock is less than $1,000. If the aggregate amount of such improvements or contributions to capital is $1,000 or more, each addition would be treated as a separate asset acquired at the close of the taxable year.

Suspension of holding period

No indexing adjustment would be allowed during any period during which there is a substantial diminution of the taxpayer's risk of loss from holding the indexed asset by reason of any transaction entered into by that taxpayer, or a related party.

Short sales

In the case of a short sale of an indexed asset with a short sale period in excess of three years, the bill would require that the amount realized be indexed for inflation for the short sale period.

Related parties

The bill would not index the basis of property for sales or dispositions between related persons, except to the extent the adjusted basis of property in the hands of the transferee is a substituted basis (e.g. gifts).

Collapsible corporations

Under the bill, indexing would not reduce the amount of ordinary gain that would be recognized in cases where a corporation is treated as a collapsible corporation (under Code sec. 341) with respect to a distribution or sale of stock.

Effective Date

The provision would apply to dispositions of property the holding period of which begins after December 31, 1996. The provision also would apply to a principal residence held by the taxpayer on January 1, 1997 (as if the holding period began on that date). An individual holding any indexed asset (other than a personal residence) on January 1, 1997, may elect to treat the indexed asset as having been sold and reacquired for its fair market value.

3. Small Business Stock (Sec. 203 of the Bill)

Present Law

The Revenue Reconciliation Act of 1993 provided individuals a 50-percent exclusion for the sale of certain small business stock acquired at original issue and held for at least five years. One-half of the excluded gain is a minimum tax preference.

The amount of gain eligible for the 50-percent exclusion by an individual with respect to any corporation is the greater of (1) ten times the taxpayer's basis in the stock or (2) $10 million.

In order to qualify as a small business, when the stock is issued, the gross assets of the corporation may not exceed $50 million. The corporation also must meet an active trade or business requirement.

Description of the Bill

Under the bill, the maximum rate of regular tax on the qualifying gain from the sale of small business stock by a taxpayer other than a corporation would remain at 14 percent. The minimum tax preference would be repealed.

The bill would increase the size of an eligible corporation from gross assets of $50 million to gross assets of $100 million. The bill would also repeal the limitation on the amount of gain an individual can exclude with respect to the stock of any corporation.

The bill would provide that certain working capital must be expended within 5 years (rather than two years) in order to be treated as used in the active conduct of a trade or business. No limit on the percent of the corporation's assets that are working capital would be imposed.

The bill would provide that if the corporation establishes a business purpose for a redemption of its stock, the redemption is disregarded in determining whether other newly issued stock could qualify as eligible stock.

Effective Date

The increase in the size of corporations whose stock is eligible for the exclusion would apply to stock issued after the date of the enactment of the bill. The remaining provisions would apply to stock issued after August 10, 1993 (the original effective date of the small business stock provision).

4. 28-Percent Corporate Alternative Tax for Capital Gains (Sec. 204 of the Bill)

Present Law

Under present law, the net capital gain of a corporation is taxed at the same rate as ordinary income, and subject to tax at graduated rates up to 35 percent. Prior to the Tax Reform Act of 1986, the net capital gain of a corporation was subject to a maximum effective tax rate of 28 percent.

Description of the Bill

The bill would provide an alternative tax of 28 percent on the net capital gain of a corporation if that rate is less than the corporation's regular tax rate.

The bill would also provide an alternative rate of 21 percent on the gain from the sale or exchange of qualified small business stock (other than stock of a subsidiary corporation) held more than 5 years.

Effective Date

The provision would generally apply to taxable years ending after December 31, 1996. For a taxable year which includes January 1, 1997, the 28-percent rate would apply to the lesser of (1) the net capital gain for the taxable year or (2) the net capital gain taking into account only gain or loss properly taken into account for the portion of the taxable year after December 31, 1996.

The small business stock provision would apply to stock issued after the date of enactment.

5. Capital Loss Deduction on the Sale or Exchange of a Principal Residence (Sec. 205 of the Bill)

Present Law

Under present law, the sale or exchange of a principal residence is treated as a nondeductible personal loss.

Description of the Bill

The bill would provide that a loss from the sale or exchange of a principal residence would be treated as a deductible capital loss.

Effective Date

The provision would apply to sales and exchanges after December 31, 1996.

C. Estate and gift tax provisions (title III)

1. Increase Estate and Gift Tax Unified Credit (Sec. 301 of the Bill)

Present Law

A unified credit is available with respect to taxable transfers by gift and at death. Since 1987, the unified credit amount has been fixed at $192,800, which effectively exempts a total of $600,000 in cumulative taxable transfers from the estate and gift tax. The benefits of the unified credit (and the graduated estate and gift tax rates) are phased out by a 5-percent surtax imposed upon cumulative taxable transfers over $10 million and not exceeding $21,040,000.[2]

The unified credit was originally enacted in the Tax Reform Act of 1976. The unified credit has not been increased since 1987.

Description of the Bill

The bill would increase the present-law unified credit over an eight-year period beginning in 1997, from an effective exemption of $600,000 to an effective exemption of $1,000,000. The increase would be phased in as follows:

Decedents Dying and Gifts

Made in	*Effective exemption*
1997	$650,000
1998	700,000
1999	750,000
2000	800,000
2001	850,000
2002	900,000
2003	950,000
2004 and thereafter	1,000,000

Conforming amendments to reflect the increased unified credit are made (1) to the general filing requirements for an estate tax return under section 6018(a), and (2) to the amount of the unified credit allowed under section 2102(c)(3) with respect to nonresident aliens with U.S. situs property who are residents of certain treaty countries.

Effective Date

The provision would apply to the estates of decedents dying, and gifts made, after December 31, 1996.

2. Estate Tax Exclusion for Qualified Family-Owned Businesses (Sec. 302 of the Bill)

Present Law

There are no special estate tax rules for qualified family-owned businesses. All taxpayers are allowed a unified credit in computing the taxpayer's estate and gift tax, which effectively exempts a total of $600,000 in cumulative taxable transfers from the estate and gift tax (sec. 2010). An executor also may elect, under section 2032A, to value certain qualified real property used in farming or another qualifying closely-held trade or business at its current use value, rather than its highest and best use value (up to a maximum reduction of $750,000). In addition, an executor may elect to pay the Federal estate tax attributable to a qualified closely-held business in installments over, at most, a 14-year period (sec. 6166). The tax attributable to the first $1,000,000 in value of a closely-held business is eligible for a special 4-percent interest rate (sec. 6601(j)).

Description of the Bill

The bill would provide special estate tax treatment for qualified ''family-owned business interests'' if such interests comprise more than 50 percent of a decedent's estate. Subject to certain requirements, the bill would exclude the first $1.5 million of value in qualified family-owned business interests from a decedent's estate, and also would exclude 50 percent of the remaining value of qualified family-owned business interests. This new exclusion for qualified family-owned business interests would be provided in addition to the unified credit.

A qualified family-owned business interest would be defined as any interest in a trade or business (regardless of the form in which it is held) with a principal place of business in the United States if one family owns at least 50 percent of the trade or business, two families own 70 percent, or three families own 90 percent, as long as the decedent's family owns at lest 30 percent of the trade or business. An interest in a trade or business would not qualify if any interest in the business (or a related entity) was publicly-traded at any time within three years of the decedent's death. An interest in a trade or business also would not qualify if more than 35 percent of the adjusted ordinary gross income of the business for the year of the decedent's death was personal holding company income (as defined in sec. 543). In the case of a trade or business that owns an interest in another trade or business (i.e., ''tiered entities''), special look-through rules would apply. The value of a trade or business qualifying as a family-owned business interest would be reduced to the extent the business holds passive assets or excess cash or marketable securities.

To qualify for the beneficial treatment provided under the bill the decedent (or a member of the decedent's family) must have owned and materially participated in the trade or business for at least five of the eight years preceding the decedent's date of death. In addition, each qualified heir (or a member of the qualified heir's family) would be required to materially participate in the trade or business for at least five years of each eight-year period ending within ten years following the decedent's death.

The benefit of the exclusion for qualified family-owned business interests would be subject to recapture if, within 10 years of the decedent's death and before the qualified heir's death, one of the following ''recapture events'' occurs: (1) the qualified heir ceases to meet the material participation requirements; (2) the qualified heir disposes of any portion of his or her interest in the family-owned business, other than by a disposition to a member of the qualified heir's family or through a qualified conservation contribution; (3) the principal place of business of the trade or business ceases to be located in the United States; or (4) the qualified heir loses U.S. citizenship.

The portion of the reduction in estate taxes that is recaptured would depend upon the number of years that the qualified heir (or members of the qualified heir's family) materially participated in the trade or business between the date of the decedent's death and the date of the recapture event. If the qualified heir (or his or her family members) materially participated in the trade or business after the decedent's death for less than six years, 100 percent of the reduction in estate taxes attributable to that heir's interest would be recaptured; if the participation was for at least six years but less than seven years, 80 percent of the reduction in estate taxes would be recaptured; if the participation was for at least seven years but less than eight years, 60 percent would be recaptured; if the participation was for at least eight years but less than nine years, 40 percent would be recaptured; and if the participation was for at least nine years but less than ten years, 20 percent of the reduction in estate taxes would be recaptured. In general, there would be no requirement that the qualified heir (or members of his or her family) continue to hold or participate in the trade or business more than 10 years after the decedent's death. As under present-law section 2032A, however, the 10-year recapture period could be extended for a period of up to two years if the qualified heir did not begin to use the property for a period of up to two years after the decedent's death.

In addition, the bill would coordinate the benefit for qualified family-owned business interests with the present-law benefits relating to special-use valuation (sec. 2032A) and the special 4-percent interest rate available for closely-held businesses (sec. 6601(j)). The bill would provide that any amount excluded from a decedent's estate under the qualified family-owned business provision would reduce the ceilings with respect to both section 2032A and section 6601(j). Thus, for example, if a decedent had $100,000 of qualified family-owned business interests, the entire value of his qualified family-owned business property would be excluded from the estate; if the decedent's estate also qualified for treatment under 2032A or 6601(j), the executor could take a maximum reduction under section 2032A of $650,000 (i.e., $750,000 less $100,000), and/or could use the special 4-percent rate provided in section 6601(j) with respect to the Federal estate tax liability attributable to the first $900,000 in value of a qualifying business (i.e., $1,000,000 less $100,000).

Effective Date

The provision would be effective with respect to the estates of decedents dying after December 31, 1996.

3. Installment Payments of Estate Tax Attributable to Closely Held Businesses (Secs. 303–304 of the Bill)

Present Law

In general, the Federal estate tax is due within nine months of a decedent's death. Under Code section 6166, an executor generally may elect to pay the estate tax attributable to an interest in a closely held business in installments over, at most, a 14-year period. If the election is made, the estate may pay only interest for the first four years, followed by up to 10 annual installments of principal and interest. Interest generally is imposed at the rate applicable to underpayments of tax under section 6621 (i.e., the Federal short-term rate plus 3 percentage points). Under section 6601(j), however, a special 4-percent interest rate applies to the amount of deferred estate tax attributable to the first $1,000,000 in value of the closely-held business.

To qualify for the installment payment election, the business must be an active trade or business and the value of the decedent's interest in the closely held business must exceed 35 percent of the decedent's adjusted gross estate. An interest in a closely held business includes: (1) any interest as a proprietor in a business carried on as a proprietorship; (2) any interest in a partnership carrying on a trade or business if the partnership has 15 or fewer partners, or if at least

[2] Thus, if a taxpayer has made cumulative taxable transfers exceeding $21,040,000, his or her effective transfer tax rate is 55 percent under present law.

20 percent of the partnership's assets are included in determining the decedent's gross estate; or (3) stock in a corporation if the corporation has 15 or fewer shareholders, of if at least 20 percent of the value of the voting stock is included in determining the decedent's gross estate.

Description of the Bill

The bill would extend the period for which Federal estate tax installments could be made under section 6166 to a maximum period of 24 years. If the election were made, the estate could pay only interest for the first four years, followed by up to 20 annual installments of principal and interest. Under the bill, there would be no interest imposed on the amount of deferred estate tax attributable to the first $1,000,000 in value of the closely held business. The interest rate imposed on the amount of deferred estate tax attributable to the value of the closely held business in excess of $1,000,000 would remain as under present law (i.e., the Federal short-term rate plus 3 percentage points).

Effective Date

The provision would be effective for decedents dying after December 31, 1996.

D. IRA provisions (title IV)

1. Restoration of IRA Deduction for All Taxpayers (Sec. 401 of the Bill)

Present Law

Under present law, under certain circumstances, an individual is allowed to deduct contributions up to the lesser of $2,000 or 100 percent of the individual's compensation (or earned income) to an individual retirement arrangement (IRA). The amounts held in an IRA, including earnings on contributions, generally are not included in taxable income until withdrawn.

The $2,000 deduction limit is phased out over certain adjusted gross income (AGI) levels if the individual or the individual's spouse is an active participant in an employer-sponsored retirement plan. The phaseout is between $25,000 and $35,000 of AGI for single taxpayers and between $40,000 and $50,000 of AGI for married taxpayers. There is no phaseout of the deduction limit if the individual and the individual's spouse are not active participants in an employer-sponsored retirement plan.

Description of the Bill

The bill would increase the AGI limits applicable to deductible IRA contributions for active participants in 1997, 1998, 1999, and 2000. Thereafter, the bill would repeal the limits on IRA deductions for active participants in employer-sponsored retirement plans. Thus, under the bill, after 2000, an individual would be entitled to make a $2,000 deductible IRA contribution without regard to whether the individual was an active participant in an employer-sponsored retirement plan.

In the case of married taxpayers filing a joint return, for years before 2001, the IRA deduction for active participants would be phased out between the following AGI amounts: for 1997, $65,000 and $75,000; for 1998, $90,000 and $100,000; for 1999, $115,000 and $125,000; and for 2000, $140,000 and $150,000.

In the case of single taxpayers, for years before 2001, the IRA deduction for active participants would be phased out between the following AGI amounts: for 1997, $50,000 and $60,000; for 1998, $75,000 and $85,000; for 1999, $100,000 and $110,000; and for 2000, $125,000 and $135,000.

The bill would provide that the IRA deduction limit for any individual is coordinated with the limit on elective deferrals. Thus, an individual's deductible contributions to an IRA and elective deferrals could not exceed the annual limit on elective deferrals.

Effective Date

The provision would be effective for taxable years beginning after December 31, 1996.

2. Deductible IRAs for Nonworking Spouses (Sec. 402 of the Bill)

Present Law

Within limits, an individual is allowed a deduction for contributions to an individual retirement arrangement (''IRA''). An individual generally is not subject to income tax on amounts held in an IRA, including earnings on contributions, until the amounts are withdrawn from the IRA.

The maximum deductible contribution that can be made to an IRA generally is the lesser of $2,000 or 100 percent of an individual's compensation (earned income in the case of a self-employed individual). In the case of a married individual, a deductible contribution of up to $2,000 may be made for each spouse (including, for example, a homemaker who does not work outside the home) if the combined compensation of both spouses is at least equal to the contributed amount.

The maximum permitted IRA deduction is phased out if the individual (or the individual's spouse) is an active participant in an employer-sponsored retirement plan. The phase-out range is from $25,000 to $35,000 of adjusted gross income for single taxpayers and from $40,000 to $50,000 for married taxpayers filing a joint return.

Description of the Bill

Under the bill, an individual would not be considered an active participant in an employer-sponsored retirement plan merely because the individual's spouse is such an active participant. Thus, the bill would permit a nonworking spouse to make a deductible IRA contribution of up to $2,000 without regard to the present-law income phaseouts.

Effective Date

The provision would be effective for taxable years beginning after December 31, 1996.

3. Nondeductible Contributions to Tax-Free IRA Plus Accounts (Sec. 403 of the Bill)

Present Law

Under present law, under certain circumstances, an individual is allowed to deduct contributions up to the lesser of $2,000 or 100 percent of the individual's compensation (or earned income) to an individual retirement arrangement (IRA). The amounts held in an IRA, including earnings on contributions, generally are not included in taxable income until withdrawn.

An individual may make nondeductible contributions (up to the $2,000 or 100 percent of compensation limit) to an IRA to the extent the individual is not permitted to make deductible IRA contributions. Nondeductible contributions provide the same tax benefits as deferred annuities, that is, earnings are not includible in income until withdrawn. However, deferred annuities are not subject to contribution limits.

Distributions from IRAs are generally includible in income when withdrawn. Distributions prior to death, disability, or attainment of age 59½ are subject to an additional 10-percent tax. The 10-percent tax does not apply to distributions made in the form of an annuity.

Description of the Bill

The bill would permit taxpayers to make nondeductible contributions to new IRA Plus accounts. Generally, IRA Plus accounts would be treated in the same manner as and be subject to the same rules applicable to deductible IRAs. However, a number of special rules would apply.

Contributions to an IRA Plus would be nondeductible. The amount of nondeductible contributions to an IRA Plus that could be made for any taxable year would be tied to the limits for deductible IRAs, so that the aggregate amount of contributions to an IRA Plus could not exceed the excess of (1) the IRA deduction limit for the year (determined without regard to the rule coordinating the IRA deduction limit with the elective deferral limit) over (2) the amount of IRA contributions actually deducted for the year.

Under the bill, any qualified distribution from an IRA Plus account would not be included in gross income and would not be subject to the 10-percent additional income tax on early withdrawals. A qualified distribution from an IRA Plus would include any payment or distribution (1) made on or after the date the IRA Plus owner attains age 59½, (2) made to a beneficiary of the IRA Plus owner after death, (3) on account of disability of the IRA Plus owner, or (4) which is a qualified special purpose distribution (i.e., a distribution for medical expenses; the costs of starting a business of the IRA Plus owner or the owner's spouse, long-term unemployment, and higher education expenses)

The bill provides that a distribution would not be treated as a qualified distribution if it is made within the 5-taxable year period beginning with the first taxable year for which the individual made a contribution to an IRA Plus account (or such individual's spouse made a contribution to an IRA Plus account). In addition, the bill provides that a distribution would not be treated as a qualified distribution if, in the case of a distribution attributable to a qualified rollover contribution, the distribution is made within the 5-taxable year period beginning with the taxable year in which the rollover contribution was made.

In the case of a distribution from an IRA Plus account that is not a qualified distribution, in applying the rules of section 72, the distribution would be treated as made from contributions to the IRA Plus account to the extent that such distribution, when added to all previous distributions from the IRA Plus account, does not exceed the aggregate amount of contributions to the IRA Plus account. Thus, nonqualified distributions from an IRA Plus account would not be included in income (and subject to the additional 10-percent tax on early withdrawals) until the IRA owner had withdrawn amounts in excess of all contributions to the IRA Plus account.

Rollover contributions would be permitted to an IRA Plus only to the extent such contributions consist of a payment or distribution from another IRA Plus or from an individual retirement plan. Such rollover contributions would not be taken into account in determining the contribution limit for a taxable year. The normal IRA rollover rules would otherwise govern the eligibility of withdrawals from IRA Plus accounts to be rolled over.

The bill would permit amounts withdrawn from IRAs to be transferred into an IRA Plus. The amount transferred would be includible in gross income in the year the withdrawal was made, except that amounts transferred to an IRA Plus before January 1, 1999, would be includible in income ratably over a 4-year period. The 10-percent early withdrawal tax would not apply to amounts transferred from an IRA to an IRA Plus account.

Under the bill, the excise tax on excess distributions from qualified retirement plans (sec. 4980A) would not apply to distributions from the IRA Plus account or to any qualified rollover contribution from an individual retirement plan to an IRA Plus account.

Effective Date

The provisions of the bill relating to IRA Plus accounts would be effective for taxable years beginning after December 31, 1996.

4. IRA Withdrawals for Business Startup, Long-Term Unemployment, and Post-Secondary Education Expenses (Secs. 404–406 of the Bill)

Present Law

Amounts withdrawn from an individual retirement arrangement (''IRA'') are includible in income (except to the extent of any nondeductible contributions). In addition, a 10-percent additional tax applies to withdrawals from IRAs made before age 59½, unless the withdrawal is made on account of death or disability or is made in the form of annuity payments or is made for medical expenses that exceed 7.5 percent of adjusted gross income (''AGI'') or is made for medical insurance (without regard to the 7.5 percent of AGI floor) if the individual has received unemployment compensation for at least 12 weeks, and the withdrawal is made in the year such unemployment compensation is received or the following year. If a self-employed individual is not eligible for unemployment compensation under applicable law, then, to the extent provided in regulations, a self-employed individual is treated as having received unemployment compensation for at least 12 weeks if the individual would have received unemployment compensation but for the fact that the individual was self-employed. The exception to the additional tax ceases to apply if the individual has been reemployed for at least 60 days.

Description of the Bill

The bill would permit withdrawals to be made income tax free and exempt from the 10-percent additional tax if made (1) for the business start-up expenses of the individual or the spouse of the individual; (2) in the event of long-term unemployment, for any reason; or (3) for the post-secondary education expenses of the individual, the spouse of the individual, or a dependent child of the individual or the individual's spouse.

For purposes of this provision, business start-up expenses include expenses associated with the establishment of the business that are incurred on or before the business start date and on or before the date which is one year after the business start date, such as start-up expenditures within the meaning of section 195(c), organizational expenses within the meaning of sections 248(b) and 709(b) and other expenses related to starting a business (e.g., purchasing a computer, software, inventory, etc.). No deduction otherwise allowable with respect to any business start-up expense will be allowed to the extent this provision applies to such expense. In addition, to the extent this provision applies to any portion of business start-up expenses which are properly chargeable to capital account, the basis of the property to which such expenses are chargeable will be reduced by the amount taken into account under this provision.

For purposes of this provision, long-term unemployment has the same meaning as under present law (i.e., the individual has received unemployment compensation for at least 12 weeks).

For purposes of this provision, post-secondary education expenses would be defined as the student's cost of attendance as defined in section 472 of the Higher Education Act of 1965 (generally, tuition, fees, room and board, and related expenses).

Effective Date

The provision would be effective for distributions after December 31, 1996.

By Mr. HATCH (for himself, Mr. LOTT, Mr. ABRAHAM, Mr. ALLARD, Mr. ASHCROFT, Mr. CRAIG, Mr. D'AMATO, Mr. DEWINE, Mr. DOMENICI, Mr. ENZI, Mr. FAIRCLOTH, Mr. GORTON, Mr. GRAMS, Mr. GRASSLEY, Mr. HAGEL, Mr. HELMS, Mr. HUTCHINSON, Mr. KYL, Mr. MURKOWSKI, Mr. NICKLES, Mr. ROBERTS, Mr. SMITH, Mr. THOMAS, Mr. THURMOND, Mr. WARNER, and Mr. COVERDELL):

S. 3. A bill to provide for fair and accurate criminal trials, reduce violent juvenile crime, promote accountability by juvenile criminals, punish and deter violent gang crime, reduce the fiscal burden imposed by criminal alien prisoners, promote safe citizen self-defense, combat the importation, production, sale, and use of illegal drugs, and for other purposes; to the Committee on the Judiciary.

THE OMNIBUS CRIME CONTROL ACT OF 1997

Mr. HATCH. Mr. President, this is a very important bill. We know juvenile crime is on the increase. Gang violence is on the increase. This bill would take care of both of those problems, and it does it in an intelligent, official, and decent way. I hope that our colleagues on the other side will look at it carefully. We will certainly work with them and with Senator BIDEN and others on the Judiciary Committee to try and make sure that we do the best we can.

This is an excellent bill. It would make immediate inroads into the problems of juvenile violence and crime and gang violence. I hope all of our colleagues will get behind this and support it.

Mr. President, this is a very important omnibus crime bill if we want to do something about crime in this society. In addition to what we have done in the past, this is an excellent Republican alternative to the violent crime that we have in the streets, the drugs permeating our society, and, of course, the many other difficulties that are literally making our society a less wonderful society to live in.

Mr. President, I ask unanimous consent that the remainder of my remarks be printed in the RECORD at this point.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

Mr. President, I rise today along with the distinguished Majority Leader and other Republicans to introduce S. 3, the Hatch-Lott Omnibus Crime Control Act of 1997 and S. 10, the Hatch-Sessions Violent and Repeat Juvenile Offender Act of 1997. Together, these two bills build on the successful Republican 104th Congress, in which we passed habeas corpus reform, truth-in-sentencing reform, prison litigation reform, federal mandatory victim restitution, and the toughest antiterrorism law in our nation's history. These initiatives continue the Republican commitment to enacting the kind of serious laws that the American people want, that the American people need, and that the American people deserve to continue the fight against crime, and in particular, crime committed by violent youths.

Each year, our nation's violent crime problem tops the list of concerns for the American people, and their concerns are valid. According to the Uniform Crime Reports, recently published by the FBI, there was virtually no change in violent crime between 1994 and 1995. In fact, on average, one violent crime is committed every 18 seconds in this country.

This crisis is not limited to our major cities. In my home state of Utah, the number of violent crimes per 100,000 persons increased by eight percent in 1995, while the rate decreased by 12.8 percent in New York City that same year. In Utah, reported violent crimes increased by more than 10 percent, from 5,810 in 1994, to 6,415 in 1995. Property crimes in Utah increased by 17.9 percent, and murder by a depressing 35.7 percent during the same time period. Mr. President, we need to do something to curb this wave of violent crime affecting my State of Utah and every other State and community across America. The bill we introduce today will help law enforcement stem this tide of crime.

This legislation attacks the nations crime problem on many fronts including: Initiatives to revive the faltering war on drugs; stepping up the fight on terrorism; strengthening juvenile justice reform; increasing personal security; encouraging sensible prison reform; continuing the fight against child pornography; improving criminal justice reform; and continuing support for the successful Violence Against Women Act.

REVIVING THE WAR ON DRUGS

This bill takes several steps toward reviving the war on drugs. First, it enhances drug penalties for drug traffickers. Republicans want to ensure that large-scale drug traffickers face punishment that is commensurate with the harm they inflict on society. Second, the bill addresses the increasing menace of street level drug traffickers. This bill lowers the quantity of cocaine in powder form that triggers the mandatory minimums under title 21. It also creates mandatory minimum penalties for methamphetamine traffickers and dealers.

S. 3 also makes a strong statement about the nation's new problem with drug legalization. California and Arizona recently passed initiatives legalizing marijuana for medicinal purposes. But there is no legitimate medicinal use for marijuana, and the use of marijuana and other Schedule I drugs still violates federal law. In order to discourage the medical community from violating federal drug laws, S. 3 requires that HMO's and other recipients of federal Medicare and Medicaid funds certify that none of their participating physicians prescribed marijuana or other Schedule I controlled substances for medical purposes. This bill also combats recent lax attitudes toward drug use by education. This bill requires that the FCC encourage public service programs to emphasize the importance of anti-drug abuse announcements and attack the pro-legalization movement. This bill will also reauthorize the Drug Czar with an emphasis on enforcement, prevention, interdiction and effective treatment for juveniles who use drugs.

FIGHTING TERRORISM

This legislation toughens the anti-terrorism initiatives that the Republican 104th Congress enacted. It demands bombing laws to ensure that all uses of a bomb to commit murder can be punished capitally. This bill also establishes a National Commission on Terrorism to examine a long-term strategy against terrorism. This legislation also makes it a federal offense to stockpile chemical weapons, and it tightens restrictions on human pathogens. This bill also makes it a federal offense to murder, or attempt to murder, athletes, guests, and spectators at Olympic games, and centralizes in the Attorney General federal authority for their security.

JUVENILE JUSTICE REFORM

The youth violence bill will ensure that violent and repeat juvenile offenders are treated as adults by authorizing US Attorneys to prosecute 14-year-olds for any federal felony that is a crime of violence or a serious drug trafficking offense. This legislation also confines juveniles prosecuted in the federal system for the length of their sentence. New federal penalties for offenses committed by criminal street gangs will create a sustained effort to target violent youth gang activity. Federal prosecutors will be able to charge gang leaders or members under this bill if they engage in two or more criminal gang offenses. It will also be a crime to recruit someone into a gang, or solicit their participation in a gang crime.

This legislation also will reform federal aid to State youth crime programs by eliminating needless federal mandates on state criminal justice systems that have stifled innovative state efforts to address violent youth crime. This bill also requires that states not exclude religious organizations from participating in juvenile rehabilitative programs. In an effort to encourage the states to undertake progressive responses to violent youth crime, this bill authorizes funding for a variety of programs, such as fingerprinting, DNA testing, and improved record keeping practices for juvenile offenders. The Juvenile Justice bill also fosters youth crime prevention that works by ensuring that there are 2,000 Boys & Girls Clubs by the year 2000, and by permitting some federal grant funds to be used to establish a role model speakers program.

PERSONAL SECURITY

Recent studies show that the adoption by more than 30 states of laws allowing citizens to carry firearms has had, and will have, a material and positive effect in preventing violent crime. S. 3 will empower current and retired law enforcement officers to carry firearms in other states, and will authorize states to enter into interstate compacts recognizing each other's citizen carry laws. It will also create an exception to federal firearm purchase waiting periods for persons protected under a protective order. Thus, for instance, no longer will a threatened and abused woman be forced to wait in fear for the right to protect herself.

SENSIBLE PRISON REFORM

American taxpayers should not be saddled with the burden of paying for the cost of incarcerating aliens convicted of crimes in this country. In an effort to lessen this burden, this legislation requires the Department of State to negotiate treaties with all foreign governments that receive U.S. aid. Under these treaties, receipt of American aid will be contingent upon foreign governments receiving and incarcerating their citizens and nationals who are convicted of crimes in the United States for a majority of their sentences.

This legislation also continues the authorization for the pilot project on privatization of federal prisons. It will also build on the Prison Litigation Reform Act enacted last Congress by amending and clarifying features of the PLRA. Provisions of this bill will also make it more difficult for prisoners to pursue their criminal careers while in prison by making it more difficult to conduct criminal activity by phone.

Importantly, this bill also eliminates inappropriate and counter-productive ''incentives'' of early release for federal inmates to get drug treatment. Further, our bill will require all federal prisoners to work, and impose no-frills prisons in the federal system.

CHILD PORNOGRAPHY

This legislation also builds on the advances made in the 104th Congress by requiring the Secretary of State to renegotiate extradition treaties with foreign governments to ensure that child pornography offenses under federal law are extraditable offenses. It also modifies current federal law so that the statute of limitations is tolled when the federal child pornography laws are violated, in whole or in part, by persons beyond the jurisdiction of the United States.

CRIMINAL JUSTICE REFORM

S. 3 will improve public confidence in the criminal justice system by enhancing the accuracy of the trial process. The current exclusionary rule often unjustifiably bars use of probative evidence at trial. This law will amend the exclusionary rule to allow evidence to be admitted if law enforcement officers had an objectively reasonable belief that their conduct was lawful. Further, 18 U.S.C. §3501 provides that judges must admit a confession as long as it is voluntary. This bill will direct the Justice Department to ensure this provision is enforced. This bill also proposes various reforms to ensure fairness for both the defendant and the victim in criminal trials. These reforms to the criminal justice process that are critical if we are to prevent our cherished liberties from further devolving into merely a cynical shield for the guilty to avoid just punishment.

Mr. President, these bills alone will not solve our crime problem. That must be done community by community. Crime cannot thrive in a society that will not tolerate it. But by enacting these common sense reforms, we can signal our determination to build such a society. I urge my colleagues to support these bills.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3

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 ''Omnibus Crime Control Act of 1997''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Severability.

TITLE I—TRANSFER OF ALIEN PRISONERS

Sec. 101. Short title.
Sec. 102. Transfers of alien prisoners.
Sec. 103. Consent unnecessary.
Sec. 104. Certification transfer requirement.
Sec. 105. International prisoner transfer report.
Sec. 106. Annual reports on foreign assistance.
Sec. 107. Annual certification procedures.
Sec. 108. Prisoner transfers treaties.
Sec. 109. Judgments unaffected.
Sec. 110. Definition.
Sec. 111. Repeals.

TITLE II—EXCLUSIONARY RULE REFORM

Subtitle A—Exclusionary Rule Reform

Sec. 201. Short title.
Sec. 202. Admissibility of certain evidence.

Subtitle B—Confession Reform

Sec. 211. Enforcement of confession reform statute.

TITLE III—VIOLENT CRIME, DRUGS, AND TERRORISM

Sec. 301. Short title.

Subtitle A—Criminal Penalties and Procedures

Sec. 311. Protection of the Olympics.
Sec. 312. Federal responsibility for security at international athletic competitions.
Sec. 313. Technical revision to penalties for crimes committed by explosives.
Sec. 314. Chemical weapons restrictions.

Subtitle B—International Terrorism

Sec. 321. Multilateral sanctions.
Sec. 322. Information on cooperation with United States antiterrorism efforts in annual country reports on terrorism.
Sec. 323. Report on international terrorism.
Sec. 324. Revision of Department of State rewards program.

Subtitle C—Commissions and Studies

Sec. 331. National commission on terrorism.

TITLE IV—COMMUNITY PROTECTION

Sec. 401. Short title.

Subtitle A—Law Enforcement Assistance

Sec. 411. Exemption of qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed firearms.

Subtitle B—Citizens' Assistance

Sec. 421. Short title.
Sec. 422. Authorization to enter into interstate compacts.
Sec. 423. Authorized uses of Federal grant funds.
Sec. 424. Self defense for victims of abuse.

TITLE V—CRIMINAL PROCEDURE IMPROVEMENTS

Subtitle A—Equal Protection for Victims

Sec. 501. The right of the victim to an impartial jury.
Sec. 502. Jury trial improvements.
Sec. 503. Rebuttal of attacks on the character of the victim.
Sec. 504. Use of notice concerning release of offender.
Sec. 505. Balance in the composition of rules committees.

Subtitle B—Firearms

Sec. 521. Mandatory minimum sentences for criminals possessing firearms.
Sec. 522. Firearms possession by violent felons and serious drug offenders.
Sec. 523. Use of firearms in connection with counterfeiting or forgery.
Sec. 524. Possession of an explosive during the commission of a felony.
Sec. 525. Second offense of using an explosive to commit a felony.
Sec. 526. Increased penalties for international drug trafficking.

Subtitle C—Federal Death Penalty

Sec. 541. Strengthening of Federal death penalty standards and procedures.
Sec. 542. Murder of witness as aggravating factor.
Sec. 543. Death penalty for murders committed in the district of columbia.

TITLE VI—INCREASED PENALTIES FOR TRAFFICKING AND MANUFACTURE OF METHAMPHETAMINE AND PRECURSORS

Sec. 601. Trafficking in methamphetamine penalty increases.
Sec. 602. Reduction of sentence for providing useful investigative information.
Sec. 603. Implementation of a sentence of death.
Sec. 604. Limitation on drug enforcement administrator tenure.
Sec. 605. Serious juvenile drug offenses as armed career criminal act predicates.

Sec. 606. Mandatory minimum prison sentences for persons who use minors in drug trafficking activities or sell drugs to minors.
Sec. 607. Penalty increases for trafficking in listed chemicals.

TITLE VII—COMBATING VIOLENCE AGAINST WOMEN AND CHILDREN

Subtitle A—General Reforms

Sec. 701. Participation of religious organizations in violence against women act programs.
Sec. 702. Domestic violence arrest grants.
Sec. 703. Rural domestic violence and child abuse enforcement assistance.
Sec. 704. Runaway, homeless, and street youth assistance grants.

Subtitle B—Domestic Violence

Sec. 711. Death penalty for fatal interstate domestic violence offenses.
Sec. 712. Death penalty for fatal interstate violations of protective orders.
Sec. 713. Evidence of disposition of defendant toward victim in domestic violence cases and other cases.
Sec. 714. HIV testing of defendants in sexual assault cases.

TITLE VIII—VIOLENT CRIME AND TERRORISM

Subtitle A—Violent Crime and Terrorism

Sec. 801. Amendments to anti-terrorism statutes.
Sec. 802. Kidnapping; death of victim before crossing State line as not defeating prosecution, and other changes.
Sec. 803. Expansion of section 1959 of title 18 to cover commission of all violent crimes in aid of racketeering activity and increased penalties.
Sec. 804. Conforming amendment to conspiracy penalty.
Sec. 805. Inclusion of certain additional serious drug offenses as armed career criminal act predicates.
Sec. 806. Increased penalties for violence in the course of riot offenses.
Sec. 807. Elimination of unjustified scienter element for carjacking.
Sec. 808. Criminal offenses committed outside the United States by persons accompanying the armed forces.
Sec. 809. Assaults or other crimes of violence for hire.
Sec. 810. Penalty enhancement for certain offenses resulting in death.
Sec. 811. Violence directed at dwellings in indian country.

Subtitle B—Courts and Sentencing

Sec. 821. Allowing a reduction of sentence for providing useful investigative information although not regarding a particular individual.
Sec. 822. Appeals from certain dismissals.
Sec. 823. Elimination of outmoded certification requirement.
Sec. 824. Improvement of hate crimes sentencing procedure.
Sec. 825. Clarification of length of supervised release terms in controlled substance cases.
Sec. 826. Authority of court to impose a sentence of probation or supervised release when reducing a sentence of imprisonment in certain cases.
Sec. 827. Technical correction to assure compliance of sentencing guidelines with provisions of all Federal statutes.

Subtitle C—White Collar Crime

Sec. 841. Clarification of scienter requirement for receiving property stolen from an indian tribal organization.
Sec. 842. Larceny involving post office boxes and postal stamp vending machines.
Sec. 843. Theft of vessels.
Sec. 844. Conforming amendment to law punishing obstruction of justice by notification of existence of a subpoena for records in certain types of investigations.
Sec. 845. Injunctions against counterfeiting and forgery.

Subtitle D—Miscellaneous Provisions

Sec. 861. Increased maximum penalty for certain rico violations.
Sec. 862. Clarification of inapplicability to certain disclosures.
Sec. 863. Conforming amendments relating to supervised release.
Sec. 864. Addition of certain offenses as money laundering predicates.
Sec. 865. Clarification of jurisdictional base involving the mail.
Sec. 866. Coverage of foreign bank branches in the territories.
Sec. 867. Conforming statute of limitations amendment for certain bank fraud offenses.
Sec. 868. Clarifying amendment to section 704.

TITLE IX—PRISON REFORM

Subtitle A—Prison Litigation Reform

Sec. 901. Amendment to the prison litigation reform act.
Sec. 902. Appropriate remedies for prison conditions.
Sec. 903. Civil rights of institutionalized persons.
Sec. 904. Proceedings in forma pauperis.
Sec. 905. Notice to State authorities of malicious filing by prisoner.
Sec. 906. Payment of damage award in satisfaction of pending restitution awards.
Sec. 907. Earned release credit or good time credit revocation.
Sec. 908. Release of prisoner.
Sec. 909. Effective date.

Subtitle B—Federal Prisons

Sec. 911. Prison communications.
Sec. 912. Prison amenities and prisoner work requirement.
Sec. 913. Elimination of sentencing inequities and aftercare for Federal inmates.

TITLE X—MISCELLANEOUS PROVISIONS

Sec. 1001. Sense of the Senate regarding ondcp.
Sec. 1002. Restrictions on doctors prescribing schedule i substances..
Sec. 1003. Anti-drug use public service requirement.
Sec. 1004. Child pornography.
Sec. 1005. 2,000 boys & girls clubs before 2000.
Sec. 1006. Cellular telephone interceptions.

TITLE XI—VIOLENT AND REPEAT JUVENILE OFFENDERS

Sec. 1101. Short title.
Sec. 1102. Findings and purposes.
Sec. 1103. Severability.

Subtitle A—Juvenile Justice Reform

Sec. 1111. Repeal of general provision.
Sec. 1112. Treatment of Federal juvenile offenders.
Sec. 1113. Capital cases.
Sec. 1114. Definitions.
Sec. 1115. Notification after arrest.
Sec. 1116. Detention prior to disposition.
Sec. 1117. Speedy trial.
Sec. 1118. Dispositional hearings.
Sec. 1119. Use of juvenile records.
Sec. 1120. Incarceration of violent offenders.
Sec. 1121. Federal sentencing guidelines.

Subtitle B—Juvenile Gangs

Sec. 1141. Short title.
Sec. 1142. Increase in offense level for participation in crime as a gang member.
Sec. 1143. Amendment of title 18 with respect to criminal street gangs.
Sec. 1144. Interstate and foreign travel or transportation in aid of criminal street gangs.
Sec. 1145. Solicitation or recruitment of persons in criminal gang activity.
Sec. 1146. Crimes involving the recruitment of persons to participate in criminal street gangs and firearms offenses as rico predicates.
Sec. 1147. Prohibitions relating to firearms.
Sec. 1148. Amendment of sentencing guidelines with respect to body armor.
Sec. 1149. Additional prosecutors.

Subtitle C—Juvenile Crime Control and Accountability

Sec. 1161. Findings; declaration of purpose; definitions.
Sec. 1162. Youth crime control and accountability block grants.
Sec. 1163. Runaway and homeless youth.
Sec. 1164. Authorization of appropriations.
Sec. 1165. Repeal.
Sec. 1166. Transfer of functions and savings provisions.
Sec. 1167. Repeal of unnecessary and duplicative programs.
Sec. 1168. Housing juvenile offenders.
Sec. 1169. Civil monetary penalty surcharge.

SEC. 2. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

TITLE I—TRANSFER OF ALIEN PRISONERS

SEC. 101. SHORT TITLE.

This title may be cited as the ''Transfer of Alien Prisoners Act of 1997''.

SEC. 102. TRANSFERS OF ALIEN PRISONERS.

(a) IN GENERAL.—Not later than December 31, 1998, the Attorney General shall begin transferring undocumented aliens who are in the United States, incarcerated in a Federal, State, or local prison, whose convictions have become final, to the custody of the government of the alien's country of nationality for service of the duration of the alien's sentence in the alien's country.

(b) INAPPLICABILITY TO CERTAIN ALIENS.—This section does not apply to aliens who are nationals of a foreign country that the Secretary of State has determined under section 6(j) of the Export Administration Act of 1979 has repeatedly provided support for acts of international terrorism.

SEC. 103. CONSENT UNNECESSARY.

(a) TREATY RENEGOTIATION.—The Secretary of State shall renegotiate all treaties requiring the consent of an alien who is in the United States, whether present lawfully or unlawfully, who is, or who is about to be, incarcerated in a Federal, State, or local prison or jail before such person may be transferred to the country of nationality of that person to ensure that no such consent is required in any case under any treaty. If the Secretary of State is unable to negotiate with a foreign nation a new treaty that would go into effect by December 31, 1998, that does not require such consent, the Secretary shall withdraw the United States as a

party to any existing treaty requiring such consent.

(b) GENERAL REPEAL.—Notwithstanding any other provision of law, the consent of an alien covered by this title shall not be required before such alien may be designated for transfer or before such alien may be transferred to the country of nationality of that alien.

SEC. 104. CERTIFICATION TRANSFER REQUIREMENT.

Not later than March 1 of each year, the President shall submit to Congress a certification as to whether each foreign country has accepted, and has confined for the duration of their sentences, the persons described in section 403(a).

SEC. 105. INTERNATIONAL PRISONER TRANSFER REPORT.

(a) IN GENERAL.—Not later than March 1 of each year, the President shall transmit to the Majority Leader of the Senate, the Speaker of the House of Representatives, the chairmen and ranking members of the Committee on the Judiciary and the Committee on Foreign Relations of the Senate and the Committee on the Judiciary and the Committee on International Relations of the House of Representatives a report that—

(1) describes the operation of the provisions of this title; and

(2) highlights the effectiveness of those provisions with regard to the 10 countries having the greatest number of their nationals incarcerated in the United States, both in transferring such persons from the United States to their country of nationality and in confining such persons for the duration of their sentences.

(b) CONTENTS OF REPORT.—The report prepared under subsection (a) shall set forth—

(1) the number of aliens convicted of a Federal, State, or local criminal offense in the United States, and the types of offenses involved, during the preceding calendar year;

(2) the number of aliens described in paragraph (1) who were sentenced to terms of incarceration;

(3) the number of aliens described in paragraph (1) who were eligible for transfer pursuant to those provisions;

(4) the number of aliens described in paragraph (2) who were transferred pursuant to the provisions of this title;

(5) the number, location, length of their period of incarceration in the United States, and present status of aliens described in paragraph (2) who have not yet been transferred to the country of nationality;

(6) the extent to which each foreign country whose nationals have been convicted of a Federal, State, or local criminal offense in the United States has accepted the transfer of such persons, including the percentage of such persons accepted by each foreign country;

(7) the extent to which each foreign country described in paragraph (6) has confined such persons for 85 percent of the duration of their sentences, including the percentage of such persons confined by each foreign country;

(8) the extent to which each foreign country described in paragraph (5) has accomplished (or has failed to accomplish) the goals described in any applicable bilateral or multilateral agreement to which the United States is a party that deals with the subject of the transfer of alien prisoners;

(9) for each foreign country described in paragraph (6)—

(A) a description of the plans, programs, and timetables adopted by such country to accept its own nationals for crimes committed in the United States;

(B) a description of the plans, programs, and timetables adopted by such country for the continued incarceration of its own nationals for crimes committed in the United States;

(C) a list of those countries that are negotiating in good faith with the United States to establish a mechanism for the transfer, receipt, and continued incarceration of such country's nationals;

(D) a list of those countries that have adopted laws or regulations that ensure the transfer, receipt, and incarceration of its nationals in accordance with the provisions of this title; and

(E) a list of those countries that have adopted laws or regulations that ensure the availability to appropriate United States Government personnel of adequate records in connection with the transfer, receipt, and continued incarceration of prisoners pursuant to this title;

(10) a description of the policies adopted, agreements concluded, and plans and programs implemented or proposed by the Federal Government in pursuit of its responsibilities for the prompt transfer of aliens described in subsection (b)(1), as well as for identifying and preventing the re-entry of such persons after their transfer from the United States; and

(11) a description of instances of refusals to cooperate with the United States Government regarding the transfer of aliens described in subsection (b)(1).

SEC. 106. ANNUAL REPORTS ON FOREIGN ASSISTANCE.

At the time that the report required by section 634 of the Foreign Assistance Act of 1961 is submitted each year, the Secretary of State shall submit a copy of such report to the Chairmen and Ranking Members of the Committees on the Judiciary of the House of Representatives and the Senate, the Chairman and Ranking Member of the Committee on Foreign Relations of the Senate, and the Chairman and Ranking Member of the Committee on International Relations of the House of Representatives.

SEC. 107. ANNUAL CERTIFICATION PROCEDURES.

(a) WITHHOLDING OF BILATERAL ASSISTANCE, OPPOSITION TO MULTILATERAL DEVELOPMENT ASSISTANCE, AND WITHHOLDING OF VISAS.—

(1) BILATERAL ASSISTANCE.—

(A) IN GENERAL.—Fifty percent of the United States assistance allocated each fiscal year for each foreign country shall be withheld from obligation and expenditure to any such country if that country has refused to accept not less than 75 percent of nationals covered by this title and designated for transfer by the Attorney General within either of the 2 immediately preceding fiscal years or to confine such transferred persons for not less than 85 percent of their sentence, except as provided in subsection (b).

(B) INAPPLICABILITY TO CERTAIN COUNTRIES.—This paragraph does not apply with respect to a country if the President determines in accordance with subsection (b) that its application to that country would be contrary to the vital national interests of the United States, except that any such determination shall not take effect until not less than 30 days after the President submits written notification of that determination to the congressional committees listed in section 306 in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961.

(C) BILATERAL ASSISTANCE EXEMPTION.—In this subsection, the term ''bilateral assistance'' does not include—

(i) narcotics-related assistance under the Foreign Assistance Act of 1961;

(ii) disaster relief assistance;

(iii) assistance that involves the provision of food (including monetization of food) or medicine; or

(iv) assistance for refugees.

(2) MULTILATERAL ASSISTANCE.—

(A) IN GENERAL.—The Secretary of the Treasury may instruct the United States Executive Directors of each multilateral development bank to vote against any loan or other utilization of the funds of such bank or institution for the benefit of any country if that country has refused to accept not less than 75 percent of its nationals covered by this title and designated for transfer by the Attorney General or to confine such transferred persons for not less than 85 percent of their sentences within either of the 2 immediately preceding fiscal years, except as provided in subsection (b).

(B) DEFINITION OF ''MULTILATERAL DEVELOPMENT BANK''.—In this paragraph, the term ''multilateral development bank'' means the International Bank for Reconstruction and Development, the International Development Association, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, and the European Bank for Reconstruction and Development.

(3) VISAS.—All visas shall be denied to nationals employed by the government of any foreign country if that country has refused to accept not fewer than 75 percent of its nationals covered by this title and designated for transfer by the Attorney General within either of the 2 immediately preceding fiscal years or to confine such transferred persons for not less than 85 percent of their sentences, except as provided in subsection (b), except that the President or the Secretary of State nonetheless may grant visas to heads of state, certified diplomats, or members of a foreign country's mission to the United Nations.

(b) CERTIFICATION PROCEDURES.—

(1) WHAT MUST BE CERTIFIED.—Subject to subsection (d), the assistance withheld from a country pursuant to subsection (a)(1) may be obligated and expended, the requirement of subsection (a)(2) to vote against multilateral development bank assistance to a country shall not apply, and the withholding of visas from nationals of a country of subsection (a)(3) shall not apply, if the President determines and certifies to Congress, at the time of the submission of the report required by section 305, that—

(A) during the previous year the country has cooperated fully with the United States, or has taken adequate steps on its own, to achieve full compliance with the goals and objectives established by this title, except that the President may make such a finding only once during any 5-year period;

(B) for a country that would not otherwise qualify for certification under subparagraph (A), the vital national interests of the United States require that the assistance withheld pursuant to subsection (a)(1) be provided, that the United States not vote against multilateral development bank assistance for that country pursuant to subsection (a)(2), and that visas not be withheld pursuant to subsection (a)(3); or

(C) only in the case of multilateral development bank assistance, such assistance is directed specifically to programs that provide, or support a foreign country's ability itself to provide, food, water, clothing, shelter, and medical care of that country.

(2) CONSIDERATIONS REGARDING COOPERATION.—In making the determinations described in subsection (b)(1), the President shall consider the extent to which the country has—

(A) met the goals and objectives of this title;

(B) accomplished the goals described in an applicable bilateral agreement with the United States or a multilateral agreement to

implement the provisions and purposes of this title; and

(C) taken domestic legal and law enforcement measures to implement the provisions and purposes of this title;

(3) CASE-BY-CASE WAIVER AUTHORITY.—

(A) AUTHORITY.—The President or the Secretary of State may, on a case-by-case basis, allow an alien subject to transfer under section 402 to remain in the custody of the Attorney General if the President or Secretary of State determines that doing so is necessary to serve the vital interests of the United States or to protect the life or health of the citizen or national. It is the sense of Congress that such case-by-case determinations rarely should be made.

(B) NONDELEGATION OF AUTHORITY.—The authority to make a determination under subparagraph (A) may not be delegated.

(4) INFORMATION TO BE INCLUDED IN NATIONAL INTEREST CERTIFICATION.—If the President makes a certification with respect to a country pursuant to subsection (b)(1), the President shall include in such certification—

(A) a full and complete description of the vital national interests placed at risk if United States bilateral assistance to that country is terminated pursuant to this section, multilateral development bank assistance is not provided to such country, and visas are not issued to the nationals of such country; and

(B) a statement weighing the risk described in subparagraph (A) against the risks posed to the vital national interests of the United States by the failure of such country to cooperate fully with the United States in implementing the provisions and purposes of this title.

(c) CONGRESSIONAL REVIEW.—Subsection (d) shall apply if, not later than 30 calendar days after receipt of a certification submitted under subsection (b) at the time of submission of the report required by this title, Congress enacts a joint resolution disapproving the determination of the President contained in such certification.

(d) DENIAL OF ASSISTANCE FOR COUNTRIES DECERTIFIED.—If the President does not make a certification under subsection (b) with respect to a country or Congress enacts a joint resolution disapproving such certification, then until such time as the conditions specified in subsection (e) are satisfied—

(1) funds may not be obligated for United States assistance for that government, and funds previously appropriated, but unobligated, for United States assistance for that government may not be expended for the purpose of providing assistance for that government;

(2) the requirement to vote against multilateral development bank assistance pursuant to subsection (a)(2) shall apply with respect to that country, without regard to the date specified in that subsection; and

(3) no visas may be issued to nationals of that country, and no visas already issued shall be held valid by the Department of State, the Immigration and Naturalization Service, or any other department or agency of the Federal Government.

(e) RECERTIFICATION.—Subsection (d) shall apply to a country described in that subsection until—

(1) the President, at the time of submission of the report required by this title, makes a certification under subsection (b)(1)(A) or (b)(1)(B) with respect to that country, and Congress does not enact a joint resolution under subsection (c) disapproving the determination of the President contained in that certification; or

(2) the President, at any other time, makes the certification described in subsection (b)(1)(A) or subsection (b)(1)(B) with respect to that country, except that this paragraph applies only if either—

(A) the President also certifies that—

(i) that country has undergone a fundamental change in government, or

(ii) there has been a fundamental change in the conditions that were the reasons—

(I) why the President had not made a certification with respect to that country under subsections (b)(1) (A) or (B); or

(II) if the defendant had made such a certification and Congress enacted a joint resolution disapproving the determination contained in the certification, why Congress enacted that joint resolution; or

(B) Congress enacts a joint resolution approving the determination contained in the certification under subsection (b)(1) (A) or (B).

Any certification under subparagraph (A) of paragraph (2) shall discuss the justification for the certification.

(f) SENATE PROCEDURES.—Any joint resolution under this section shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

SEC. 108. PRISONER TRANSFERS TREATIES.

(a) NEGOTIATION.—The Secretary of State shall begin to negotiate and renegotiate, not later than 90 days after the date of enactment of this Act, bilateral prisoner transfer treaties. The focus of such negotiations should be—

(1) to expedite the transfer of aliens unlawfully in the United States who are (or are about to be) incarcerated in United States prisons;

(2) to ensure that a transferred prisoner serves the balance of the sentence imposed by the United States courts; and

(3) to allow the Federal Government or the States to maintain their original prison sentences in effect so that transferred prisoners who return to the United States prior to the completion of their original United States sentences can be returned to custody for the balance of their prison sentences.

(b) CERTIFICATION.—The President shall submit to Congress, annually, a certification as to whether each prisoner transfer treaty in force is effective in returning aliens unlawfully in the United States who have committed offenses for which they are incarcerated in the United States to their country of nationality for further incarceration.

SEC. 109. JUDGMENTS UNAFFECTED.

Nothing in this title shall in any way be construed to nullify or reduce the effect of a judgment of conviction and sentence entered by a Federal, State, or local court in the United States.

SEC. 110. DEFINITION.

In this title, the term ''United States assistance'' means any assistance under the Foreign Assistance Act of 1961.

SEC. 111. REPEALS.

The following provisions of law are repealed:

(1) The first sentence in section 4100(a) of title 18, United States Code, is repealed.

(2) The first, third, fourth, fifth, and sixth sentences in section 4100(b) of title 18, United States Code, are repealed.

(3) Subsection (c) of section 4100 of title 18, United States Code is repealed.

(4) Subsection (d) of section 4100(a) of title 18, United States Code, is redesignated as subsection (c).

(5) Subsection (a)(2) of section 330 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 is amended by inserting ''during fiscal years 1997 and 1998,'' after ''compensation,''.

(6) Section 330(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 is amended by striking '', except as required by treaty,''.

(7) Section 332 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 is repealed.

TITLE II—EXCLUSIONARY RULE REFORM

Subtitle A—Exclusionary Rule Reform

SEC. 201. SHORT TITLE.

This subtitle may be cited as the ''Exclusionary Rule Reform Act of 1997''.

SEC. 202. ADMISSIBILITY OF CERTAIN EVIDENCE.

(a) IN GENERAL.—Chapter 223 of title 18, United States Code, is amended by adding at the end the following:

''§ 3510. Admissibility of evidence obtained by search or seizure

''(a) EVIDENCE OBTAINED BY OBJECTIVELY REASONABLE SEARCH OR SEIZURE.—

''(1) IN GENERAL.—Evidence that is obtained as a result of a search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the fourth amendment to the Constitution of the United States, if the search or seizure was carried out in circumstances justifying an objectively reasonable belief that the search or seizure was in conformity with the fourth amendment.

''(2) PRIMA FACIE EVIDENCE.—The fact that evidence was obtained pursuant to and within the scope of a warrant constitutes prima facie evidence of the existence of circumstances justifying an objectively reasonable belief that it was in conformity with the fourth amendment.

''(b) EVIDENCE NOT EXCLUDABLE BY STATUTE OR RULE.—

''(1) IN GENERAL.—Evidence shall not be excluded in a proceeding in a court of the United States on the ground that it was obtained in violation of a statute, an administrative rule or regulation, or a rule of procedure unless the exclusion is expressly authorized by statute or by a rule prescribed by the Supreme Court pursuant to statutory authority.

''(2) SPECIAL RULE RELATING TO OBJECTIVELY REASONABLE SEARCHES AN SEIZURES.—Evidence that is otherwise excludable under paragraph (1) shall not be excluded if the search or seizure was carried out in circumstances justifying an objectively reasonable belief that the search or seizure was in conformity with the statute, administrative rule or regulation, or rule of procedure, the violation of which occasioned its being excludable.''.

(b) RULES OF CONSTRUCTION.—This section and the amendments made by this section shall not be construed to require or authorize the exclusion of evidence in any proceeding. Nothing in this section or the amendments made by this section shall be construed so as to violate the fourth amendment to the Constitution of the United States.

(c) CLERICAL AMENDMENT.—The chapter analysis for chapter 223 of title 18, United States Code, is amended by adding at the end the following:

''3510. Admissibility of evidence obtained by search or seizure.''.

Subtitle B—Confession Reform

SEC. 211. ENFORCEMENT OF CONFESSION REFORM STATUTE.

(a) IN GENERAL.—Section 3501 of title 18, United States Code, is amended by adding at the end the following:

''(f) ENFORCEMENT OF CONFESSION REFORM.—

''(1) IN GENERAL.—Not later than 90 days after the date of enactment of the Omnibus Crime Control Act of 1997, the Attorney General shall promulgate guidelines that require

the Department of Justice to enforce, and defend nationally, the legality of this section. Specifically, the Department shall pursue the admission into evidence of confessions that are voluntarily given.

''(2) VOLUNTARINESS.—In determining the issue of voluntariness for purposes of this subsection—

''(A) the Department shall take into consideration all the circumstances surrounding the giving of the confession, including—

''(i) the time elapsing between arrest and arraignment of the defendant making the confession, if the confession was made after arrest and before arraignment;

''(ii) whether the defendant knew the nature of the offense with which he was charged or of which he was suspected at the time of making the confession;

''(iii) whether the defendant was advised or knew that he was not required to make any statement and that any such statement could be used against him; and

''(iv) whether the defendant was without the assistance of counsel when he was questioned and when he made a confession;

''(B) the presence or absence of any of the factors described in paragraph (1) shall not be conclusive in the Department's determination of whether a confession was voluntary; and

''(C) the fact that the defendant had not been advised prior to questioning of his or her right to silence and to the assistance of counsel shall not be dispositive.

''(g) DEFINITION OF ANY CRIMINAL PROSECUTION BY THE UNITED STATES.—In this section—

''(1) the term 'any criminal prosecution by the United States' includes any prosecution by the United States under the Uniform Code of Military Justice; and

''(2) the term 'offenses against the laws of the United States' includes offense defined by the Uniform Code of Military Justice.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of enactment of this Act and shall apply to any criminal prosecution brought by or under the authority of the United States, including a military prosecution or a prosecution brought by the District of Columbia, regardless of whether that prosecution has begun or has concluded and has yet to become final.

TITLE III—VIOLENT CRIME, DRUGS, AND TERRORISM

SEC. 301. SHORT TITLE.

This title may be cited as the ''Drug Investigation Support and Antiterrorism Act of 1997''.

Subtitle A—Criminal Penalties and Procedures

SEC. 311. PROTECTION OF THE OLYMPICS.

(a) IN GENERAL.—Section 1111 of title 18, United States Code, is amended by adding at the end the following:

''(c) OLYMPIC GAMES.—

''(1) IN GENERAL.—Whoever kills a person during and in relation to any international Olympic Games that are held within any State shall be punished in accordance with subsection (b) and section 1112.

''(2) AMENDMENT.—Whoever attempts to violate this subsection shall be punished in accordance with section 1113.

''(3) STATE DEFINED.—In this subsection, the term 'State' means each of the several States, the District of Columbia, and any territory or possession of the United States.''.

(b) INTERNATIONALLY PROTECTED PERSONS.—Section 1116 (b)(4) of title 18, United States Code, is amended—

(1) by striking ''or at the end of subparagraph (A)'';

(2) by striking the period at the end of subparagraph (B), and inserting ''; or''; and

(3) by adding at the end the following:

''(C) any participant or guest attending any international sporting event sponsored or sanctioned by the International Olympic Committee or the United States Olympic Committee incorporated under the Act entitled 'An Act to incorporate the United States Olympic Association', approved September 21, 1950 (36 U.S.C. 371 et seq.).''.

SEC. 312. FEDERAL RESPONSIBILITY FOR SECURITY AT INTERNATIONAL ATHLETIC COMPETITIONS.

(a) IN GENERAL.—

(1) DUTY OF ATTORNEY GENERAL.—The Attorney General, in consultation with the Secretary of State and the Secretary of the Treasury, shall supervise other Federal authorities and personnel in the provision of security services (including conducting a comprehensive review of plans for the housing of athletes and other eligible guests) by establishing a task force to be known as the ''Olympic Security Task Force'' (referred to in this subsection as the ''task force'').

(2) DUTIES OF TASK FORCE.—The task force shall assist the Attorney General in overseeing security for any international Olympic Games held in any State.

(3) STATE DEFINED.—In this section, the term ''State'' means each of the several States, the District of Columbia, and any territory or possession of the United States.

(b) TASK FORCE COMPOSITION.—

(1) IN GENERAL.—The Attorney General shall determine the number of members and composition of the task force in accordance with this section. The Attorney General shall appoint representatives from State and local law enforcement to serve as members of the task force.

(2) REPRESENTATIVES.—In addition to the members referred to in paragraph (1), the Attorney General may appoint as members representatives of—

(A) the Federal Bureau of Investigation;

(B) the Department of Defense;

(C) the Secret Service;

(D) the United States Marshals Service;

(E) the United States Attorney with jurisdiction over a venue for Olympic Games (referred to in this section as an ''Olympic venue'');

(F) the Bureau of Alcohol, Tobacco, and Firearms;

(G) the Central Intelligence Agency; and

(H) any other appropriate agency of the Federal Government, as the Attorney General determines to be appropriate.

(c) DISBANDING OF TASK FORCE.—The President may disband the task force and relieve the Attorney General of responsibility for supervising security at international Olympic Games, if the President finds that appropriate State or local law enforcement officials refused, or otherwise failed adequately to participate in, the planning, preparation, or execution of a plan providing for security under this section.

(d) ASSISTANCE.—

(1) IN GENERAL.—In carrying out this section, the Attorney General may request assistance from—

(A) the head of any department or agency of the United States; and

(B) the appropriate officials of any appropriate department or agency of the State in which an Olympic venue is located (referred to in this section as the ''host State''), or any political subdivision of such State, including State and local law enforcement officials in the host State to ensure the effective implementation of security under this subsection.

(2) UNITED STATES OLYMPIC ORGANIZING COMMITTEE.—The Attorney General may request the United States Olympic Committee (incorporated under the Act entitled ''An Act to incorporate the United States Olympic Association'', approved September 21, 1950 (36 U.S.C. 371 et seq.)) and the Olympic organizing committee of the city in which an Olympic venue is located (referred to in this section as a ''host city'') to provide all reasonable cooperation and assistance required to carry out this subsection. Upon receipt of such a request, the United States Olympic Committee and organizing committees shall endeavor to provide that assistance.

(e) AGREEMENTS AND REGULATIONS.—To carry out this section, the Attorney General may enter into interagency or intergovernmental agreements and promulgate regulations.

(f) EXPEDITED REVIEW.—In the case of Olympic Games that occur after the date of enactment of this Act in the United States with respect to which the Olympic venue is selected before the date of enactment of this section, the review of housing required by paragraph (1) shall be conducted not later than 120 days after such date of enactment. The review shall consider the suitability of the proposed Olympic Village site, building options, and any other issue the Attorney General considers appropriate to ensure maximum security for the Olympic Village, its residents, and its environs.

(g) CONSTRUCTION.—Nothing in this section shall be construed to create a cause of action against the United States or any officer or employee of the United States in favor of any person who is not otherwise authorized.

SEC. 313. TECHNICAL REVISION TO PENALTIES FOR CRIMES COMMITTED BY EXPLOSIVES.

Section 844 of title 18, United States Code, is amended—

(1) in subsection (f)(1), by inserting ''or any institution or organization receiving Federal financial assistance,'' after ''or agency thereof,''; and

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

''(i) MALICIOUS DESTRUCTION BY FIRE OR EXPLOSIVES.—

''(1) IN GENERAL.—Whoever maliciously damages or destroys, or attempts to damage or destroy, by means of fire or an explosive, any building, vehicle, public place, or other personal or real property used in interstate or foreign commerce or used in any activity affecting interstate or foreign commerce, shall be imprisoned for a period of not less than 5 years and not more than 20 years, fined under this title, or both.

''(2) PERSONAL INJURY.—Whoever engages in conduct prohibited by this subsection, and as a result of such conduct, directly or proximately causes personal injury or creates a substantial risk of injury to any person, including any public safety officer performing duties, shall be imprisoned for a period of not less than 7 years and not more than 40 years, fined under this title, or both.

''(3) DEATH.—Whoever engages in conduct prohibited by this subsection, and as a result of such conduct directly or proximately causes the death of any person, including any public safety officer performing duties, shall be subject to the death penalty, or imprisoned for not less than 20 years or for life, fined under this title, or both.''.

SEC. 314. CHEMICAL WEAPONS RESTRICTIONS.

(a) IN GENERAL.—Section 2332c of title 18, United States Code, is amended—

(1) in subsection (a), by inserting after paragraph (2) the following:

''(3) RESTRICTIONS.—

''(A) IN GENERAL.—Whoever without lawful authority knowingly develops, produces, acquires, stockpiles, retains, transfers, owns, or possesses any chemical weapon, or knowingly assists, encourages or induces any person to do so, or attempts or conspires to do so, shall be punished under paragraph (2).

''(B) JURISDICTION.—The United States has jurisdiction over an offense under this paragraph if—

''(i) the prohibited activity takes place in the United States; or

''(ii) the prohibited activity takes place outside the United States and is committed by a national of the United States.

''(C) ADDITIONAL PENALTY.—The court shall order any person convicted of an offense under this paragraph to pay to the United States any expenses incurred incident to the seizure, storage, handling, transportation, and destruction or other disposition of property seized for violation of this section.'';

(2) by adding at the end the following:

''(c) CRIMINAL FORFEITURE.—

''(1) PROPERTY SUBJECT TO CRIMINAL FORFEITURE.—A person who is convicted of an offense under this section shall forfeit to the United States the interest of that person in—

''(A) any chemical weapon, including any component thereof;

''(B) any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from such offense; and

''(C) any property, real or personal, used or intended to be used to commit or to promote the commission of the offense.

''(2) THIRD PARTY TRANSFERS.—

''(A) IN GENERAL.—All right, title, and interest in property described in subsection (a) of this section vests in the United States upon the commission of the act giving rise to forfeiture under this section.

''(B) FORFEITURE.—Except as provided in subparagraph (C), any property referred to in subparagraph (A) that is subsequently transferred to a person other than the defendant may be the subject of a special verdict of forfeiture and thereafter shall be ordered forfeited to the United States.

''(C) EXCEPTION.—The property referred to in subparagraph (B) shall not be ordered forfeited if the transferee establishes in a hearing conducted pursuant to subsection (l) that the party is a bona fide purchaser for value of such property who, at the time of purchase, was reasonably without cause to believe that the property was subject to forfeiture under this section.

''(3) PROTECTIVE ORDERS.—

''(A) IN GENERAL.—Upon application of the United States, the court may enter a restraining order or injunction, require the execution of a satisfactory performance bond, or take any other action to preserve the availability of property described in subsection (a) for forfeiture under this section—

''(i) upon the filing of an indictment or information—

''(I) charging a violation of this chapter for which criminal forfeiture may be ordered under this section; and

''(II) alleging that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section; or

''(ii) prior to the filing of an indictment or information referred to in clause (i), if, after providing notice to persons appearing to have an interest in the property and opportunity for a hearing, the court determines that—

''(I) there is a substantial probability that the United States will prevail on the issue of forfeiture and that failure to enter the order will result in the property being destroyed, removed from the jurisdiction of the court, or otherwise made unavailable for forfeiture; and

''(II) the need to preserve the availability of the property through the entry of the requested order outweighs the hardship on any party against whom the order is to be entered;

except that an order entered pursuant to subparagraph (B) shall be effective for a period not to exceed 90 days, unless extended by the court for good cause shown or unless an indictment or information described in this subparagraph has been filed.

''(B) TEMPORARY RESTRAINING ORDERS.—

''(i) IN GENERAL.—A temporary restraining order under this subsection may be entered upon application of the United States without notice or opportunity for a hearing when an information or indictment has not yet been filed with respect to the property, if the United States demonstrates that there is probable cause to believe that—

''(I) the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section; and

''(II)(aa) exigent circumstances exist that place the life or health of any person in danger; or

''(bb) that provision of notice will jeopardize the availability of the property for forfeiture.

''(ii) EXPIRATION.—A temporary restraining order described in clause (i) shall expire not later than 10 days after the date on which the order is entered, unless—

''(I) the order is extended for good cause shown; or

''(II) the party against whom it is entered consents to an extension for a longer period.

''(iii) HEARING.—A hearing requested concerning an order entered under this paragraph shall be held at the earliest possible time and prior to the expiration of the temporary order.

''(C) INAPPLICABILITY OF FEDERAL RULES OF EVIDENCE.—The court may receive and consider, at a hearing held pursuant to this paragraph, evidence and information that would otherwise be inadmissible under the Federal Rules of Evidence.

''(d) WARRANT OF SEIZURE.—

''(1) IN GENERAL.—The Government of the United States may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this section in the same manner as provided for a search warrant.

''(2) DETERMINATIONS BY COURT.—The court shall issue a warrant authorizing the seizure of the property referred to in paragraph (1) if the court determines that there is probable cause to believe that—

''(A) the property to be seized would, in the event of conviction, be subject to forfeiture; and

''(B) an order under subsection (c) may not be sufficient to ensure the availability of the property for forfeiture.

''(e) ORDER OF FORFEITURE.—The court shall order forfeiture of property referred to in subsection (a) if the trier of fact determines, by a preponderance of the evidence, that the property is subject to forfeiture.

''(f) EXECUTION.—

''(1) IN GENERAL.—Upon entry of an order of forfeiture or temporary restraining order under this section, the court shall authorize the Attorney General to seize all property ordered forfeited or restrained on such terms and conditions as the court determines to be appropriate.

''(2) ACTIONS BY COURT.—Following entry of an order declaring the property forfeited, the court may, upon application of the United States, enter such appropriate restraining orders or injunctions, require the execution of satisfactory performance bonds, appoint receivers, conservators, appraisers, accountants, or trustees, or take any other action to protect the interest of the United States in the property ordered forfeited.

''(3) OFFSET.—Any income accruing to or derived from property ordered forfeited under this section may be used to offset ordinary and necessary expenses to the property that—

''(A) are required by law; or

''(B) are necessary to protect the interests of the United States or third parties.

''(g) DISPOSITION OF PROPERTY.—

''(1) IN GENERAL.—Following the seizure of property ordered forfeited under this section, the Attorney General shall, making due provision for the rights of any innocent persons—

''(A) destroy or retain for official use any article described in paragraph (1) of subsection (a); and

''(B) retain for official use or direct the disposition of any property described in paragraph (2) or (3) of subsection (a) by sale or any other commercially feasible means.

''(2) REVERSION PROHIBITED.—With respect to the forfeiture, any property right or interest not exercisable by, or transferable for value to, the United States shall expire and shall not revert to the defendant, nor shall the defendant or any person acting in concert with the defendant or on behalf of the defendant be eligible to purchase forfeited property at any sale held by the United States.

''(3) RESTRAINT OF SALE OR DISPOSITION.—Upon application of a person, other than the defendant or person acting in concert with the defendant or on behalf of the defendant, the court may restrain or stay the sale or disposition of the property pending the conclusion of any appeal of the criminal case giving rise to the forfeiture, if the applicant demonstrates that proceeding with the sale or disposition of the property will result in irreparable injury, harm, or loss to the applicant.

''(h) AUTHORITY OF ATTORNEY GENERAL.—With respect to property ordered forfeited under this section, the Attorney General may—

''(1) grant petitions for mitigation or remission of forfeiture, restore forfeited property to victims of a violation of this section, or take any other action to protect the rights of innocent persons that—

''(A) is in the interest of justice; and

''(B) is not inconsistent with this section;

''(2) compromise claims arising under this section;

''(3) award compensation to persons providing information resulting in a forfeiture under this section;

''(4) direct the disposition by the United States, under section 616 of the Tariff Act of 1930 (19 U.S.C. 1616a), of all property ordered forfeited under this section by public sale or any other commercially feasible means, making due provision for the rights of innocent persons; and

''(5) take such appropriate measures as are necessary to safeguard and maintain property ordered forfeited under this section pending the disposition of that property.

''(i) BAR ON INTERVENTION.—Except as provided in subsection (l), no party claiming an interest in property subject to forfeiture under this section may—

''(1) intervene in a trial or appeal of a criminal case involving the forfeiture of that property under this section; or

''(2) commence an action at law or equity against the United States concerning the validity of the alleged interest of that party in the property subsequent to the filing of an indictment or information alleging that the property is subject to forfeiture under this section.

''(j) JURISDICTION TO ENTER ORDERS.—Each district court of the United States shall have jurisdiction to enter an order of forfeiture under this section without regard to the location of any property that—

''(1) may be subject to forfeiture under this section; or

''(2) has been ordered forfeited under this section.

''(k) DEPOSITIONS.—In order to facilitate the identification and location of property declared forfeited under this section and to facilitate the disposition of petitions for remission or mitigation of forfeiture, after the entry of an order declaring property forfeited to the United States under this section, the court may, upon application of the United States, order that—

''(1) the testimony of any witness relating to the property forfeited be taken by deposition; and

''(2) any designated book, paper, document, record, recording, or other material that is not privileged be produced at the same time and place, and in the same manner, as provided for the taking of depositions under rule 15 of the Federal Rules of Criminal Procedure.

''(l) THIRD PARTY INTERESTS.—

''(1) IN GENERAL.—

''(A) NOTICE.—Following the entry of an order of forfeiture under this section, the United States Government shall publish notice of the order and of the intent of the Government to dispose of the property in such manner as the Attorney General may direct.

''(B) DIRECT WRITTEN NOTICE.—In addition to providing the notice described in subparagraph (A), the Government may, to the extent practicable, provide direct written notice to any person known to have alleged an interest in the property that is the subject of the order of forfeiture as a substitute for published notice as to those persons so notified.

''(2) PETITION BY PERSON OTHER THAN DEFENDANT.—

''(A) IN GENERAL.—Any person, other than the defendant, who asserts a legal interest in property that has been ordered forfeited to the United States pursuant to this section may petition the court for a hearing to adjudicate the validity of his alleged interest in the property not later than the earlier of—

''(i) the date that is 30 days after the final publication of notice; or

''(ii) the date that is 30 days after the receipt of notice by the person under paragraph (1).

''(B) REQUIREMENTS FOR HEARING.—A hearing described in subparagraph (A) shall be held before the court without a jury.

''(3) REQUIREMENTS FOR PETITION.—A petition referred to in paragraph (2) shall—

''(A) be signed by the petitioner under penalty of perjury; and

''(B) set forth—

''(i) the nature and extent of the petitioner's right, title, or interest in the property;

''(ii) the time and circumstances of the petitioner's acquisition of the right, title, or interest in the property;

''(iii) the relief sought; and

''(iv) any additional facts supporting the petitioner's claim.

''(4) DATE; CONSOLIDATION.—

''(A) DATE OF HEARING.—The hearing on a petition referred to in paragraph (2) shall, to the extent practicable and consistent with the interests of justice, be held not later than 30 days after the filing of the petition.

''(B) CONSOLIDATION.—The court may consolidate the hearing on the petition with a hearing on any other petition filed by a person other than the defendant under this subsection.

''(5) ACTIONS AT HEARINGS.—

''(A) IN GENERAL.—At a hearing referred to in paragraph (4)—

''(i) the petitioner may testify and present evidence and witnesses on his or her own behalf, and cross-examine witnesses who appear at the hearing; and

''(ii) the Government may present evidence and witnesses in rebuttal and in defense of its claim to the property that is the subject and cross-examine witnesses who appear at the hearing.

''(B) CONSIDERATION BY COURT.—In addition to considering testimony and evidence presented at the hearing, the court shall consider the relevant portions of the record of the criminal case that resulted in the order of forfeiture.

''(6) AMENDMENT OF ORDER OF FORFEITURE.—If, after holding a hearing under this subsection, the court determines that a petitioner has established by a preponderance of the evidence that—

''(A)(i) the petitioner has a legal right, title, or interest in the property that is the subject of the hearing; and

''(ii) that right, title, or interest renders the order of forfeiture invalid in whole or in part because the right, title, or interest—

''(I) was vested in the petitioner rather than the defendant; or

''(II) was superior to any right, title, or interest of the defendant at the time of the commission of the acts which gave rise to the forfeiture of the property under this section; or

''(B) the petitioner is a bona fide purchaser for value of the right, title, or interest in the property and was at the time of purchase reasonably without cause to believe that the property was subject to forfeiture under this section;

the court shall amend the order of forfeiture in accordance with its determination.

''(7) ACTIONS OF COURT AFTER DISPOSITION OF PETITION.—After the disposition of the court of all petitions filed under this subsection, or if no such petitions are filed after the expiration of the period specified in paragraph (2), the United States—

''(A) shall have clear title to property that is the subject of the order of forfeiture; and

''(B) may warrant good title to any subsequent purchaser or transferee.

''(m) CONSTRUCTION.—This section shall be liberally construed in such manner as to effectuate the remedial purposes of this section.

''(n) SUBSTITUTE ASSETS.—

''(1) IN GENERAL.—In accordance with paragraph (2), the court shall order the forfeiture of property of a defendant other than property described in subsection (a) if, as a result of an act or omission of the defendant, any of the property of the defendant that is described in subsection (a)—

''(A) cannot be located upon the exercise of due diligence;

''(B) has been transferred or sold to, or deposited with, a third party;

''(C) has been placed beyond the jurisdiction of the court;

''(D) has been substantially diminished in value; or

''(E) has been commingled with other property which cannot be divided without difficulty.

''(2) VALUE OF PROPERTY.—The value of any property subject to forfeiture under paragraph (1) shall not exceed the value of property of the defendant with respect to which subparagraph (A), (B), (C), (D), or (E) of paragraph (1) applies.''; and

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

''SEC. 2332c. USE AND STOCKPILING OF CHEMICAL WEAPONS.''.

(b) CONFORMING AMENDMENT TO FEDERAL RULES OF EVIDENCE.—Section 1101(d)(3) of the Federal Rules of Evidence is amended by striking ''; and proceedings with respect to release on bail or otherwise'' and inserting '', proceedings with respect to release on bail or otherwise; and proceedings under section 2232c(c)(3) of title 18, United States Code (except that the rules with respect to privilege under subsection (c) of this section also shall apply).''.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 113B of title 18, United States Code, is amended by striking the item relating to section 2332b and inserting the following:

''2332c. Use and stockpiling of chemical weapons.''.

Subtitle B—International Terrorism

SEC. 321. MULTILATERAL SANCTIONS.

(a) POLICY ON ESTABLISHMENT OF SANCTIONS REGIMES.—

(1) POLICY.—Congress urges the President to commence immediately after the date of enactment of this Act diplomatic efforts, in appropriate international fora (including the United Nations) and bilaterally, with allies of the United States, to establish, as appropriate, a multilateral sanctions regime against each country that the Secretary of State determines under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) to have repeatedly provided support for acts of international terrorism.

(2) REPORT.—The President shall include in the annual report on patterns of global terrorism prepared under section 143 a description of the extent to which the diplomatic efforts referred to in paragraph (1) have been carried out and the degree of success of those efforts.

(b) ACTION PLANS FOR DESIGNATED TERRORIST NATIONS.—The President shall provide to Congress as a part of each report on patterns of global terrorism prepared under section 143 a plan of action (to be known as an ''action plan'') for inducing each country referred to in paragraph (1) to cease the support of that country for acts of international terrorism.

SEC. 322. INFORMATION ON COOPERATION WITH UNITED STATES ANTITERRORISM EFFORTS IN ANNUAL COUNTRY REPORTS ON TERRORISM.

Section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f) is amended—

(1) in subsection (a)—

(A) by striking ''and'' at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting a semicolon; and

(C) by adding at the end the following:

''(3) with respect to each foreign country from which the United States Government has sought cooperation during the preceding 5-year period in the investigation or prosecution of an act of international terrorism against United States citizens or interests, information on—

''(A) the extent to which the government of the foreign country is cooperating with the United States Government in apprehending, convicting, and punishing each individual responsible for the act; and

''(B) the extent to which the government of the foreign country is cooperating in preventing further acts of terrorism against United States citizens in the foreign country; and

''(4) with respect to each foreign country from which the United States Government has sought cooperation during the preceding 5-year period in the prevention of an act of international terrorism against such citizens or interests, the information described in paragraph (3)(B).''; and

(2) in subsection (c)—

(A) by striking ''The report'' and inserting the following:

''(1) IN GENERAL.—Except as provided in paragraph (2), the report'';

(B) by adding at the end the following:

''(2) CLASSIFIED FORM.—If the Secretary of State determines that the transmittal of the information under paragraph (3) or (4) of subsection (a) in classified form with respect to

a foreign country would increase the likelihood of cooperation of the government of the foreign country (as specified in that paragraph), the Secretary may transmit the information under that paragraph in classified form.''.

SEC. 323. REPORT ON INTERNATIONAL TERRORISM.

(a) ANNUAL REPORT.—Not later than 60 days after the date of enactment of this Act, and annually thereafter, at the same time as the Secretary of State submits the report required by section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f), the Secretary of State, in consultation with the Director of Central Intelligence, shall submit, in classified and unclassified versions, to the Speaker and the Minority Leader of the House of Representatives, the Majority Leader and the Minority Leader of the Senate, the chairman and the ranking minority member of the Committee on International Relations of the House of Representatives, and the chairman and the ranking minority member of the Committee on Foreign Relations of the Senate a report that includes—

(1) an assessment of—

(A) the magnitude of the anticipated threat from international terrorism to United States interests, persons, and property in the United States and abroad, including the names and background of major terrorist groups and the leadership of those groups;

(B) the sources of financial and logistical support of the groups;

(C) the nature and scope of the human and technical infrastructure;

(D) the goals, doctrine, and strategies of the groups;

(E) the quality and type of education and training of the groups;

(F) the level of advancement of the groups;

(G) the bases of operation and training of the groups;

(H) the operational capabilities of the groups;

(I) the bases of recruitment of the groups;

(J) the linkages with governmental and nongovernmental actors (such as ethnic groups, religious communities, or criminal organizations) of the groups; and

(K) the intent and capability of each of the groups to access and use weapons of mass destruction;

(2) a detailed assessment of any country that provided support of any type for international terrorism, terrorist groups, or individual terrorists, including any country with respect to which the government of that country knowingly allowed terrorist groups or individuals to transit or reside in the territory of that country, without regard to whether terrorist acts were committed by the terrorist groups or individuals in that territory;

(3) a detailed assessment of efforts of individual countries to take effective action against countries that the Secretary of State determines under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) to have repeatedly supported acts of international terrorism, including the status of—

(A) compliance with international sanctions; and

(B) bilateral economic relations; and

(4)(A) a detailed assessment of efforts of the United States Government to carry out this section; and

(B) an identification of any failure or insufficient action on the part of the Government to carry out this section.

(b) CONTENT OF ASSESSMENTS.—An assessment under subsection (a)(1) shall—

(1) characterize the quality of the information that supports the assessment and identify areas that require enhanced information; and

(2) identify and analyze potential vulnerabilities of terrorist groups that could serve to guide the development of governmental policy.

(c) SUBMISSION TO THE COMMISSION ON TERRORISM.—During the period that the National Commission on Terrorism established under section 341 is operating, the President shall submit a property of each report prepared under subsection (a).

SEC. 324. REVISION OF DEPARTMENT OF STATE REWARDS PROGRAM.

(a) IN GENERAL.—Section 36 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708) is amended to read as follows:

''SEC. 36. DEPARTMENT OF STATE REWARDS PROGRAM.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—The Secretary of State shall establish a program for the payment of rewards by the Secretary in accordance with this section.

''(2) CONSULTATION.—The rewards program established under paragraph (1) shall be administered by the Secretary of State, in consultation (as appropriate), with the Attorney General.

''(b) REWARDS PROGRAM.—

''(1) The rewards program established under subsection (a)(1) shall be designed to assist in the prevention of acts of international terrorism, international narcotics trafficking, and other related criminal acts.

''(2) At the sole discretion of the Secretary of State and in consultation, as appropriate, with the Attorney General, the Secretary of State may pay a reward to any individual who furnishes information leading to—

''(A) the arrest or conviction in any country of any individual for the commission of an act of international terrorism against a person or property;

''(B) the arrest or conviction in any country of any individual conspiring or attempting to commit an act of international terrorism against a United States person or United States property;

''(C) the arrest or conviction in any country of any individual for committing, primarily outside the territorial jurisdiction of the United States, any narcotics-related offense if that offense involves or is a significant part of conduct that involves—

''(i) a violation of United States narcotics laws which is such that the individual would be a major violator of such laws;

''(ii) the killing or kidnapping of—

''(I) any officer, employee, or contract employee of the United States Government while that individual is engaged in official duties, or on account of the performance of official duties of that individual, in connection with—

''(aa) the enforcement of United States narcotics laws; or

''(bb) the implementation of United States narcotics control objectives; or

''(II) a member of the immediate family of any individual described in subclause (I) on account of the official duties of that individual in connection with—

''(aa) the enforcement of United States narcotics laws; or

''(bb) the implementation of United States narcotics control objectives; or

''(iii) an attempt or conspiracy to commit any act described in clause (i) or (ii);

''(D) the arrest or conviction in any country of any individual who aids or abets in the commission of an act described in subparagraph (A), (B), or (C); or

''(E) the prevention, frustration, or favorable resolution of an act described in subparagraph (A), (B), or (C).

''(c) COORDINATION.—

''(1) IN GENERAL.—To ensure that the payment of rewards under this section does not duplicate or interfere with the payment of informants or the obtaining of evidence or information, as authorized for the Department of Justice, the offering, administration, and payment of rewards under this section shall be conducted in accordance with procedures that the Secretary of State, in consultation with the Attorney General, shall establish.

''(2) CONTENTS OF PROCEDURES.—The procedures referred to in paragraph (2) shall include procedures for—

''(A) identifying individuals, organizations, and offenses with respect to which rewards are to be offered;

''(B) the publication of rewards;

''(C) the offering of joint rewards with the governments of foreign countries;

''(D) the receipt and analysis of data; and

''(E) the payment and approval of payment.

''(3) CONSULTATION WITH ATTORNEY GENERAL.—Before making a reward under this section in a matter subject to Federal criminal jurisdiction, the Secretary of State shall advise and consult with the Attorney General.

''(d) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—Notwithstanding section 102 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (99 Stat. 408), and subject to paragraph (2), there are authorized to be appropriated to the Department of State such sums as may be necessary to carry out this section.

''(2) LIMITATION.—No amount of funds may be appropriated to the Department of State for the purpose specified in paragraph (1) in excess of the difference between $15,000,000 and the amount of unobligated funds available for that purpose to the Secretary of State for the fiscal year involved.

''(3) DISTRIBUTION OF FUNDS.—To the maximum extent practicable, funds made available to carry out this section shall be distributed in equal amounts for the purpose of preventing acts of international terrorism and for the purpose of preventing international narcotics trafficking.

''(4) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to the authorization under paragraph (1) are authorized to remain available until expended.

''(e) LIMITATION AND CERTIFICATION.—

''(1) LIMITATION.—A reward made under this section by the Secretary of State may not exceed $5,000,000.

''(2) APPROVAL OF PRESIDENT OR SECRETARY OF STATE.—A reward under this section in an amount greater than $100,000 may not be made under the program under this section without the approval of the President or the Secretary of State.

''(3) APPROVAL OF SECRETARY OF STATE.—Any reward granted under the program under this section shall be approved and certified for payment by the Secretary of State.

''(4) PROHIBITION.—Neither the President nor the Secretary of State may delegate the authority under paragraph (2) to any other officer or employee of the United States Government.

''(5) PROTECTION.—If the Secretary of State determines that it is necessary to protect the identity of the recipient of a reward or of the members of the recipient's immediate family, the Secretary may take such measures in connection with the payment of the reward as the Secretary considers necessary to effect that protection.

''(f) INELIGIBILITY.—An officer or employee of any governmental entity who, while in the performance of the official duties of that officer, furnishes information described in subsection (b) shall not be eligible for a reward under this section.

''(g) REPORTS.—

''(1) IN GENERAL.—

''(A) POST-AWARD REPORT.—Not later than 30 days after the payment of any reward under this section, the Secretary of State shall submit a report to the appropriate congressional committees with respect to that reward.

''(B) CLASSIFIED FORM.—If necessary, a report under subparagraph (A) may be submitted in classified form.

''(C) CONTENT OF REPORT.—A report submitted under subparagraph (A) shall specify—

''(i) the amount of the reward paid;

''(ii) the recipient of the reward;

''(iii) the acts related to the information for which the reward was paid; and

''(iv) the significance of the information for which the reward was paid in dealing with the acts described under clause (iii).

''(2) ANNUAL REPORT.—

''(A) IN GENERAL.—Not later than 60 days after the end of each fiscal year, the Secretary of State shall submit a report to the appropriate congressional committees concerning the operation of the rewards program under this section.

''(B) CONTENTS OF REPORTS.—Each report under subparagraph (A), shall provide information concerning—

''(i) the total amounts expended during the fiscal year that is the subject of the report to carry out this section, including amounts spent to publicize the availability of rewards; and

''(ii) all requests made for the payment of rewards under this section, including the reasons for the denial of any such request.

''(h) DEFINITIONS.—In this section:

''(1) ACT OF INTERNATIONAL TERRORISM.—The term 'act of international terrorism' includes—

''(A) any act substantially contributing to the acquisition of unsafeguarded special nuclear material (as that term is defined in section 830(8) of the Nuclear Proliferation Prevention Act of 1994 (108 Stat. 521)) or any nuclear explosive device (as that term is defined in section 830(4) of that Act (108 Stat. 521)) by an individual, group, or non-nuclear weapon state (as that term is defined in section 830(5) of that Act (108 Stat. 521));

''(B) any act, as determined by the Secretary of State, that materially supports the conduct of international terrorism, including the counterfeiting of United States currency or the illegal use of other monetary instruments by an individual, group, or country supporting international terrorism as determined under section 6(j) of the Export Administration Act of 1979; and

''(C) any act that would be a violation of chapter 113B of title 18, United States Code, relating to terrorism.

''(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

''(3) MEMBER OF THE IMMEDIATE FAMILY.—The term 'member of the immediate family' includes—

''(A) a spouse, parent, brother, sister, or child of the individual;

''(B) a person to whom the individual stands in loco parentis; and

''(C) any other person living in the individual's household and related to the individual by blood or marriage.

''(4) UNITED STATES NARCOTICS LAWS.—The term 'United States narcotics laws' means the laws of the United States for the prevention and control of illicit traffic in controlled substances (as such term is defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6))).

''(i) JUDICIAL REVIEW.—A determination made by the Secretary of State concerning whether to authorize a reward under this section, or the amount of a reward, shall not be subject to judicial review.''.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of State should pursue additional means of funding the program established by section 36 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708), including the authority—

(1) to seize and dispose of assets used in the commission of any offense under sections 1028, 1541 through 1544, and 1546 of title 18, United States Code;

(2) to retain the proceeds derived from the disposition of the assets referred to in paragraph (1);

(3) to participate in asset-sharing programs conducted by the Department of Justice; and

(4) to retain earnings accruing on all assets of foreign countries blocked by the President pursuant to the International Emergency Powers Act (50 U.S.C. 1701 et seq.) to carry out the purposes of section 36 of the State Department Basic Authorities Act of 1956.

Subtitle C—Commissions and Studies

SEC. 331. NATIONAL COMMISSION ON TERRORISM.

(a) ESTABLISHMENT.—There is established a commission to be known as the ''National Commission on Terrorism'' (in this section referred to as the ''Commission'').

(b) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—

(A) IN GENERAL.—The Commission shall be composed of 11 members, appointed from persons specially qualified by training and experience to perform the duties of the Commission, of whom—

(i) 3 shall be appointed by the Speaker of the House of Representatives, and 1 shall be appointed by the Minority Leader of the House of Representatives;

(ii) 3 shall be appointed by the Majority Leader of the Senate, and 1 shall be appointed by the Minority Leader of the Senate; and

(iii) 3 shall be appointed by the President.

(B) TIMING OF APPOINTMENTS.—The appointing authorities shall make their appointments to the Commission not later than 45 days after the date of enactment of this Act.

(2) DESIGNATION OF THE CHAIRPERSON AND VICE CHAIRPERSON.—The Majority Leader of the Senate, in consultation with Speaker of the House of Representatives, shall designate a chairperson from the members of the Commission (in this section referred to as the ''Chairperson''). The Speaker of the House of Representatives and the Majority Leader of the Senate shall jointly designate a vice chairperson from the members of the Commission (in this section referred to as the ''Vice Chairperson'').

(3) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in Commission membership shall not affect the exercise of the Commission's powers, and shall be filled in the same manner as the original appointment.

(c) MEETINGS.—

(1) IN GENERAL.—Not later than 60 days after the date on which all initial members of the Commission are appointed under subsection (b), the Commission shall hold its initial meeting. Each subsequent meeting of the Commission shall be held at the call of the Chairperson.

(2) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(d) SECURITY CLEARANCES.—Appropriate security clearances shall be required for each member of the Commission. Each such clearance shall—

(1) be processed and completed on an expedited basis by appropriate elements of the executive branch of the Federal Government; and

(2) to the extent practicable, be completed not later than 90 days after the date on which the member is appointed.

(e) APPLICATION OF CERTAIN PROVISIONS OF LAW.—

(1) FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.), and the regulations issued pursuant to that Act, shall not apply to the Commission.

(2) FREEDOM OF INFORMATION ACT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), section 552 of title 5, United States Code (commonly known as the ''Freedom of Information Act''), shall not apply to the Commission.

(B) EXCEPTIONS.—Records of the Commission shall be subject to chapters 21 through 31 of title 44, United States Code. Any such record that is transferred to the National Archives and Records Agency shall not be exempt from section 552 of title 5, United States Code.

(f) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall—

(A) prepare and transmit the reports described in paragraph (2);

(B) examine the long-term strategy of the Federal Government in addressing the threat of international terrorism, including intelligence capabilities, international cooperation, military responses, and technological capabilities;

(C) examine the efficacy and appropriateness of efforts of the Federal Government to prevent, detect, investigate, and prosecute acts of terrorism, including—

(i) the coordination of counter terrorism efforts among Federal departments and agencies, and coordination by the Federal Government of law enforcement with State and local law enforcement entities in responding to terrorist threats and acts;

(ii) the ability and utilization of counterintelligence or counterterrorism efforts to infiltrate and disable or disrupt international terrorist organizations and the activities of those organizations;

(iii) the impact of Federal immigration laws and policies on acts of terrorism transcending national boundaries;

(iv) the effectiveness of regulations and practices in effect at the time of the examination relating to civil aviation safety and security to prevent acts of terrorism, including a study of—

(I) the desirability of assigning, on a permanent basis, personnel of the Federal Bureau of Investigation at high-risk airports; and

(II) the practicality and desirability of transferring authority for United States airport security to an entity other than the Federal Aviation Administration;

(v) the extent and effectiveness of present cooperative efforts with foreign nations to prevent, detect, investigate, and prosecute acts of terrorism; and

(vi)(I) the impact on counterterrorism efforts in use at the time of the examination attributable to the failure to expend and utilize resources made available, and authority delegated by law for the implementation of enhanced counter terrorism activities; and

(II) the reasons why the resources referred to in subclause (I) have not been expended in a timely manner; and

(D) examine all laws (including statutes and regulations) relating to—

(i) the collection and dissemination of personal information concerning individuals by

law enforcement or other governmental entities; and

(ii) the necessity for additional protections to prevent and deter the inappropriate collection and dissemination of the information referred to in clause (i).

(2) REPORTS.—

(A) INITIAL REPORT.—Not later than 2 months after the date on which the initial meeting of the Commission is held, the Commission shall transmit to the Committees on the Judiciary of the House of Representatives and the Senate, the Committee on Foreign Relations of the Senate, the Committee on International Relations of the House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives a report setting forth a plan for the work of the Commission.

(B) INTERIM REPORTS.—Prior to the submission of the report under subparagraph (C), the Commission may issue such interim reports as the Commission determines to be necessary or appropriate.

(C) FINAL REPORT.—

(i) IN GENERAL.—

(I) SUBMISSION.—Not later than January 31, 1999, the Commission shall submit to the President and to the Committee on the Judiciary of the Senate, the Committee on the Judiciary of the House of Representatives, the Committee on Foreign Relations of the Senate, the Committee on International Relations of the House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives, a report that describes the activities, findings, and recommendations of the Commission, including any recommendations for the enactment of legislation that the Commission considers advisable.

(II) AVAILABILITY OF REPORT.—To the extent feasible, the final report shall be unclassified and made available to the public. The report shall be supplemented as necessary by a classified report or annex that shall be provided separately to the President and the committees of the Congress listed in subclause (I).

(ii) PROTECTION OF INDIVIDUALS.—Prior to the submission of a report under this paragraph—

(I) the Commission shall forward a draft of the report to the Director of Central Intelligence; and

(II) the Director of Central Intelligence shall—

(aa) review the report to ensure that disclosure of its contents will not endanger the life or safety of any person; and

(bb) upon completion of the review, promptly provide conclusions and recommendations to the Commission.

(g) POWERS.—

(1) HEARINGS.—The Commission or, at its direction, any panel or member of the Commission, may, for the purpose of carrying out this section, hold hearings, sit and act at times and places, take testimony, receive evidence, and administer oaths to the extent that the Commission or any panel or member considers advisable.

(2) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any intelligence agency or from any other Federal department or agency any information that the Commission considers necessary to enable the Commission to carry out the responsibilities of the Commission under this section. Upon request of the Chairperson, the head of any such department or agency expeditiously shall furnish such information to the Commission, unless the head of the department or agency determines that providing such information would threaten national security, the health or safety of any individual, or the integrity of an ongoing investigation or prosecution.

(3) POSTAL, PRINTING, AND BINDING SERVICES.—The Commission may use the United States mails and obtain printing and binding services in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(4) SUBCOMMITTEES.—

(A) IN GENERAL.—The Commission may establish panels composed of less than the full membership of the Commission for the purpose of carrying out the duties of the Commission.

(B) ACTIONS OF PANELS.—The actions of each such panel shall be subject to the review and control of the Commission.

(C) FINDINGS AND DETERMINATIONS OF PANEL.—Any findings and determinations made by such a panel shall not be considered the findings and determinations of the Commission unless approved by the Commission.

(5) AUTHORITY OF INDIVIDUALS TO ACT FOR COMMISSION.—Any member or agent of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take under this section.

(h) PERSONNEL MATTERS.—

(1) COMPENSATION OF MEMBERS.—Each member of the Commission who is not otherwise employed by the Federal Government shall be paid, if requested, at a rate equal to the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Commission. Each Federal officer or member of the Commission who is otherwise an officer or employee of the Federal Government (including any Member of Congress or member of the Federal Judiciary) shall serve without compensation in addition to that received for services as an officer or employee of the Federal Government.

(2) TRAVEL EXPENSES.—Each member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(3) STAFF.—

(A) IN GENERAL.—

(i) IN GENERAL.—The Chairperson may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, appoint a staff director and such additional personnel as may be necessary to enable the Commission to perform its duties.

(ii) STAFF DIRECTOR.—The staff director of the Commission shall be a representative of the private sector. The appointment shall be subject to the approval of the Commission as a whole.

(B) COMPENSATION.—The Chairperson may fix the pay of the staff director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that—

(i) the rate of pay fixed under this paragraph for the staff director may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title; and

(ii) the rate of pay for other personnel may not exceed the maximum rate payable for grade GS–15 of the General Schedule.

(4) DETAIL OF GOVERNMENT EMPLOYEES.—Upon the request of the Chairperson, the head of any Federal department or agency may detail, on a nonreimbursable basis, any personnel of that department or agency to the Commission to assist it in carrying out its administrative and clerical functions.

(5) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of such title.

(i) PAYMENT OF COMMISSION EXPENSES.—The compensation, travel expenses, per diem allowances of members and employees of the Commission, and other expenses of the Commission shall be paid equally out of funds available to the Attorney General, the Secretary of Defense, and the Secretary of State for the payment of compensation, travel allowances, and per diem allowances, respectively, of employees of the Department of Justice, the Department of Defense, and the Department of State.

(j) TERMINATION OF THE COMMISSION.—The Commission shall terminate 1 month after the date on which the final report is submitted under subsection (f)(2)(C).

TITLE IV—COMMUNITY PROTECTION

SEC. 401. SHORT TITLE.

This title may be cited as the ''Community Protection Initiative of 1997''.

Subtitle A—Law Enforcement Assistance

SEC. 411. EXEMPTION OF QUALIFIED CURRENT AND FORMER LAW ENFORCEMENT OFFICERS FROM STATE LAWS PROHIBITING THE CARRYING OF CONCEALED FIREARMS.

(a) IN GENERAL.—Chapter 44 of title 18, United States Code, is amended by inserting after section 926A the following:

''§ 926B. Carrying of concealed firearms by qualified current and former law enforcement officers

''(a) IN GENERAL.—Notwithstanding any provision of the law of any State or any political subdivision of a State, an individual may carry a concealed firearm if that individual is—

''(1) a qualified law enforcement officer or a qualified former law enforcement officer; and

''(2) carrying appropriate written identification.

''(b) EFFECT ON OTHER LAWS.—

''(1) COMMON CARRIERS.—Nothing in this section shall be construed to exempt from section 46505(B)(1) of title 49—

''(A) a qualified law enforcement officer who does not meet the requirements of section 46505(D) of title 49; or

''(B) a qualified former law enforcement officer.

''(2) FEDERAL LAWS.—Nothing in this section shall be construed to supersede or limit any Federal law or regulation prohibiting or restricting the possession of a firearm on any Federal property, installation, building, base, or park.

''(3) STATE LAWS.—Nothing in this section shall be construed to supersede or limit the laws of any State that—

''(A) grant rights to carry a concealed firearm that are broader than the rights granted under this section;

''(B) permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property; or

''(C) prohibit or restrict the possession of firearms on any State or local government property, installation, building, base, or park.

''(4) DEFINITIONS.—In this section:

''(A) APPROPRIATE WRITTEN IDENTIFICATION.—The term 'appropriate written identification' means, with respect to an individual, a document that—

''(i) was issued to the individual by the public agency with which the individual serves or served as a qualified law enforcement officer; and

''(ii) identifies the holder of the document as a current or former officer, agent, or employee of the agency.

''(B) QUALIFIED LAW ENFORCEMENT OFFICER.—The term 'qualified law enforcement officer' means an individual who—

''(i) is presently authorized by law to engage in or supervise the prevention, detection, or investigation of any violation of criminal law;

''(ii) is authorized by the agency to carry a firearm in the course of duty;

''(iii) meets any requirements established by the agency with respect to firearms; and

''(iv) is not the subject of a disciplinary action by the agency that prevents the carrying of a firearm.

''(C) QUALIFIED FORMER LAW ENFORCEMENT OFFICER.—The term 'qualified former law enforcement officer' means, an individual who is—

''(i) retired from service with a public agency, other than for reasons of mental disability;

''(ii) immediately before such retirement, was a qualified law enforcement officer with that public agency;

''(iii) has a nonforfeitable right to benefits under the retirement plan of the agency;

''(iv) was not separated from service with a public agency due to a disciplinary action by the agency that prevented the carrying of a firearm;

''(v) meets the requirements established by the State in which the individual resides with respect to—

''(I) training in the use of firearms; and

''(II) carrying a concealed weapon; and

''(vi) is not prohibited by Federal law from receiving a firearm.

''(D) FIREARM.—The term 'firearm' means, any firearm that has, or of which any component has, traveled in interstate or foreign commerce.''.

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 44 of title 18, United States Code, is amended by inserting after the item relating to section 926A the following:

''926B. Carrying of concealed firearms by qualified current and former law enforcement officers.''.

Subtitle B—Citizens' Assistance

SEC. 421. SHORT TITLE.

This subtitle may be cited as the ''Citizens' Assistance Act of 1997''.

SEC. 422. AUTHORIZATION TO ENTER INTO INTERSTATE COMPACTS.

(a) IN GENERAL.—The consent of Congress is hereby given to any 2 or more States—

(1) to enter into compacts or agreements for cooperative effort in enabling individuals to carry concealed weapons as dictated by laws of the State within which the owner of the weapon resides and is authorized to carry a concealed weapon; and

(2) to establish agencies or guidelines as they may determine to be appropriate for making effective such agreements and compacts.

(b) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal this section is hereby expressly reserved by Congress.

SEC. 423. AUTHORIZED USES OF FEDERAL GRANT FUNDS.

(a) IN GENERAL.—Section 501(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751(b)) is amended—

(1) in paragraph (25), by striking ''and'' at the end;

(2) in paragraph (26), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(27) at the discretion of State or local law enforcement authorities, to train members of the public in the safe possession, ownership, handling, carry, and use of firearms, including handguns.''.

(b) EVALUATING DATA BAN.—Section 501(c) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751(c)) is amended—

(1) by striking ''Each'' and inserting the following:

''(1) IN GENERAL.—Each'';

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting appropriately;

(2) adding at the end the following:

''(2) COLLECTION AND USE OF DATA.—

''(A) IN GENERAL.—As a part of any evaluation required by paragraph (1) or otherwise, the Attorney General may not require the collection, and a grant recipient may not undertake any collection, of any data about any person who participates in any program funded under this section for the purpose of training members of the public in the safe possession, ownership, handling, carry, and use of firearms, including handguns, other than data necessary to determine whether such a member lawfully may possess a firearm.

''(B) DESTRUCTION OF DATA.—Any data described in subparagraph (A) shall be destroyed by any party in possession of that data not later than 7 days after the date on which it is collected or once a member of the public receives the training offered, whichever comes first.''.

SEC. 424. SELF DEFENSE FOR VICTIMS OF ABUSE.

Section 922(s)(1)(B) of title 18, United States Code, is amended—

(1) by striking ''the transferee has'' and inserting ''the transferee—

''(i) has''; and

(2) by adding at the end the following: ''or

''(ii) is named as a person protected under a court order described in subsection (g)(8).''.

TITLE V—CRIMINAL PROCEDURE IMPROVEMENTS

Subtitle A—Equal Protection for Victims

SEC. 501. THE RIGHT OF THE VICTIM TO AN IMPARTIAL JURY.

Rule 24(b) of the Federal Rules of Criminal Procedure is amended by striking ''the government is entitled to 6 peremptory challenges and the defendant or defendants jointly to 10 peremptory challenges'' and inserting ''each side is entitled to 10 peremptory challenges''.

SEC. 502. JURY TRIAL IMPROVEMENTS.

(a) JURIES OF 6.—

(1) IN GENERAL.—Rule 23(b) of the Federal Rules of Criminal Procedure is amended—

(A) by striking ''JURY OF LESS THAN TWELVE. JURIES'' and inserting the following:

''(b) NUMBER OF JURORS.—

''(1) IN GENERAL.—Except as provided in subsection (2), juries''; and

(B) by adding at the end the following:

''(2) JURIES OF 6.—Juries may be of 6 upon request in writing by the defendant with the approval of the court and the consent of the government.''.

(2) ALTERNATE JURORS.—Rule 24(c) of the Federal Rules of Criminal Procedure is amended by inserting after the first sentence the following: ''In the case of a jury of 6, the court shall direct that not more than 3 jurors in addition to the regular jury be called and impanelled to sit as alternate jurors.''.

(b) CAPITAL CASES.—Section 3593(b) of title 18, United States Code, is amended by striking the last sentence and inserting the following: ''A jury impanelled pursuant to paragraph (2) may be made of 6 upon request in writing by the defendant with the approval of the court and the consent of the government. Otherwise, such jury shall be made of 12, 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.''.

SEC. 503. REBUTTAL OF ATTACKS ON THE CHARACTER OF THE VICTIM.

Rule 404(a)(1) of the Federal Rules of Evidence is amended by inserting before the semicolon the following: '', or, if an accused offers evidence of a pertinent trait of character of the victim of the crime, evidence of a pertinent trait of character of the accused offered by the prosecution''.

SEC. 504. USE OF NOTICE CONCERNING RELEASE OF OFFENDER.

Section 4042(b) of title 18, United States Code, is amended by striking paragraph (4).

SEC. 505. BALANCE IN THE COMPOSITION OF RULES COMMITTEES.

Section 2073 of title 28, United States Code, is amended—

(1) in subsection (a)(2), by adding at the end the following: ''On each such committee that makes recommendations concerning rules that affect criminal cases, including the Federal Rules of Criminal Procedure, the Federal Rules of Evidence, the Federal Rules of Appellate Procedure, the Rules Governing Section 2254 Cases, and the Rules Governing Section 2255 Cases, the number of members who represent or supervise the representation of defendants in the trial, direct review, or collateral review of criminal cases shall not exceed the number of members who represent or supervise the representation of the Government or a State in the trial, direct review, or collateral review of criminal cases.''; and

(2) in subsection (b), by adding at the end the following: ''The number of members of the standing committee who represent or supervise the representation of defendants in the trial, direct review, or collateral review of criminal cases shall not exceed the number of members who represent or supervise the representation of the Government or a State in the trial, direct review, or collateral review of criminal cases.''.

Subtitle B—Firearms

SEC. 521. MANDATORY MINIMUM SENTENCES FOR CRIMINALS POSSESSING FIREARMS.

Section 924(c) of title 18, United States Code, is amended—

(1) by striking ''(c)'' and all that follows through ''(2)'' and inserting the following:

''(c) POSSESSION OF FIREARM DURING COMMISSION OF CRIME OF VIOLENCE OR DRUG TRAFFICKING CRIME.—

''(1) TERM OF IMPRISONMENT.—

''(A) IN GENERAL.—Except to the extent that a greater minimum sentence is otherwise provided by this subsection or by any other provision of law, any 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, carries, or possesses a firearm shall, in addition to the punishment provided for such crime of violence or drug trafficking crime—

''(i) be sentenced to a term of imprisonment of not less than 5 years;

''(ii) if the firearm is discharged, be sentenced to a term of imprisonment of not less than 10 years; and

''(iii) if the death of any person results, be sentenced to a term of imprisonment for life or sentenced to death.

''(B) EXCEPTION FOR CERTAIN OFFENSES.—If the firearm possessed by a person convicted of a violation of this subsection—

''(i) is a short-barreled rifle, short-barreled shotgun, or semiautomatic assault weapon, the person shall be—

''(I) sentenced to a term of imprisonment of not less than 10 years; and

''(II) if the death of any person results, sentenced to a term of imprisonment for life or sentenced to death; and

''(ii) is a machinegun or a destructive device, or is equipped with a firearm silencer or firearm muffler, the person shall be—

''(I) sentenced to a term of imprisonment of not less than 30 years; and

''(II) if the death of any person results, sentenced to a term of imprisonment for life or sentenced to death.

''(C) EXCEPTION FOR CERTAIN OFFENDERS.—In the case of a second or subsequent conviction under this subsection, a person shall be sentenced to a term of imprisonment for life.

''(D) PROBATION AND CONCURRENT SENTENCES.—Notwithstanding any other provision of law—

''(i) a court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection; and

''(ii) no term of imprisonment imposed on a person under this subsection shall run concurrently with any other term of imprisonment imposed on the person, including any term of imprisonment imposed for the crime of violence or drug trafficking crime during which the firearm was used, carried, or possessed.

''(2) DEFINITION OF 'DRUG TRAFFICKING CRIME'.—''; and

(2) in paragraph (3)—

(A) by striking ''(3) For'' and inserting the following:

''(3) DEFINITION OF 'CRIME OF VIOLENCE'.—For''; and

(B) by indenting each of subparagraphs (A) and (B) 2 ems to the right.

SEC. 522. FIREARMS POSSESSION BY VIOLENT FELONS AND SERIOUS DRUG OFFENDERS.

Section 924 of title 18, United States Code, is amended—

(1) in subsection (a)(1), by inserting before the period the following: '', and if the violation is of section 922(g)(1) by a person who has a previous conviction for a violent felony (as defined in subsection (e)(2)(B)) or a serious drug offense (as defined in subsection (e)(2)(A)), a sentence imposed under this paragraph shall include a term of imprisonment of not less than 10 years''; and

(2) by adding at the end the following:

''(o)(1) Notwithstanding paragraph (2), any person who violates section 922(g) and has 2 previous convictions by any court referred to in section 922(g)(1) for a violent felony (as defined in subsection (e)(2)(B)) or a serious drug offense (as defined in subsection (e)(2)(A)) committed on different occasions shall be fined as provided in this title, imprisoned not less than 20 years.

''(2) Notwithstanding any other law, the court shall not grant a probationary sentence to a person described in paragraph (1) with respect to the conviction under section 922(g).''.

SEC. 523. USE OF FIREARMS IN CONNECTION WITH COUNTERFEITING OR FORGERY.

Section 924(c)(1) of title 18, United States Code, is amended in the first sentence by inserting ''or during and in relation to any felony punishable under chapter 25,'' after ''United States,''.

SEC. 524. POSSESSION OF AN EXPLOSIVE DURING THE COMMISSION OF A FELONY.

Section 844(h) of title 18, United States Code, is amended—

(1) in paragraph (2), by striking ''carries an explosive during'' and inserting ''uses, carries, or otherwise possesses an explosive during''; and

(2) by striking ''used or carried'' and inserting ''used, carried, or possessed''.

SEC. 525. SECOND OFFENSE OF USING AN EXPLOSIVE TO COMMIT A FELONY.

Section 844(h) of title 18, United States Code, is amended by striking ''10'' and inserting ''20''.

SEC. 526. INCREASED PENALTIES FOR INTERNATIONAL DRUG TRAFFICKING.

(a) IN GENERAL.—Section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960) is amended by adding at the end the following:

''(e)(1) Notwithstanding any other provision of law, the court shall sentence a person convicted of a violation of subsection (a), consisting of bringing into the United States a mixture or substance—

''(A) which is described in subsection (b)(1); and

''(B) in an amount the Attorney General by rule has determined is equal to 100 usual dosage amounts of such mixture or substance;

to imprisonment for life without possibility of release. If the defendant has violated this subsection on more than one occasion and the requirements of chapter 228 of title 18, United States Code, are satisfied, the court shall sentence the defendant to death.

''(2) The maximum fine that otherwise may be imposed, but for this subsection, shall not be reduced by operation of this subsection.''

(b) INCLUSION OF OFFENSE.—Section 3591(b) of title 18, United States Code, is amended—

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

(2) by striking the comma at the end of paragraph (2) and inserting ''; or'' at the end of paragraph (2); and

(3) by inserting after paragraph (2) the following:

''(3) an offense described in section 1010(e)(1) of the Controlled Substances Import and Export Act;''

(c) ADDITIONAL AGGRAVATING FACTOR.—Section 3592(d) of title 18, United States Code, is amended by inserting after paragraph (8) the following:

''(9) SECOND IMPORTATION OFFENSE.—The offense consisted of a second or subsequent violation of section 1010(a) of the Controlled Substances Import and Export Act consisting of bringing a controlled substance into the United States.''.

Subtitle C—Federal Death Penalty

SEC. 541. STRENGTHENING OF FEDERAL DEATH PENALTY STANDARDS AND PROCEDURES.

(a) AMENDMENTS TO CHAPTER 228.—Chapter 228 of title 18, United States Code, is amended—

(1) in section 3592(c), by striking paragraph (2) and inserting the following:

''(2) INVOLVEMENT OF A FIREARM OR PREVIOUS CONVICTION OF VIOLENT FELONY INVOLVING A FIREARM.—For any offense, other than an offense for which a sentence of death is sought on the basis of section 924(c), the defendant—

''(A) during and in relation to the commission of the offense or in escaping or attempting to escape apprehension used or possessed a firearm (as defined in section 921); or

''(B) has previously been convicted of a Federal or State offense punishable by a term of imprisonment of more than 1 year, involving the use or attempted or threatened use of a firearm (as defined in section 921) against another person.'';

(2) in section 3593—

(A) in subsection (a)—

(i) in the heading, by inserting ''AND THE DEFENDANT'' after ''GOVERNMENT'';

(ii) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting appropriately;

(iii) by striking ''If, in a case'' and inserting the following:

''(1) IN GENERAL.—If, in a case'';

(iv) by designating the matter immediately following subparagraph (B), as redesignated, as paragraph (3), and indenting appropriately;

(v) by inserting after paragraph (1) as redesignated, the following:

''(2) NOTICE OF ANY MITIGATING FACTORS.—The defendant shall, during a reasonable period of time before a hearing under subsection (b), sign and file with the court a notice setting forth the mitigating factor or factors, if any, upon which the defendant intends to present information at the hearing.''; and

(vi) in paragraph (3), as redesignated—

(I) by inserting ''by the attorney for the Government'' after ''this subsection'';

(II) by striking '', and may include'' and all that follows through ''relevant information'';

(III) by inserting ''or the defendant'' after ''permit the attorney for the government''; and

(IV) by inserting ''under this subsection'' after ''to amend the notice''.

(B) in subsection (c)—

(i) in the fourth sentence, by inserting ''for which notice has been provided under subsection (a)'' after ''The defendant may present any information relevant to a mitigating factor''; and

(ii) by inserting after the fifth sentence the following: ''The information presented by the government in support of factors concerning the effect of the offense on the victim and the family of the victim may include oral testimony, a victim impact statement that identifies the victim of the offense and the nature and extent of harm and loss suffered by the victim and the family of the victim, and any other relevant information.''; and

(C) in subsection (e), by striking ''shall consider'' and all that follows through ''lesser sentence.'' and inserting ''shall then consider whether the aggravating factor or factors found to exist outweigh any mitigating factors. The jury, or if there is no jury, the court shall recommend a sentence of death if it unanimously finds not less than 1 aggravating factor and no mitigating factor or if it finds one or more aggravating factors that 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 shall make such a recommendation as the information warrants. The jury shall be instructed that its recommendation concerning a sentence of death is to be based on the aggravating factor or factors and any mitigating factor or factors, but that the final decision whether any evidence, in fact, is aggravating or mitigating and concerning the balance of aggravating and mitigating factors is a matter for the judgment of the jury.''; and

(3) in section 3595(c)(2), by striking the last sentence.

(b) UNIFORMITY OF PROCEDURES.—Section 408 of the Controlled Substances Act (21 U.S.C. 848) is amended—

(1) by striking subsections (g) through (p), (q) (1) through (3), and (r); and

(2) in subsection (q) by—

(A) redesignating paragraphs (4) through (10) as paragraphs (1) through (7), respectively; and

(B) inserting ''(g)'' before ''(1)'' as redesignated.

(c) DEATH DURING COMMISSION OF ANOTHER CRIME.—Section 3592(c)(1) of title 18, United States Code, is amended by striking ''of, or during the immediate flight from the commission of,'' and inserting ''of a felony, or

during the immediate flight from the commission of a felony, including''.

(d) AGGRAVATING FACTORS.—Section 3592(c) of title 18, United States Code, is amended by inserting immediately after paragraph (15) the following:

''(16) OTHER CIRCUMSTANCES.—With regard to the capital offense—

''(A) the victim was a custodial parent or legal guardian of a child who was less than 18 years of age;

''(B) the offense was committed by a person imprisoned as a result of a felony conviction;

''(C) the offense was committed for the purpose of disrupting or hindering the lawful exercise of any government or political function;

''(D) the victim was found to have been murdered due to the association of the victim with a particular group, gang, organization, or other entity;

''(E) the offense was committed by a person lawfully or unlawfully at liberty after being sentenced to imprisonment as a result of a felony conviction;

''(F) the offense was committed by means of a destructive device, bomb, explosive, or similar device that the defendant planted, hid, or concealed in any place, area, dwelling, building, or structure, or mailed or delivered, or caused to be planted, hidden, concealed, mailed, or delivered, and the defendant knew that the actions of the defendant would create a great risk of death to human life;

''(G) the offense was committed for the purpose of avoiding or preventing an arrest or effecting an escape from custody;

''(H) the victim was a current or former judge or judicial officer of any civilian, military, or tribal court of record in the United States or the territories of the United States, a law enforcement officer or official, and the murder was intentionally carried out in retaliation for, or to prevent the performance of, the official duties of the victim;

''(I) the defendant has been convicted of more than one offense of murder in the first or second degree either in the proceeding at bar or as the result of any prior proceeding;

''(J) the victim was a witness or a relative of a witness—

''(i) to a crime who was intentionally killed for the purpose of preventing the testimony of any person in any judicial or administrative proceeding, and the killing was not committed during the commission or attempted commission of the crime to which the testimony would be relevant; or

''(ii) in a judicial or administrative proceeding and was intentionally killed in retaliation for the testimony of any person in such proceeding;

''(K) the victim was an elected or appointed official of former official of the Federal, State, local, or tribal government, or a relative of such an official, and the killing was intentionally carried out in retaliation for, or to prevent the performance of, the official duties of the victim;

''(L) the defendant intentionally killed the victim while lying in wait;

''(M) the victim was intentionally killed because of the race, color, gender, religion, nationality, or country of origin of the victim;

''(N) the victim was a juror in any court of record in the Federal, State, or local system in any State or judicial district, and the murder was intentionally carried out in retaliation for, or to prevent the performance of the official duties of the victim;

''(O) the murder was intentional and was perpetrated by means of discharging a firearm from a motor vehicle, whether or not the motor vehicle was moving, intentionally at another person or persons outside the vehicle;

''(P) the murder was committed against a person who was held or otherwise detained as a shield or hostage;

''(Q) the murder was committed against a person who was held or detained by the defendant for ransom or reward;

''(R) the defendant caused or directed another to commit murder or committed murder as an agent or employee of another person;

''(S) the victim was pregnant;

''(T) the victim was handicapped or severely disabled;

''(U) the victim was a child 16 years of age or younger;

''(V) at the time of the killing, the victim, or a relative of the victim, was or had been a nongovernmental informant or had otherwise provided any investigative, law enforcement, or police agency with information concerning criminal activity, and the killing was in retaliation for the activities of any person as a nongovernmental informant or in providing information concerning criminal activity to an investigative, law enforcement, or police agency;

''(W) the murder was committed for the purpose of interfering with the free exercise or enjoyment by the victim of any right, privilege, or immunity protected by the first amendment to the Constitution of the United States or because the victim exercised or enjoyed said right; and

''(X) the victim was employed in a jail, correctional facility, or halfway house, and was murdered while in the lawful performance of the duties of the victim or in retaliation for the lawful performance of the duties of the victim.''.

SEC. 542. MURDER OF WITNESS AS AGGRAVATING FACTOR.

Section 3592(c)(1) of title 18, United States Code, is amended by inserting ''section 1512 (witness tampering), section 1513 (retaliation against witness),'' after ''(hostage taking),''.

SEC. 543. DEATH PENALTY FOR MURDERS COMMITTED IN THE DISTRICT OF COLUMBIA.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following:

''§ 1123. Capital punishment for murders in the District of Columbia

''(a) OFFENSE.—It shall be unlawful to cause the death of a person intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or to cause the death of a person through the intentional infliction of serious bodily injury.

''(b) FEDERAL JURISDICTION.—There is Federal jurisdiction over an offense described in this section if the conduct resulting in death or the death occurs in the District of Columbia.

''(c) PENALTY.—An offense described in this section is a class A felony. A sentence of death may be imposed for an offense described in this section as provided in this section. Sections 3591 and 3592 of this title shall apply in relation to capital sentencing for an offense described in this section.

''(d) DEFINITIONS.—In this section—

''(1) the term 'State' has the meaning stated in section 513;

''(2) the term 'offense', as used in paragraphs (2), (5), and (13) of subsection (e), and in paragraph (5) of this subsection, means an offense under the law of a state or the United States.

''(e) OTHER CHARGES.—If an offense is charged under this section, the government may join any charge under the District of Columbia Code that arises from the same incident.''.

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end the following:

''1123. Capital punishment for murders in the District of Columbia.''.

TITLE VI—INCREASED PENALTIES FOR TRAFFICKING AND MANUFACTURE OF METHAMPHETAMINE AND PRECURSORS

SEC. 601. TRAFFICKING IN METHAMPHETAMINE PENALTY INCREASES.

(a) CONTROLLED SUBSTANCES ACT.—

(1) LARGE AMOUNTS.—Section 401(b)(1)(A)(viii) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)(viii)) is amended by—

(A) striking ''100 grams or more of methamphetamine,'' and inserting ''50 grams or more of methamphetamine,''; and

(B) striking ''1 kilogram or more of a mixture or substance containing a detectable amount of methamphetamine'' and inserting ''500 grams or more of a mixture or substance containing a detectable amount of methamphetamine''.

(2) SMALLER AMOUNTS.—Section 401(b)(1)(B)(viii) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(B)(viii)) is amended by—

(A) striking ''10 grams or more of methamphetamine,'' and inserting ''5 grams or more of methamphetamine,''; and

(B) striking ''100 grams or more of a mixture or substance containing a detectable amount of methamphetamine'' and inserting ''50 grams or more of a mixture or substance containing a detectable amount of methamphetamine''.

(b) IMPORT AND EXPORT ACT.—

(1) LARGE AMOUNTS.—Section 1010(b)(1)(H) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)(H)) is amended by—

(A) striking ''100 grams or more of methamphetamine,'' and inserting ''50 grams or more of methamphetamine,''; and

(B) striking ''1 kilogram or more of a mixture or substance containing a detectable amount of methamphetamine'' and inserting ''500 grams or more of a mixture or substance containing a detectable amount of methamphetamine''.

(2) SMALLER AMOUNTS.—Section 1010(b)(2)(H) of the Controlled Substances Import and Export Act (21 U.S.C.960(b)(2)(H)) is amended by—

(A) striking ''10 grams or more of methamphetamine,'' and inserting ''5 grams or more of methamphetamine,''; and

(B) striking ''100 grams or more of a mixture or substance containing a detectable amount of methamphetamine'' and inserting ''50 grams or more of a mixture or substance containing a detectable amount of methamphetamine''.

SEC. 602. REDUCTION OF SENTENCE FOR PROVIDING USEFUL INVESTIGATIVE INFORMATION.

Section 3553(e) of title 18, United States Code, section 994(n) of title 28, United State Code, and Rule 35(b) of the Federal Rules of Criminal Procedure are each amended by striking ''substantial assistance in the investigation or prosecution of another person who has committed an offense'' and inserting ''substantial assistance in an investigation of any offense or substantial assistance in an investigation or prosecution of another person who has committed an offense''.

SEC. 603. IMPLEMENTATION OF A SENTENCE OF DEATH.

(a) IN GENERAL.—Section 3596(a) of title 18, United States Code, is amended—

(1) by striking ''pursuant to this chapter''; and

(2) in the second sentence, by striking ''in the manner'' and all that follows through the

end of the subsection and inserting ''pursuant to regulations promulgated by the Attorney General.''.

(b) REGULATIONS.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall promulgate regulations to provide for the implementation of a sentence of death under section 3596 of title 18, United State Code.

(c) IN GENERAL.—Section 3597 of title 18, United States Code, is amended—

(1) by striking the section designation and the section heading and inserting the following:

''§ 3597. Use of facilities and employees'';

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

''(a) IN GENERAL.—A United States marshal charged with supervising the implementation of a sentence of death shall use appropriate Federal facilities for that purpose.''; and

(3) in subsection (b), by striking ''any State department of corrections,''.

(d) TECHNICAL AMENDMENT.—The chapter analysis for chapter 228 of title 18, United States Code, is amended by striking item relating to section 3597 and inserting the following:

''3597. Use of facilities and employees.''.

SEC. 604. LIMITATION ON DRUG ENFORCEMENT ADMINISTRATOR TENURE.

(a) IN GENERAL.—The term of office of the Administrator of the Drug Enforcement Agency (as established by section 5(a) of the Reorganization Plan No. 2 of 1973 (5 U.S.C. App.)) shall be for not more than a single 10-year period.

(b) APPLICABILITY.—This section does not apply to the individual who is serving as the Administrator of the Drug Enforcement Agency on the date of enactment of this Act, unless that individual is reappointed to the position on or after the date of enactment of this Act.

SEC. 605. SERIOUS JUVENILE DRUG OFFENSES AS ARMED CAREER CRIMINAL ACT PREDICATES.

Section 924(e)(2)(A) of title 18, United States Code, is amended—

(1) in clause (i), by striking ''or'' at the end;

(2) in clause (ii), by adding ''or'' at the end; and

(3) by adding at the end the following:

''(iii) any act of juvenile delinquency, under Federal or State law, that, if committed by an adult, would be an offense described in clause (i) or (ii).''.

SEC. 606. MANDATORY MINIMUM PRISON SENTENCES FOR PERSONS WHO USE MINORS IN DRUG TRAFFICKING ACTIVITIES OR SELL DRUGS TO MINORS.

(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 striking the second sentence and inserting the following: ''Except to the extent that a greater minimum sentence is otherwise provided, a term of imprisonment of a person 21 or more years of age convicted under this subsection shall be not less than 10 years, and a term of imprisonment of a person between the ages of 18 and 21 convicted under this subsection shall be not less than 3 years. 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

(2) in subsection (c)—

(A) by striking ''one year'' and inserting ''6 years'';

(B) by inserting after the second sentence the following: ''Except to the extent that a greater minimum sentence is otherwise provided, a term of imprisonment of a person 21 or more years of age convicted under this subsection shall be a mandatory term of life imprisonment. 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

(C) in the third sentence, by striking ''Penalties'' and inserting: ''Except to the extent that a greater minimum sentence is otherwise provided, penalties''.

(b) MANDATORY MINIMUM PRISON SENTENCES FOR PERSONS CONVICTED OF DISTRIBUTION OF DRUGS TO MINORS.—

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

(A) in subsection (a)

(i) by striking ''at least eighteen'' and inserting ''not less than 21'';

(ii) by striking ''twenty-one'' and inserting ''18'';

(iii) by striking ''not less than one year'' and inserting ''not less than 10 years''; and

(iv) by striking the last sentence;

(B) in subsection (b)—

(i) by striking ''at least eighteen'' and inserting ''not less than 21'';

(ii) by striking ''twenty-one'' and inserting ''18'';

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

(iv) by striking the last sentence; and

(C) in the section heading, by striking ''TWENTY-ONE'' and inserting ''18''.

(2) TECHNICAL AMENDMENT.—The table of contents for the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended in the item relating to section 418 by striking ''TWENTY-ONE'' and inserting ''18''.

(c) PENALTIES FOR DRUG OFFENSES IN DRUG-FREE ZONES.—

(1) INCREASED PENALTIES.—Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—

(A) in subsection (a)—

(i) by striking ''not less than one year'' and inserting ''not less than 5 years''; and

(ii) by striking the last sentence;

(B) in subsection (b), by striking ''not less than three years'' and inserting ''not less than 10 years''; and

(C) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively.

SEC. 607. PENALTY INCREASES FOR TRAFFICKING IN LISTED CHEMICALS.

(a) CONTROLLED SUBSTANCES ACT.—Section 401(d) of the Controlled Substances Act (21 U.S.C. 841(d)) is amended by inserting before the period at the end the following: ''or, with respect to a violation of paragraph (1) or (2) of this subsection involving a list I chemical, if the government proves the quantity of controlled substance that could reasonably have been manufactured in a clandestine setting using the quantity of list I chemicals possessed or distributed, the penalty corresponding to the quantity of controlled substance that could have been produced under subsection (b)''.

(b) CONTROLLED SUBSTANCE IMPORT AND EXPORT ACT.—Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)) is amended by inserting before the period at the end the following: '', or, with respect to an importation violation of paragraph (1) or (3) of this subsection involving a list I chemical, if the government proves the quality of controlled substance that could reasonably have been manufactured in a clandestine setting using the quantity of list I chemicals imported, the penalty corresponding to the quantity of controlled substance that could have been produced under title II''.

(c) DETERMINATION OF QUANTITY.—

(1) IN GENERAL.—For the purpose of this section and the amendments made by this section, the quantity of controlled substance that could reasonably have been provided shall be determined by using a table of manufacturing conversion ratios for list I chemicals.

(2) TABLE.—The table described in paragraph (1) shall be—

(A) established by the United States Sentencing Commission based on scientific, law enforcement, and other data the Sentencing Commission determines to be appropriate; and

(B) dispositive of this issue.

TITLE VII—COMBATING VIOLENCE AGAINST WOMEN AND CHILDREN

Subtitle A—General Reforms

SEC. 701. PARTICIPATION OF RELIGIOUS ORGANIZATIONS IN VIOLENCE AGAINST WOMEN ACT PROGRAMS.

Notwithstanding any other provision of law, religious organizations shall be eligible to participate in any grant program authorized pursuant to the Violence Against Women Act of 1994 (Title IV of Public Law 103–322) which allow for the participation of nongovernmental entities, programs, or agencies, or any private organizations. No Federal or State governmental agency receiving funds under any such program shall discriminate against an organization on the basis that the organization has a religious character. Nothing in this section shall be construed to preempt any provision of a State constitution or State statute that prohibits or restricts the expenditure of State funds in or by religious organizations.

SEC. 702. DOMESTIC VIOLENCE ARREST GRANTS.

Paragraph (20) of section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking ''fiscal year 1998'' and inserting ''for each of the fiscal years 1998 and 1999.''

SEC. 703. RURAL DOMESTIC VIOLENCE AND CHILD ABUSE ENFORCEMENT ASSISTANCE.

Section 13971(c) of title 42 United States Code is amended by striking ''fiscal year 1998'' and inserting ''for each of the fiscal years, 1998 and 1999.''

SEC. 704. RUNAWAY, HOMELESS, AND STREET YOUTH ASSISTANCE GRANTS.

Section 319(c)(3) of part A of the Runaway and Homeless Youth Act (42 U.S.C. 5711 et seq.) is amended by striking ''fiscal year 1998'' and inserting ''for each of the fiscal years 1998 and 1999''.

Subtitle B—Domestic Violence

SEC. 711. DEATH PENALTY FOR FATAL INTERSTATE DOMESTIC VIOLENCE OFFENSES.

Sections 2261(b)(1) and 2262(b)(1) of title 18, United States Code, are each amended by inserting ''or may be sentenced to death,'' after ''years,''.

SEC. 712. DEATH PENALTY FOR FATAL INTERSTATE VIOLATIONS OF PROTECTIVE ORDERS.

Section 2262 of title 18, United States Code, is amended by inserting ''or may be sentenced to death,'' after ''years,''.

SEC. 713. EVIDENCE OF DISPOSITION OF DEFENDANT TOWARD VICTIM IN DOMESTIC VIOLENCE CASES AND OTHER CASES.

Rule 404(b) of the Federal Rules of Evidence is amended by striking ''or absence of mistake or accident'' and inserting ''absence of mistake or accident, or a disposition toward a particular individual,''.

SEC. 714. HIV TESTING OF DEFENDANTS IN SEXUAL ASSAULT CASES.

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

"§ 2249. Testing for human immunodeficiency virus; disclosure of test results to victim; effect on penalty

''(a) TESTING AT TIME OF PRETRIAL RELEASE DETERMINATION.—

''(1) IN GENERAL.—In a case in which a person is charged with an offense under this chapter, upon request of the victim, a judicial officer issuing an order pursuant to section 3142(a) shall include in the order a requirement that a test for the human immunodeficiency virus be performed upon the person, and that followup tests for the virus be performed 6 months and 12 months following the date of the initial test, unless the judicial officer determines that the conduct of the person created no risk of transmission of the virus to the victim, and so states in the order.

''(2) TIMING.—The order shall direct that the initial test be performed within 24 hours, or as soon thereafter as feasible.

''(3) NO RELEASE FROM CUSTODY.—Any person upon whom a test is performed under this section—

''(A) shall not be released from custody until the test is performed; and

''(B) unless indigent, shall be responsible for paying for the test at the time the test is performed.

''(b) TESTING AT LATER TIME.—

''(1) IN GENERAL.—If a person charged with an offense under this chapter was not tested for the human immunodeficiency virus pursuant to subsection (a), the court may at a later time direct that such a test be performed upon the person, and that followup tests be performed 6 months and 12 months following the date of the initial test, if it appears to the court that the conduct of the person may have risked transmission of the virus to the victim.

''(2) TIMING.—A testing requirement under this subsection may be imposed at any time while the charge is pending, or following conviction at any time prior to the completion of service of the sentence by the person.

''(c) TERMINATION OF TESTING REQUIREMENT.—A requirement of followup testing imposed under this section shall be canceled if any test is positive for the virus or the person obtains an acquittal on, or dismissal of, all charges under this chapter.

''(d) DISCLOSURE OF TEST RESULTS.—

''(1) IN GENERAL.—The results of any test for the human immunodeficiency virus performed pursuant to an order under this section shall be provided to the judicial officer or court.

''(2) DISCLOSURE TO VICTIM.—The judicial officer or court shall ensure that the results are disclosed to the victim (or to the parent or legal guardian of the victim, as appropriate), the attorney for the government, and the person tested.

''(3) APPLICABILITY OF OTHER LAW.—Test results disclosed pursuant to this subsection shall be subject to section 40503(b) (5) through (7) of the Violent Crime Control Act of 1994 (42 U.S.C. 14011(b)).

''(4) COUNSELING.—Any test result of the defendant given to the victim or the defendant must be accompanied by appropriate counseling, unless the recipient does not wish to receive such counseling.

''(e) EFFECT ON PENALTY.—The United States Sentencing Commission shall amend the Federal sentencing guidelines for sentences for offenses under this chapter to enhance the sentence if the offender knew or had reason to know that the offender was infected with the human immunodeficiency virus, except if the offender did not engage or attempt to engage in conduct creating a risk of transmission of the virus to the victim.''.

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 109A of title 18, United States Code, is amended by inserting at the end the following:

''2249. Testing for human immunodeficiency virus; disclosure of test results to victim; effect on penalty.''.

(c) AMENDMENTS TO TESTING PROVISIONS.—Section 40503(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14011(b)) is amended—

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

''(b) TESTING OF DEFENDANTS.—'';

(2) in paragraph (1)—

(A) by inserting '', or the Government in such a case,'' after ''subsection (a)'';

(B) by inserting ''(or to the parent or legal guardian of the victim, as appropriate)'' after ''communicated to the victim''; and

(C) by inserting '', unless the recipient does not wish to receive such counseling'' after ''counseling''; and

(3) in paragraph (2)—

(A) by striking ''to obtain an order under paragraph (1), the victim must demonstrate that'' and inserting ''the victim or the Government may obtain an order under paragraph (1) by showing that'';

(B) in subparagraph (A)—

(i) by striking ''the offense'' and inserting ''a sexual assault involving alleged conduct that poses a risk of transmission of the etiologic agent for acquired immune deficiency syndrome''; and

(ii) by inserting ''and'' after the semicolon;

(C) in subparagraph (B), by striking ''after appropriate counseling; and'' and inserting a period; and

(D) by striking subparagraph (C).

TITLE VIII—VIOLENT CRIME AND TERRORISM

Subtitle A—Violent Crime and Terrorism

SEC. 801. AMENDMENTS TO ANTI-TERRORISM STATUTES.

(a) EXPLOSIVE MATERIALS.—Section 844(f)(1) of title 18, United States Code, is amended by inserting ''or any institution or organization receiving Federal financial assistance'' after ''or agency thereof,''; and

(b) BIOLOGICAL WEAPONS.—(1)Section 178 of title 18, United States Code, is amended by—

(A) in paragraph (1), striking ''means any microorganism, virus, or infectious substance, or biological product that may be engineered as a result of biotechnology or any naturally occurring or bioengineered component of any such microorganism, virus, infectious substance, or biological product'' and inserting ''means any microorganism (including bacteria, viruses, fungi, rickettsiae or protozoa), or infectious substance, or any naturally occurring, bioengineered or synthesized component of any such microorganism or infectious substance'';

(B) in paragraph (2), striking ''means the toxic material of plants, animals, microorganisms, viruses, fungi, or infectious substances, or a recombinant molecule, whatever its origin or method of production, including'' and inserting ''means the toxic material or product of plants, animals, microorganisms (including, but not limited to, bacteria, viruses, fungi, rickettsiae or protozoa), or infectious substances, or a recombinant or synthesized molecule, whatever their origin and method of production, and includes''; and

(C) in paragraph (4), striking ''recombinant molecule, or biological product that may be engineered as a result of biotechnology'' and inserting ''recombinant or synthesized molecule''.

(2) Section 2332a of title 18, United States Code, is amended by—

(A) in subsection (a), striking '', including any biological agent, toxin, or vector (as those terms are defined in section 178)''; and

(B) in subsection (b)(2)(C), striking ''disease organism'' and inserting ''any biological agent, toxin, or vector (as those terms are defined in section 178 of this title)''.

SEC. 802. KIDNAPPING; DEATH OF VICTIM BEFORE CROSSING STATE LINE AS NOT DEFEATING PROSECUTION, AND OTHER CHANGES.

Section 1201(a) of title 18, United States Code, is amended—

(1) by striking ''or'' at the end of paragraph (4); and

(2) by adding the following new paragraphs:

''(6) an individual travels in interstate or foreign commerce in furtherance of the offense; or

''(7) the mail or a facility in interstate or foreign commerce is used in furtherance of the offense;''.

SEC. 803. EXPANSION OF SECTION 1959 OF TITLE 18 TO COVER COMMISSION OF ALL VIOLENT CRIMES IN AID OF RACKETEERING ACTIVITY AND INCREASED PENALTIES.

Section 1959(a) of title 18, United States Code, is amended—

(1) by inserting ''or commits any other crime of violence'' before ''or threatens to commit a crime of violence against'';

(2) in paragraph (4), by inserting ''committing any other crime of violence or for'' before ''threatening to commit a crime of violence'', and by striking ''five'' and inserting ''ten'';

(3) in paragraph (5) by striking ''ten'' and inserting ''twenty'';

(4) in paragraph (6) by striking ''or'' before ''assault resulting in serious bodily injury,'', by inserting ''or any other crime of violence'' after those same words, and by striking ''three'' and inserting ''ten''; and

(5) by inserting ''(as defined in section 1365 of this title)'' after ''serious bodily injury'' the first place it appears.

SEC. 804. CONFORMING AMENDMENT TO CONSPIRACY PENALTY.

(a) FIREARMS.—Section 924 of title 18, United States Code, is amended by adding at the end the following new subsection:

''(o) Except as otherwise provided in this section, a person who conspires to commit any offense defined in this chapter shall be subject to the same penalties (including the penalty of death) as those prescribed for the offense the commission of which was the object of the conspiracy.''.

(b) EXPLOSIVES.—Section 844(n) of title 18, United States Code, is amended by striking ''other than'' and inserting ''including''.

SEC. 805. INCLUSION OF CERTAIN ADDITIONAL SERIOUS DRUG OFFENSES AS ARMED CAREER CRIMINAL ACT PREDICATES.

Section 924(e)(2)(A)(ii) of title 18, United States Code, is amended by inserting before the semicolon the following: ''or which, if it had been prosecuted as a violation of the Controlled Substances Act (21 U.S.C. 801 et seq.) at the time of the offense and because of the type and quantity of the controlled substance involved, would have been punishable by a maximum term of imprisonment of ten years or more''.

SEC. 806. INCREASED PENALTIES FOR VIOLENCE IN THE COURSE OF RIOT OFFENSES.

Section 2101(a) of title 18, United States Code, is amended by striking ''Shall be fined under this title, or imprisoned not more than five years, or both'' and inserting ''Shall be fined under this title or (i) if death results from such act, be imprisoned for any term of years or for life, or both, or may be sentenced to death; (ii) if serious bodily injury (as defined in section 1365 of this title) results from such act, be imprisoned for not more than twenty years, or both; or (iii) in any other case, be imprisoned for not more than five years, or both''.

SEC. 807. ELIMINATION OF UNJUSTIFIED SCIENTER ELEMENT FOR CARJACKING.

Section 2119 of title 18, United States Code, is amended by striking '', with the intent to cause death or serious bodily harm''.

SEC. 808. CRIMINAL OFFENSES COMMITTED OUTSIDE THE UNITED STATES BY PERSONS ACCOMPANYING THE ARMED FORCES.

Title 18, United States Code, is amended by adding after chapter 211 the following:

''CHAPTER 212—CRIMINAL OFFENSES COMMITTED OUTSIDE THE UNITED STATES

''§ 3261. Criminal offenses committed by persons formerly serving with, or presently employed by or accompanying, the armed forces outside the United States

''(a) Whoever, while serving with, employed by, or accompanying the armed forces outside the United States, engages in conduct which would constitute an offense punishable by imprisonment for more than one year if the conduct had been engaged in within the special maritime and territorial jurisdiction of the United States, shall be guilty of a like offense and subject to a like punishment.

''(b) Nothing contained in this chapter deprives courts-martial, military commissions, provost courts, or other military tribunals of concurrent jurisdiction with respect of offenders or offenses that by statute or by the law of war may be tried by courts-martial, military commissions, provost courts, or other military tribunals.

''(c) No prosecution may be commenced under this section if a foreign government, in accordance with jurisdiction recognized by the United States, has prosecuted or is prosecuting such person for the conduct constituting such offense, except upon the approval of the Attorney General of the United States or the Deputy Attorney General of the United States (or a person acting in either such capacity), which function of approval may not be delegated.''

''(d)(1) The Secretary of Defense may designate and authorize any person serving in a law enforcement position in the Department of Defense to arrest outside the United States any person described in subsection (a) of this section who there is probable cause to believe engaged in conduct which constitutes a criminal offense under such section.

''(2) A person arrested under paragraph (1) of this section shall be released to the custody of civilian law enforcement authorities of the United States for removal to the United States for judicial proceedings in relation to conduct referred to in such paragraph unless—

''(A) such person is delivered to authorities of a foreign country under section 3262 of this title; or

''(B) such person has had charges preferred against him under chapter 47 of title 10 for such conduct.

''§ 3262. Delivery to authorities of foreign countries

''(a) Any person designated and authorized under section 3261(d) of this title may deliver a person described in section 3261(a) of this title to the appropriate authorities of a foreign country in which such person is alleged to have engaged in conduct described in such subsection (a) of this section if—

''(1) the appropriate authorities of that country request the delivery of the person to such country for trial for such conduct as an offense under the laws of that country; and

''(2) the delivery of such person to that country is authorized by a treaty or other international agreement to which the United States is a party.

''(b) The Secretary of Defense shall determine what officials of a foreign country constitute appropriate authorities for the purpose of this section.

''§ 3263. Regulations

''The Secretary of Defense shall issue regulations governing the apprehension, detention, and removal of persons under this chapter. Such regulations shall be uniform throughout the Department of Defense.

''§ 3264. Definitions for chapter

As used in this chapter—

''(1) a person is ''employed by the armed forces outside the United States''—

(i) if he or she is employed as a civilian employee of a military department or of the Department of Defense, as a Department of Defense contractor, or as an employee of a Department of Defense contractor;

(ii) is present or residing outside the United States in connection with such employment; and

(iii) is not a national of the host nation.

''(2) a person is ''accompanying the armed forces outside the United States'' if he or she—

(i) is a dependent of a member of the armed forces;

(ii) is a dependent of a civilian employee of a military department or of the Department of Defense;

(iii) is residing with the member or civilian employee outside the United States; and

(iv) is not a national of the host nation.''.

SEC. 809. ASSAULTS OR OTHER CRIMES OF VIOLENCE FOR HIRE.

Section 1958(a) of title 18, United States Code, is amended by inserting ''or other felony crime of violence against the person'' after ''murder''.

SEC. 810. PENALTY ENHANCEMENT FOR CERTAIN OFFENSES RESULTING IN DEATH.

(a) MAILMEN.—Section 2114 of title 18, United States Code, is amended—

(1) by designating the existing matter as subsection (a); and

(2) by adding a new subsection (b) as follows:

''(b) Whoever, in committing an offense described in this section, or in avoiding or attempting to avoid apprehension for the commission of such offense, kills any person shall be punished by death or by imprisonment for life.'';

(b) CONTROLLED SUBSTANCES.—Section 2118(c)(2) of title 18, United States Code, is amended by striking all after ''kills any person'' and inserting ''shall be punished by death or by imprisonment for life.'';

(c) INTERSTATE DOMESTIC VIOLENCE.—Sections 2261(b)(1) and 2262(b)(1) of title 18, United States Code, are each amended by inserting before the semicolon '', and may be sentenced to death'';

(d) ANIMAL ENTERPRISE TERRORISM.—Section 43(b)(2) of title l8, United States Code, is amended by inserting ''or may be sentenced to death'' after ''imprisoned for life or for any term of years''; and

(e) RACKETEERING.—Section 1952(a)(3)(B) of title 18, United States Code, is amended by inserting ''or may be sentenced to death'' after ''imprisoned for any term of years or for life''.

SEC. 811. VIOLENCE DIRECTED AT DWELLINGS IN INDIAN COUNTRY.

Section 1153(a) of title 18, United States Code, is amended by inserting ''or 1363'' after ''section 661''.

Subtitle B—Courts and Sentencing

SEC. 821. ALLOWING A REDUCTION OF SENTENCE FOR PROVIDING USEFUL INVESTIGATIVE INFORMATION ALTHOUGH NOT REGARDING A PARTICULAR INDIVIDUAL.

Section 3553(e) of title 18, United States Code, section 994(n) of title 28, United States Code, and Rule 35(b) of the Federal Rules of Criminal Procedure are each amended by striking ''substantial assistance in the investigation or prosecution of another person who has committed an offense'' and inserting ''substantial assistance in an investigation of any offense or the prosecution of another person who has committed an offense''.

SEC. 822. APPEALS FROM CERTAIN DISMISSALS.

Section 3731 of title 18, United States Code, is amended by inserting ''or any part thereof'' after ''as to any one or more counts''.

SEC. 823. ELIMINATION OF OUTMODED CERTIFICATION REQUIREMENT.

Section 3731 of title 18, United States Code, is amended in the second paragraph by striking '', if the United States attorney certifies to the district court that the appeal is not taken for purpose of delay and that the evidence is a substantial proof of a fact material in the proceeding''.

SEC. 824. IMPROVEMENT OF HATE CRIMES SENTENCING PROCEDURE.

Section 280003(b) of the Violent Crime Control and Law Enforcement Act of 1994 (28 U.S.C. 994 note) is amended by striking ''the finder of fact at trial'' and inserting ''the court at sentencing''.

SEC. 825. CLARIFICATION OF LENGTH OF SUPERVISED RELEASE TERMS IN CONTROLLED SUBSTANCE CASES.

Section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)) is amended in each of subparagraphs (A), (B), (C), and (D), by striking ''Any sentence'' and inserting ''Notwithstanding section 3583 of title 18, United States Code, any sentence''.

SEC. 826. AUTHORITY OF COURT TO IMPOSE A SENTENCE OF PROBATION OR SUPERVISED RELEASE WHEN REDUCING A SENTENCE OF IMPRISONMENT IN CERTAIN CASES.

Section 3582(c)(1)(A) of title 18, United States Code, is amended by inserting ''(and may impose a sentence of probation or supervised release with or without conditions)'' after ''may reduce the term of imprisonment''.

SEC. 827. TECHNICAL CORRECTION TO ASSURE COMPLIANCE OF SENTENCING GUIDELINES WITH PROVISIONS OF ALL FEDERAL STATUTES.

Section 994(a) of title 28, United States Code, is amended by striking ''consistent with all pertinent provisions of this title and title 18, United States Code,'' and inserting ''consistent with all pertinent provisions of any Federal statute''.

Subtitle C—White Collar Crime

SEC. 841. CLARIFICATION OF SCIENTER REQUIREMENT FOR RECEIVING PROPERTY STOLEN FROM AN INDIAN TRIBAL ORGANIZATION.

Section 1163 of title 18, United States Code, is amended in the second paragraph by striking ''so''.

SEC. 842. LARCENY INVOLVING POST OFFICE BOXES AND POSTAL STAMP VENDING MACHINES.

Section 2115 of title 18, United States Code, is amended—

(1) by striking ''or'' before ''any building'';

(2) by inserting ''or any post office box or postal stamp vending machine for the sale of stamps owned by the Postal Service,'' after ''used in whole or in part as a post office,'';

(3) by inserting ''or in such box or machine,'' after ''so used''.

SEC. 843. THEFT OF VESSELS.

(a) DEFINITIONS.—Section 2311 of title 18, United States Code, is amended by adding at the end the following:

'' 'Vessel' means any watercraft or other contrivance used or designed for transportation or navigation on, under, or immediately above, water.''.

(b) TRANSPORTATION, SALE, OR RECEIPT OF STOLEN VEHICLES.—Sections 2312 and 2313 of

title 18, United States Code, are each amended by striking ''motor vehicle or aircraft'' and inserting ''motor vehicle, vessel, or aircraft''.

SEC. 844. CONFORMING AMENDMENT TO LAW PUNISHING OBSTRUCTION OF JUSTICE BY NOTIFICATION OF EXISTENCE OF A SUBPOENA FOR RECORDS IN CERTAIN TYPES OF INVESTIGATIONS.

Section 1510(b)(3)(B) of title 18, United States Code, is amended—

(1) in clause (i), by striking ''or'' at the end;

(2) in clause (ii), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(iii) the Controlled Substances Act, the Controlled Substances Import and Export Act, or section 6050I of the Internal Revenue Code of 1986.''.

SEC. 845. INJUNCTIONS AGAINST COUNTERFEITING AND FORGERY.

(a) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by adding at the end the following:

''§ 514. Injunctions against counterfeiting and forgery

''(a)(1) If a person is violating or about to violate any provision of this chapter, the Attorney General may commence a civil action in any Federal court to enjoin such violation.

''(2) A permanent or temporary injunction or restraining order shall be granted without bond.

''(b) The court shall proceed as soon as practicable to the hearing and determination of such an action, and may, at any time before final determination, enter such a restraining order or prohibition, or take such other action as is warranted in its discretion. A proceeding under this section is governed by the Federal Rules of Civil Procedure, except that, if an indictment has been returned against the respondent, discovery is governed by the Federal Rules of Criminal Procedure.''.

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 25 of title 18, United States Code, is amended by adding at the end:

''§ 514. Injunctions against counterfeiting and forgery.''.

Subtitle D—Miscellaneous Provisions

SEC. 861. INCREASED MAXIMUM PENALTY FOR CERTAIN RICO VIOLATIONS.

Section 1963(a) of title 18, United States Code, is amended by striking ''or imprisoned not more than 20 years (or for life if the violation is based on a racketeering activity for which the maximum penalty includes life imprisonment)'' and inserting ''or imprisoned not more than the greater of 20 years or the statutory maximum term of imprisonment (including life) applicable to a racketeering activity on which the violation is based''.

SEC. 862. CLARIFICATION OF INAPPLICABILITY TO CERTAIN DISCLOSURES.

Section 2515 of title 18, United States Code, is amended by adding at the end the following: ''This section shall not apply to the disclosure by the United States, a State, or political subdivision in a criminal trial or hearing or before a grand jury of the contents of a wire or oral communication, or evidence derived therefrom, the interception of which was in violation of section 2511(2)(d)(relating to certain interceptions not involving governmental misconduct).''.

SEC. 863. CONFORMING AMENDMENTS RELATING TO SUPERVISED RELEASE.

(a) Sections 1512(a)(1)(C), 1512(b)(3), 1512(c)(2), 1513(a)(1)(B), and 1513(b)(2) are each amended by striking ''violation of conditions of probation, parole or release pending judicial proceedings'' and inserting ''violation of conditions of probation, supervised release, parole, or release pending judicial proceedings''.

(b) Section 3142 of title 18, United States Code, is amended—

(1) in subsection (d)(1), by inserting '', supervised release,'' ''probation''; and

(2) in subsection (g)(3), by inserting ''or supervised release'' after ''probation''.

SEC. 864. ADDITION OF CERTAIN OFFENSES AS MONEY LAUNDERING PREDICATES.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by inserting ''or section 2339B (relating to providing material support to designated foreign terrorist organizations)'' before ''of this title''.

SEC. 865. CLARIFICATION OF JURISDICTIONAL BASE INVOLVING THE MAIL.

Section 2422(b) of title 18, United States Code, is amended—

(1) by inserting ''the mail'' after ''using''; and

(2) by striking ''including the mail,''.

SEC. 866. COVERAGE OF FOREIGN BANK BRANCHES IN THE TERRITORIES.

Section 20(9) of title 18, United States Code, is amended by inserting before the period the following: '', except that for purposes of this section the definition of the term 'State' in such Act shall be deemed to include a commonwealth, territory, or possession of the United States''.

SEC. 867. CONFORMING STATUTE OF LIMITATIONS AMENDMENT FOR CERTAIN BANK FRAUD OFFENSES.

Section 3293 of title 18, United States Code, is amended—

(1) by inserting ''225,'' after ''215,''; and

(2) by inserting ''1032,'' before ''1033''.

SEC. 868. CLARIFYING AMENDMENT TO SECTION 704.

Section 704(b)(2) of title 18, United States Code, is amended by striking ''with respect to a Congressional Medal of Honor''.

TITLE IX—PRISON REFORM

Subtitle A—Prison Litigation Reform

SEC. 901. AMENDMENT TO THE PRISON LITIGATION REFORM ACT.

Section 801 of the Prison Litigation Reform Act of 1995 is amended by striking ''1995'' and inserting ''1996''.

SEC. 902. APPROPRIATE REMEDIES FOR PRISON CONDITIONS.

Section 3626 of title 18, United States Code is amended—

(1) in subsection (a)—

(A) in paragraph (1)(B)(i), by striking ''permits'' and inserting ''requires''; and

(B) in paragraph (3)—

(i) in subparagraph (A), by striking ''no prisoner release order shall be entered unless—'' and inserting ''no court shall enter a prisoner release order unless—'';

(ii) in subparagraph (B), by—

(I) striking ''(B) In'' and inserting ''(B)(i) In''; and

(II) striking ''title 28 if the requirements of subparagraph (E) have been met'' and inserting ''title 28'';

(iii) by redesignating subparagraph (C) as clause (ii);

(iv) by redesignating subparagraph (D) as clause (iii);

(v) in subparagraph (E), by striking ''The three-judge court shall enter a prisoner release order only if'' and inserting ''In any civil action with respect to prison conditions, no court shall enter a prisoner release order unless the requirements of subparagraph (A) have been met and'';

(vi) by redesignating subparagraph (E) as subparagraph (B) and redesignating current subparagraph (B) as subparagraph (C) and current subparagraph (F) as subparagraph (D); and

(vii) in subparagraph (D), as redesignated, by striking ''program'' and inserting ''prison'';

(2) in subsection (b)—

(A) in paragraph (3), by striking ''the court makes written findings based on the record that prospective relief remains necessary to correct a current or ongoing violation of the Federal right, extends no further than necessary to correct the violation of the Federal right, and that the prospective relief is narrowly drawn and the least intrusive means to correct the violation'' and inserting ''the plaintiff establishes by a preponderance of the evidence and the court makes written findings based on the record that there is a current and ongoing violation of a Federal right, that prospective relief remains necessary to correct the current and ongoing violation of that Federal right, and that the relief extends no further than necessary to correct the current and ongoing violation of the Federal right, is narrowly drawn, and is the least intrusive means to correct the current and ongoing violation of the Federal right''; and

(B) by striking ''or (2)'' in paragraph 5, as redesignated;

(3) in subsection (e)—

(A) in paragraph (2), by striking ''Any prospective relief subject to a pending motion shall be automatically stayed during the period—'' and inserting ''Any motion to modify or terminate prospective relief made under subsection (b) shall operate as a stay during the period—'' ; and

(B) by adding the following:

''(3) ORDER REFUSING TO IMPOSE STAY.—Any order staying or suspending the operation of the automatic stay described in paragraph (2) shall be treated as an order refusing to dissolve or modify an injunction and shall be appealable pursuant to section 1292(a)(1) of title 28, United States Code, regardless of how the order is styled and whether it is termed a preliminary or a final ruling.

''(4) INTERVENTION.—The court shall rule within 30 days on any motion to intervene as of right under subsection (a)(3)(D). Mandamus shall lie to remedy any failure to act on such a motion. Any State or local official or unit of government seeking to intervene as of right pursuant to subsection (a)(3)(D) may simultaneously file a motion to modify or terminate a prisoner release order. If the motion to intervene has not been denied by the 30th day after the motion to modify or terminate has been filed, in the case of a motion made under paragraph (1) or (2), or by the 180th day after the motion to modify or terminate has been filed, in the case of a motion made pursuant to any other law, the motion to modify or terminate shall operate as a stay of the prospective relief pursuant to the provisions of paragraph (2) beginning on the 30th or 180th day, respectively, and ending either on the date the court enters a final order denying the motion to intervene, or, if the court grants the motion to intervene, on the date that the court enters a final order ruling on the motion to terminate or modify the relief.'';

(6) in subsection (f)—

(A) after ''Special Masters'' by inserting ''In any civil action in a federal court with respect to prison conditions'';

(B) In paragraph (1)(A), by striking from ''In any civil action'' through ''prison conditions, the'' and inserting ''The'';

(C) in paragraphs (1)(B) and (3), by striking ''under this subsection'';

(D) in paragraph (4), by striking ''under this section''; and

(E) in paragraph (6), by striking ''appointed under this subsection'';

(F) in paragraph (2)(A), by striking ''institution''; and

(G) in paragraph (2), by adding at the end the following:

''(D) The requirements of this paragraph shall apply only to special masters appointed after the date of enactment of the Prison Litigation Reform Act of 1995.'';

(H) in paragraph (4), by adding at the end the following: ''In no event shall the court require the parties to pay the compensation, expenses or costs of the special master.'';

(I) in paragraph (5), by striking from ''In any civil action'' through ''subsection, the'' and inserting ''The''; and

(J) in paragraph (6)—

(i) in subparagraph (A), by striking ''hearings'' and inserting ''hearings on the record''; and by striking ''and prepare proposed findings of fact, which shall be made on the record'' and inserting '', and shall make any findings based on the record as a whole'';

(ii) in subparagraph (B), by adding ''and'' at the end;

(iii) by striking subparagraph (C); and

(iv) by redesignating subparagraph (D) as subparagraph (C); and

(7) in subsection (g)—

(A) in paragraph (1), by striking ''settlements'' and inserting ''settlement agreements'';

(B) in paragraph (3)—

(i) by inserting ''Federal, State, local, or other'' before ''facility'';

(ii) by striking ''violations'' and inserting ''a violation'';

(iii) by striking ''terms and conditions'' and inserting ''terms or conditions''; and

(iv) by inserting ''or other post-conviction conditional or supervised release,'' after ''probation,'';

(C) in paragraph (5), by striking ''or local facility'' and inserting ''local, or other facility'';

(D) in paragraph (8), by striking ''inherent'';

(E) in paragraph (9), by striking ''agreements.'' and inserting ''agreements;'';

(F) by reversing the order of paragraphs (8) and (9);

(G) by inserting at the end of the subsection the following new paragraph:

''(10)(A) the term 'violation of a Federal right' means a violation of a Federal constitutional or Federal statutory right;

''(B) The term 'violation of a Federal right' does not include a violation of a court order that is not independently a violation of a Federal statutory or Federal constitutional right;

''(C) The term 'violation of a Federal right' shall not be interpreted to expand the authority of any individual or class to enforce the legal rights that individual or class may have pursuant to existing law with regard to institutionalized persons, or to expand the authority of the United States to enforce those rights on behalf of any individual or class.''; and

(H) by renumbering the paragraphs.

SEC. 903. CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS.

(a) IN GENERAL.—Section 7 of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997e), as amended by section 803(d) of the Prison Litigation Reform Act of 1995, is amended—

(1) by amending the title of the section to read ''Civil Actions with Respect to Prison Conditions'';

(2) in subsections (a),(c), and (d), by striking ''by a prisoner confined in any jail, prison, or other correctional facility''

(3) in subsection (a), by striking ''No action shall be brought with respect to prison conditions'' and inserting ''No civil action with respect to prison conditions shall be brought''; and by striking ''until such administrative remedies as are available are exhausted.'' and inserting in its place ''until the plaintiff has exhausted such administrative remedies as are available.'';

(4) in subsection (c), by striking ''any action brought with'' and inserting ''any civil action with'';

(5) in subsection (d)

(A) in paragraph (1)

(i) by striking ''any action brought by a prisoner who is'' and inserting ''any civil action with respect to prison conditions brought by a plaintiff who is or has been'';

(ii) by amending subparagraph (A) to read as follows:

''(A) the fee was directly and reasonably incurred in—

''(i) proving an actual violation of the plaintiff's Federal rights;

''(ii) successfully obtaining contempt sanctions for a violation of previously ordered prospective relief that meets the standards set forth in section 3626 of title 18, United States Code, if the plaintiff made a good faith effort to resolve the matter without court action; or

''(iii) successfully obtaining court ordered enforcement of previously ordered prospective relief that meets the standards set forth in section 3626 of title 18, United States Code, if the enforcement order was necessary to prevent an imminent risk of serious bodily injury to the plaintiff and the plaintiff made a good faith attempt to resolve the matter without court action; and''; and

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

''(B) the amount of the fee is proportionately related to the court ordered relief for the violation.'';

(B) in paragraph (2), by striking the last sentence and inserting ''If a monetary judgment is the sole or principal relief awarded, the award of attorney's fees shall not exceed 100% of the judgment.''; and

(C) in paragraph (3)—

(i) by striking ''greater than 150 percent'' and inserting ''greater than the lesser of—

''(A) 150 percent''; and

(ii) by striking ''counsel.'' and inserting ''counsel; or

''(B) a rate of $100 per hour.'';

(D) in paragraph (4), by striking ''prisoner'' and inserting ''plaintiff'';

(6) in subsection (e), by striking ''Federal civil action'' and inserting ''civil action arising under federal law'';

(7) in subsection (f), by striking ''action brought with respect to prison conditions'' and inserting ''civil action with respect to prison conditions brought'';

(8) in subsection (g)—

(i) by amending the heading to read as follows: ''Waiver of Response'';

(ii) by amending paragraph (1) to read as follows:

''(1) Any defendant may waive the right to respond to any complaint in any civil action arising under federal law brought by a prisoner. Notwithstanding any other law or rule of procedure, such waiver shall not constitute an admission of the allegations contained in the complaint or waive any affirmative defense available to the defendant. No relief shall be granted to the plaintiff unless a response has been filed. The court may direct any defendant to file a response.''; and

(iii) by striking paragraph (2); and

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

''(h) As used in this section, the terms 'civil action with respect to prison conditions', 'prison', and 'prisoner' have the meanings given those terms in section 3626(g) of title 18, United States Code.''.

SEC. 904. PROCEEDINGS IN FORMA PAUPERIS.

(a) IN GENERAL.—Section 1915(b)(1)(B) of title 28, United States Code is amended—

(1) by inserting after ''average'' the following: ''of the highest'';

(2) by inserting after ''balance'' the following: ''recorded for'';

(3) by striking ''in''; and

(4) by striking ''the 6-month period'' and inserting ''each of the 6 months''.

(b) Section 1915(b)(2) of title 28, United States Code, is amended—

(1) by striking ''forward'' and inserting ''deduct'';

(2) by striking ''to the clerk of the court''; and

(3) by adding at the end the following: ''The agency having custody of the prisoner shall forward the deducted payments to clerk of the court either upon deduction or on a monthly basis accompanied by appropriate documentation.''.

(c) Section 1915(f)(2)(A) of title 28, United States Code, is amended by inserting ''provides for or'' before ''includes'';

(d) Section 1915(f)(2)(B), of title 28, United States Code, is amended to add the following sentence at the end: ''If the judgment for costs is held by the agency, or the employees of the agency, having custody of the prisoner, the agency may withdraw 20 percent of each deposit to the prisoner's account and apply that amount to payment of the judgment until the judgment is paid in full.'';

(e) Section 1915(g) of title 28, United States Code, is amended—

(1) by striking ''is frivolous'' and inserting ''was frivolous''; and

(2) by striking ''fails'' and inserting ''failed''.

(f) Section 1915(h) of title 28, United States Code, as added by section 804(e) of the Prison Litigation Reform Act of 1995, is amended—

(1) by inserting ''Federal, State, local, or other'' before ''facility'';

(2) by striking ''violations'' and inserting ''a violation'';

(3) by striking ''terms and conditions'' and inserting ''terms or conditions''; and

(4) by inserting ''or other post-conviction conditional or supervised release,'' after ''probation,''.

(g) Section 1915A of title 28, United States Code, is amended by striking '', before docketing, if feasible or, in any event,''.

SEC. 905. NOTICE TO STATE AUTHORITIES OF MALICIOUS FILING BY PRISONER.

(a)AMENDMENT.—Chapter 123 of title 28, United States Code, is amended—

(1) by inserting after section 1915A the following new section:

''§ 1915B. Notice to state authorities of finding of malicious filing by a prisoner

''(1) Finding.—In any civil action brought in Federal court by a prisoner (other than a prisoner confined in a Federal correctional facility), the court may, on its own motion or the motion of any adverse party, make a finding whether—

''(A) the claim was filed for a malicious purpose;

''(B) the claim was filed to harass the party against which it was filed; or

''(C) the claimant testified falsely or otherwise knowingly presented false evidence or information to the court.

''(2) The court shall transmit to the State Department of Corrections or other appropriate authority any affirmative finding under paragraph (1). If the court makes such a finding, the Department of Corrections or other appropriate authority may, pursuant to State or local law—

(A) revoke such amount of good time credit or the institutional equivalent accrued to the prisoner as is deemed appropriate; or

(B) consider such finding in determining whether the prisoner should be released from

prison under any other state or local program governing the release of prisoners, including parole, probation, other post-conviction or supervised release, or diversionary program.'';

(2) by redesignating subsection 1915A(c) as section 1915C, and in that section, as redesignated—

(A) by striking ″this section″ and inserting ″sections 1915A and 1915B″;

(B) by inserting ''Federal, State, local, or other'' before ''facility'';

(C) by striking ''violations'' and inserting ''a violation'';

(D) by striking ''terms and conditions'' and inserting ''terms or conditions''; and

(E) by inserting ''or other post-conviction conditional or supervised release,'' after ''probation,''; and

(3) by inserting in the analysis for chapter 123 of title 28, United States Code, and as further amended by this Act, after the item relating to section 1915A the following new items:

''1915B. Notice to State authorities of malicious filing by prisoner.″; and
''1915C. Definition.''.

SEC. 906. PAYMENT OF DAMAGE AWARD IN SATISFACTION OF PENDING RESTITUTION AWARDS.

(a) Section 807 of the Prison Litigation Reform Act of 1995 is designated as section 1915D(a) of chapter 123 of title 28, United States Code.

(b) That section is amended by striking the word ''compensatory'' and the last sentence of that section.

(c) Section 808 of the Prison Litigation Reform Act of 1995 is designated as section 1915D(b) of chapter 123 of title 28, United States Code.

(d) The analysis for chapter 123 of title 28, United States Code, is amended by inserting after the item relating to Section 1915C the following new item:

''§ 1915D. Payment of damage award in satisfaction of pending restitution order.''.

SEC. 907. EARNED RELEASE CREDIT OR GOOD TIME CREDIT REVOCATION.

(a) Section 1932 of title 28, United States Code, is redesignated as section 3624A of title 18, United States Code.

(b) Section 3624A of title 18, United States Code, as redesignated by subsection (a) of this section, is amended—

(1) by striking ''In any'' and inserting ''(a) Finding—In any'';

(2) by striking ''an adult'' and inserting ''a person'';

(3) by striking ''order the revocation'' and all that follows through ''finds that—'' and inserting '', on its own motion or the motion of any adverse party, make a finding whether—'';

(4) in paragraph (2), by striking ″solely″;

(5) in paragraph (3)—

(A) by striking ''testifies'' and inserting ''testified''; and

(B) by striking ''presents'' and inserting ''presented''; and

(6) by adding at the end the following:

''(b) Transmission of Finding.—The court shall transmit to the Bureau of Prisons any affirmative finding under subsection (a). If the court makes such a finding, the Bureau of Prisons shall revoke an amount of unvested good time credit or the institutional equivalent accrued to the prisoner pursuant to section 3264 as is deemed appropriate by the Director of the Bureau of Prisons.''.

(c)(1) The analysis for chapter 123 of title 28, United States Code, is amended by striking the item relating to section 1932.

(2) The analysis for chapter 229 of title 18, United States Code, is amended by inserting after the item relating to section 3624 the following:

''§ 3624A. Revocation of earned release credit.''.

SEC. 908. RELEASE OF PRISONER.

Section 3624(b) of title 18, United States Code, is amended—

(1) in paragraph (1), by amending the fifth sentence to read as follows: ''Credit that has not been earned may not later be granted, and credit that has been revoked pursuant to section 3624A may not later be reinstated.''; and

(2) in paragraph (2), by inserting before the period at the end the following: '', and may be revoked by the Bureau of Prisons for noncompliance with institutional disciplinary regulations at any time before vesting''.

SEC. 909. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall take effect on the date of enactment of this Act, and shall apply to all proceedings in all pending cases on the date of enactment of this Act.

Subtitle B—Federal Prisons

SEC. 911. PRISON COMMUNICATIONS.

Section 2522 of title 18, United States Code, is amended by adding at the end the following:

''(e) EXEMPTION.—

''(1) IN GENERAL.—This chapter and chapter 121 do not apply with respect to the interception by a law enforcement officer of any wire, oral, or electronic communication, or the use of a pen register, a trap and trace device, or a clone pager, if—

''(A) in the case of any wire, oral, or electronic communication, at least one of the parties to the communication is, an inmate or detainee in the custody of the Attorney General of the United States or is in the custody of a State or political subdivision thereof; or

''(B) in the case of a pen register, a trap and trace device, or a clone pager, the facility is regularly used by, an inmate or detainee in the custody of the Attorney General of the United States or is in the custody of a State or political subdivision thereof.

''(2) STATE DEFINED.—As used in this subsection, the term 'State' means each of the several States of the United States, the District of Columbia, and the territories and possessions of the United States.

''(f) REGULATIONS.—The Attorney General shall promulgate regulations governing interceptions described in subsection (e) in order to protect communications protected by the attorney-client privilege and the right to counsel guaranteed by the sixth amendment to Constitution of the United States.''.

SEC. 912. PRISON AMENITIES AND PRISONER WORK REQUIREMENT.

(a) IN GENERAL.—Chapter 303 of title 18, United States Code, is amended by adding at the end the following:

''§ 4048. Certain amenities for prisoners prohibited

''(a) IN GENERAL.—Except as provided in subsection (b), the Bureau of Prisons shall ensure that no prisoner or detainee under its jurisdiction—

''(1) engages in any physical activity designed to increase or enhance the fighting ability of the prisoner or detainee;

''(2) engages in any physical activity designed to increase the physical strength of such prisoner or detainee; or

''(3) is permitted—

''(A) access to in-cell television viewing, except for prisoners segregated from the general prison population for their own safety;

''(B) access to the viewing of any movie or film, through whatever medium presented, that has been given a Motion Picture Association of America rating of NC–17, R, or X;

''(C) possession of any in-cell coffee pot, hot plate, or other heating element;

''(D) access to any pornographic or other sexually explicit printed material;

''(E) access to any bodybuilding or weightlifting equipment; or

''(F) use or possession of any electric or electronic musical equipment.

''(b) EXCEPTION FOR CERTAIN PRISONERS.—The Director of the Bureau of Prisons may grant an exception to paragraph (2) or (3)(E) of subsection (a) with respect to a prisoner or detainee, if a licensed medical doctor employed by the Bureau of Prisons certifies that such exception is medically necessary in order to enable the prisoner or detainee to pursue a program of physical therapy or rehabilitation.

''(c) EFFECT ON OTHER REGULATIONS.—Nothing in the section shall be construed to preempt or repeal any regulation or policy of the Bureau of Prisons that imposes greater restrictions on prisoners and detainees than those required by this section, or to prevent the adoption by the Bureau of Prisons of any restriction or policy that imposes greater restrictions on prisoners and detainees than those required by this section.

''(d) NO CAUSE OF ACTION.—Nothing in this section shall be construed to create a cause of action by on behalf of any person against the United States or any officer, employee, or contractor thereof.

''§ 4049. Prisoner work requirement

''(a) IN GENERAL.—Subject to subsection (b), the Director of the Bureau of Prisons shall ensure that each convicted inmate in the custody of the Attorney General and confined in any Federal prison, correctional facility, jail, or other facility shall be engaged in work. The type of work that a particular inmate shall be engaged in shall be determined on the basis of appropriate security and disciplinary considerations and by the health of the inmate.

''(b) EXCUSE.—An inmate described in subsection (a) may be excused from the requirement of subsection (a) in whole or in part, only as necessitated by—

''(1) security considerations;

''(2) disciplinary action;

''(3) medical certification of disability, such as would make it impractical for prison officials to arrange useful work for the inmate to perform; or

''(4) a need for the inmate to work less than a full work schedule in order to participate in literacy training, drug rehabilitation, or other similar program in addition to performing work.

''(c) NO COMPENSATION.—Nothing in this section shall be construed to entitle any inmate to any wage, compensation, or benefit, or be construed to provide a cause of action by or on behalf of any person against the United States or any officer, employee, or contractor thereof.''.

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 303 of title 18, United States Code, is amended by adding at the end the following:

''4048. Certain prisoner amenities prohibited.
''4049. Prisoner work requirement.''.

SEC. 913. ELIMINATION OF SENTENCING INEQUITIES AND AFTERCARE FOR FEDERAL INMATES.

Section 3621 of title 18, United States Code, is amended—

(1) in subsection (b), by striking the last sentence and inserting ''The Bureau shall endeavor to make available appropriate substance abuse treatment for each prisoner the Bureau determines has a treatable drug abuse problem, with a priority to be given to younger offenders and those who would benefit most from the treatment''; and

(2) in subsection (e), by striking paragraphs (1), (2), and (5), and redesignating

paragraphs (3), (4), and (6), as paragraphs (1), (2), and (3), respectively.

TITLE X—MISCELLANEOUS PROVISIONS

SEC. 1001. SENSE OF THE SENATE REGARDING ONDCP.

It is the sense of the Senate that—

(1) the Office of National Drug Control Policy should, in principal, be reauthorized for an additional 5 years; and

(2) prior to any such reauthorization, the Committee on the Judiciary of the Senate should conduct an extensive review of the National Drug Control Strategy for 1997 submitted by President Clinton.

SEC. 1002. RESTRICTIONS ON DOCTORS PRESCRIBING SCHEDULE I SUBSTANCES.

(a) IN GENERAL.—Not later than 45 days after the date of enactment of this Act, the Secretary of Health and Human Services shall promulgate regulations that require any and all hospitals or health care service providers who receive Federal medicare or medicaid payments based upon appropriate compliance certification, as an additional certification requirement, to certify that no physician or other health care professional who has privileges with such hospital or health care service provider, or is otherwise employed by them, is currently, or will in the future, prescribe or otherwise recommend a schedule I substance to any person.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall report to Congress the number and names of institutions refusing or otherwise failing to fulfill certification requirement of subsection (a).

(c) REVOCATION OF CERTIFICATION.—The Attorney General shall promulgate regulations to revoke the DEA registration of any physician or other health care provider who recommends or prescribes a schedule I controlled substance.

SEC. 1003. ANTI-DRUG USE PUBLIC SERVICE REQUIREMENT.

The Federal Communications Commission shall—

(1) coordinate with the President's Commission on Alcohol and Drug Abuse Prevention, to develop a comprehensive education and public service program targeting youth drug abuse pursuant to section 8003 of Public Law 99–570 (21 U.S.C. 1302);

(2) encourage the priority use of public service resources dedicated to promoting youth drug abuse prevention and education;

(3) contact and encourage the donation of greater public resources dedicated to youth drug abuse programs from—

(A) television, radio, movies, cable communications, and print media;

(B) the recording industry;

(C) the advertising industry;

(D) business; and

(E) professional sports; and

(4) encourage each of the organizations and industries referred to in paragraph (3) to assist the implementation of new programs and national strategies for dissemination of information intended to prevent youth drug abuse.

SEC. 1004. CHILD PORNOGRAPHY.

(a) IN GENERAL.—The Secretary of State is directed to review all extradition treaties in force, and, if necessary, to renegotiate all such treaties, in order to ensure that offenses involving the sexual exploitation and abuse of children under sections 2251 through 2258 of title 18, United States Code, are extraditable offenses.

(b) STATUTE OF LIMITATIONS.—In any case in which a defendant is charged with an offense under chapter 110 of title 18, United States Code, and is alleged to have committed an offense, in whole or in part, beyond the jurisdiction of the United States, the statute of limitations shall be tolled during any period in which the defendant is beyond the jurisdiction of the United States.

SEC. 1005. 2,000 BOYS & GIRLS CLUBS BEFORE 2000.

(a) IN GENERAL.—Section 401(a) of the Economic Espionage Act of 1996 (Public Law 104–294; 110 Stat. 3496) is amended by striking paragraph (2) and inserting the following:

''(2) PURPOSE.—The purpose of this section is to provide adequate resources in the form of seed money for the Boys and Girls Clubs of America to establish 1,000 additional local clubs where needed, with particular emphasis placed on establishing clubs in public housing projects and distressed areas, and to insure that there are a total of no less than 2000 Boys and Girls Club of America facilities in operation not later than December 31, 1999.''

(b) ACCELERATED GRANTS.—Section 401 of the Economic Espionage Act of 1996 (Public Law 104–294; 110 Stat. 3496) is amended by striking subsection (c) and inserting the following:

''(c) ESTABLISHMENT.—

''(1) IN GENERAL.—For each of the fiscal years 1997, 1998, 1999, 2000, and 2001, the Director of the Bureau of Justice Assistance of the Department of Justice shall make a grant to the Boys and Girls Clubs of America for the purpose of establishing Boys and Girls Clubs facilities where needed, with particular emphasis placed on establishing clubs in public housing projects and distressed areas.

''(2) CONTRACTING AUTHORITY.—To the extent that the Secretary of Housing and Urban Development determines to be appropriate, the Secretary of Housing and Urban Development, in consultation with the Attorney General, shall enter into contracts with the Boys and Girls Clubs of America to establish clubs pursuant to the grants under paragraph (1).

''(3) APPLICATIONS.—The Attorney General shall accept an application for a grant under this subsection if submitted by the Boys and Girls Clubs of America, and approve or deny the grant not later than 90 days after the date on which the application is submitted, if the application—

''(A) includes a long-term strategy to establish 1000 additional Boys and Girls Clubs and detailed summary of those areas in which new facilities will be established during the next fiscal year;

''(B) includes a plan to insure that there are a total of not less than 2000 Boys and Girls Clubs of America facilities in operation before January 1, 2000;

''(C) certifies that there will be appropriate coordination with those communities where clubs will be located; and

''(D) explains the manner in which new facilities will operate without additional, direct Federal financial assistance to the Boys and Girls Clubs once assistance under this subsection is discontinued.''.

(c) ROLE MODEL GRANTS.—Section 401 of the Economic Espionage Act of 1996 (Public Law 104–294; 110 Stat. 3496) is amended by adding at the end the following:

''(f) ROLE MODEL GRANTS.—Of amounts made available under subsection (e) in any fiscal year—

''(1) not more than 5 percent may be used to provide a grant to the Boys and Girls Clubs of America for administrative, travel, and other costs associated with a national role-model speaking tour program; and

''(2) no amount may be used to compensate speakers other than to reimburse speakers for reasonable travel and accommodation costs associated with the program described in paragraph (1).''.

SEC. 1006. CELLULAR TELEPHONE INTERCEPTIONS.

Subsection 2511 of title 18, United States Code, is amended by inserting '', imprisoned not more than 1 year, or both'' after ''under this title''.

TITLE XI—VIOLENT AND REPEAT JUVENILE OFFENDERS

SEC. 1101. SHORT TITLE.

This title may be cited as the ''Violent and Repeat Juvenile Offender Act of 1997''.

SEC. 1102. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) at the outset of the twentieth century, the States adopted 2 separate juvenile justice systems for violent and nonviolent offenders;

(2) violent crimes committed by juveniles, such as homicide, rape, and robbery, were an unknown phenomenon at that time, but the rate at which juveniles commit such crimes has escalated astronomically since that time;

(3) in 1994—

(A) the number of persons arrested overall for murder in the United States decreased by 5.8 percent, but the number of persons who are less than 15 years of age arrested for murder increased by 4 percent; and

(B) the number of persons arrested for all violent crimes increased by 1.3 percent, but the number of persons who are less than 15 years of age arrested for violent crimes increased by 9.2 percent, and the number of persons less than 18 years of age arrested for such crimes increased by 6.5 percent;

(4) from 1985 to 1996, the number of persons arrested for all violent crimes increased by 52.3 percent, but the number of persons under age 18 arrested for violent crimes rose by 75 percent;

(5) the number of juvenile offenders is expected to undergo a massive increase during the first 2 decades of the twenty-first century, culminating in an unprecedented number of violent offenders who are less than 18 years of age;

(6) the rehabilitative model of sentencing for juveniles, which Congress rejected for adult offenders when Congress enacted the Sentencing Reform Act of 1984, is inadequate and inappropriate for dealing with violent and repeat juvenile offenders;

(7) the Federal Government should encourage the States to experiment with progressive solutions to the escalating problem of juveniles who commit violent crimes and who are repeat offenders, including prosecuting all such offenders as adults, but should not impose specific strategies or programs on the States;

(8) an effective strategy for reducing violent juvenile crime requires greater collection of investigative data and other information, such as fingerprints and DNA evidence, as well as greater sharing of such information among Federal, State, and local agencies, including the courts, in the law enforcement and educational systems;

(9) data regarding violent juvenile offenders must be made available to the adult criminal justice system if recidivism by criminals is to be addressed adequately;

(10) holding juvenile proceedings in secret denies victims of crime the opportunity to attend and be heard at such proceedings, helps juvenile offenders to avoid accountability for their actions, and shields juvenile proceedings from public scrutiny and accountability;

(11) the injuries and losses suffered by the victims of violent crime are no less painful or devastating because the offender is a juvenile; and

(12) the investigation, prosecution, adjudication, and punishment of criminal offenses committed by juveniles is, and should

remain, primarily the responsibility of the States, to be carried out without interference from the Federal Government.

(b) PURPOSES.—The purposes of this title are—

(1) to reform juvenile law so that the paramount concerns of the juvenile justice system are providing for the safety of the public and holding juvenile wrongdoers accountable for their actions, while providing the wrongdoer a genuine opportunity for self reform;

(2) to revise the procedures in Federal court that are applicable to the prosecution of juvenile offenders;

(3) to address specifically the problem of violent crime and controlled substance offenses committed by youth gangs; and

(4) to encourage and promote, consistent with the ideals of federalism, adoption of policies by the States to ensure that the victims of crimes of violence committed by juveniles receive the same level of justice as do victims of violent crimes that are committed by adults.

SEC. 1103. SEVERABILITY.

If any provision of this title, an amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this title, the amendments made by this title, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

Subtitle A—Juvenile Justice Reform

SEC. 1111. REPEAL OF GENERAL PROVISION.

(a) IN GENERAL.—Chapter 401 of title 18, United States Code, is amended—

(1) by striking section 5001; and

(2) by redesignating section 5003 as section 5001.

(b) TECHNICAL AMENDMENTS.—The chapter analysis for chapter 401 of title 18, United States Code, is amended—

(1) by striking the item relating to section 5001; and

(2) by redesignating the item relating to section 5003 as 5001.

SEC. 1112. TREATMENT OF FEDERAL JUVENILE OFFENDERS.

(a) IN GENERAL.—Section 5032 of title 18, United States Code, is amended to read as follows:

"§ 5032. Delinquency proceedings in district courts; juveniles tried as adults; transfer for other criminal prosecution

''(a) IN GENERAL.—A juvenile who is not less than 14 years of age and who is alleged to have committed an act that, if committed by an adult, would be a criminal offense, shall be tried in the appropriate district court of the United States—

''(1) as an adult at the discretion of the United States Attorney in the appropriate jurisdiction, upon a finding by that United States Attorney, which finding shall not be subject to review in or by any court, trial or appellate, that there is a substantial Federal interest in the case or the offense to warrant the exercise of Federal jurisdiction, if the juvenile is charged with a Federal offense that—

''(A) is a crime of violence (as that term is defined in section 16); or

''(B) involves a controlled substance (as that term is defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which the penalty is a term of imprisonment of not less than 5 years; and

''(2) in all other cases, as a juvenile.

''(b) REFERRAL BY UNITED STATES ATTORNEY.—

''(1) IN GENERAL.—If the United States Attorney in the appropriate jurisdiction declines prosecution of a charged offense under subsection (a)(2), the United States Attorney may refer the matter to the appropriate legal authorities of the State or Indian tribe.

''(2) DEFINITIONS.—In this section—

''(A) 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

''(B) the term 'Indian tribe' has the same meaning as in section 4(e) of the Indian Self-Determination and Education Assistance Act.

''(c) APPLICABLE PROCEDURES.—Any action prosecuted in a district court of the United States under this section—

''(1) shall proceed in the same manner as is required by this title and by the Federal Rules of Criminal Procedure in proceedings against an adult in the case of a juvenile who is being tried as an adult in accordance with subsection (a); and

''(2) in all other cases, shall proceed in accordance with this chapter, unless the juvenile has requested in writing, upon advice of counsel, to be proceeded against as an adult.

''(d) CAPITAL CASES.—Subject to section 3591, if a juvenile is tried and sentenced as an adult, the juvenile shall be subject to being sentenced to death on the same terms and in accordance with the same procedures as an adult.

''(e) APPLICATION OF LAWS.—In any case in which a juvenile is prosecuted in a district court of the United States as an adult, the juvenile shall be subject to the same laws, rules, and proceedings regarding sentencing that would be applicable in the case of an adult. No juvenile sentenced to a term of imprisonment shall be released from custody simply because the juvenile reaches the age of 18 years.

''(f) OPEN PROCEEDINGS.—

''(1) IN GENERAL.—Any offense tried in a district court of the United States pursuant to this section shall be open to the general public, in accordance with rules 10, 26, 31(a), and 53 of the Federal Rules of Criminal Procedure, unless good cause is established by the moving party or is otherwise found by the court, for closure.

''(2) STATUS ALONE INSUFFICIENT.—The status of the defendant as a juvenile, absent other factors, shall not constitute good cause for purposes of this subsection.

''(g) AVAILABILITY OF RECORDS.—

''(1) IN GENERAL.—In making a determination concerning the prosecution of a juvenile in a district court of the United States under this section, subject to the requirements of section 5038, the United States Attorney of the appropriate jurisdiction shall have complete access to the prior Federal juvenile records of the subject juvenile, and to the extent permitted by State law, the prior State juvenile records of the subject juvenile.

''(2) CONSIDERATION OF ENTIRE RECORD.—In any case in which a juvenile is found guilty in an action pursuant to this section, the district court responsible for imposing sentence shall have complete access to the prior juvenile records of the subject juvenile, and, to the extent permitted under State law, the prior State juvenile records of the subject juvenile. At sentencing, the district court shall consider the entire available prior juvenile record of the subject juvenile.

''(3) RELEASE OF RECORDS.—The United States Attorney may release such Federal records, and, to the extent permitted by State law, such State records, to law enforcement authorities of any jurisdiction and to officials of any school, school district, or postsecondary school at which the individual who is the subject of the juvenile record is enrolled or seeks, intends, or is instructed to enroll, if such school officials are held liable to the same standards and penalties to which law enforcement and juvenile justice system employees are held liable under Federal and State law, for the handling and disclosure of such information.''.

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 403 of title 18, United States Code, is amended by striking the item relating to section 5032 and inserting the following:

''5032. Delinquency proceedings in district courts; juveniles tried as adults; transfer for other criminal prosecution.''.

SEC. 1113. CAPITAL CASES.

Section 3591 of title 18, United States Code, is amended by striking ''18 years'' each place that term appears and inserting ''16 years''.

SEC. 1114. DEFINITIONS.

Section 5031 of title 18, United States Code, is amended to read as follows:

"§ 5031. Definitions

''In this chapter—

''(1) the term 'juvenile' means a person who is less than 18 years of age; and

''(2) the term 'juvenile delinquency' means the violation of a law of the United States committed by a juvenile that would be a crime if committed by an adult.''.

SEC. 1115. NOTIFICATION AFTER ARREST.

Section 5033 of title 18, United States Code, is amended in the first sentence by striking ''Attorney General'' and inserting ''United States Attorney of the appropriate jurisdiction''.

SEC. 1116. DETENTION PRIOR TO DISPOSITION.

Section 5035 of title 18, United States Code, is amended—

(1) by striking ''A juvenile'' and inserting the following:

''(a) IN GENERAL.—A juvenile''; and

(2) by adding at the end the following:

''(b) DETENTION OF CERTAIN JUVENILES.—Notwithstanding subsection (a), a juvenile who is to be tried as an adult pursuant to section 5032 shall be subject to detention in accordance with chapter 203 in the same manner and to the same extent as an adult would be subject to that chapter.''.

SEC. 1117. SPEEDY TRIAL.

Section 5036 of title 18, United States Code, is amended—

(1) by striking ''thirty'' and inserting ''70''; and

(2) by striking ''the court,'' and all that follows through the end of the section and inserting ''the court. The periods of exclusion under section 3161(h) shall apply to this section.''.

SEC. 1118. DISPOSITIONAL HEARINGS.

Section 5037 of title 18, United States Code, is amended—

(1) in subsection (a), by striking ''(a)'' and all that follows through ''After the'' and inserting the following:

''(a) IN GENERAL.—

''(1) DISPOSITIONAL HEARING.—In any case in which a juvenile is found to be a juvenile delinquent in district court pursuant to section 5032, but is not tried as an adult under that section, not later than 20 days after the hearing in which a finding of juvenile delinquency is made, the court shall hold a disposition hearing concerning the appropriate disposition unless the court has ordered further study pursuant to subsection (d).

''(2) ACTIONS OF COURT AFTER HEARING.—After the'';

(2) in subsection (b), by striking ''extend—'' and all that follows through ''The provisions'' and inserting the following: ''extend, in the case of a juvenile, beyond the maximum term that would be authorized by section 3561(b), if the juvenile had been tried and convicted as an adult. The provisions'';

(3) in subsection (c), by striking ''extend—'' and all that follows through ''Section 3624''

and inserting the following: ''extend beyond the maximum term of imprisonment that would be authorized if the juvenile had been tried and convicted as an adult. No juvenile sentenced to a term of imprisonment shall be released from custody simply because the juvenile reaches the age of 18 years. Section 3624'';

(4) by redesignating subsection (d) as subsection (e); and

(5) by inserting after subsection (c) the following:

''(d) APPLICABILITY OF RESTITUTION PROVISIONS.—If a juvenile has been tried and convicted as an adult, or adjudicated delinquent for any offense in which the juvenile is otherwise tried pursuant to section 5032, the restitution provisions contained in this title (including sections 3663, 3663A, 2248, 2259, 2264, and 2327) and title 21 shall apply to that juvenile in the same manner and to the same extent as those provisions apply to adults.''.

SEC. 1119. USE OF JUVENILE RECORDS.

Section 5038 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (5), by striking ''and'' at the end;

(B) in paragraph (6), by striking the period at the end and inserting ''; and'';

(C) by inserting after paragraph (6) the following:

''(7) inquiries from any school or other educational institution for the purpose of ensuring the public safety and security at such institution.''; and

(D) by striking ''Unless'' and inserting the following:

''(c) PROHIBITION ON RELEASE OF CERTAIN INFORMATION.—Unless'';

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

(3) by inserting immediately after subsection (a) the following:

''(b) ACCESS BY UNITED STATES ATTORNEY.—Notwithstanding subsection (a), in determining the appropriate disposition of a juvenile matter under section 5032, the United States Attorney of the appropriate jurisdiction shall have complete access to the official records of the juvenile proceedings conducted under this title.'';

(4) by inserting after subsection (e), as redesignated, the following:

''(f) RECORDS OF JUVENILES TRIED AS ADULTS.—In any case in which a juvenile is tried as an adult, access to the record of the offenses of the juvenile shall be made available in the same manner as is applicable to adult defendants.'';

(5) by striking ''(d) Whenever'' and all that follows through ''adult defendants.'' and inserting the following:

''(g) FINGERPRINTS AND PHOTOGRAPHS.—Fingerprints and photographs of a juvenile—

''(1) who is prosecuted as an adult, shall be made available in the same manner as is applicable to an adult defendant; and

''(2) who is not prosecuted as an adult, shall be made available only as provided in subsection (a).'';

(6) by striking ''(e) Unless,'' and inserting the following:

''(h) NO PUBLICATION OF NAME OR PICTURE.—Unless'';

(7) by striking ''(f) Whenever'' and inserting the following:

''(i) INFORMATION TO FEDERAL BUREAU OF INVESTIGATION.—Whenever''; and

(8) in subsection (i), as redesignated—

(A) by striking ''of committing an act'' and all that follows through ''5032 of this title'' and inserting ''by a district court of the United States pursuant to section 5032 of committing an act''; and

(B) by inserting ''involved a juvenile tried as an adult or'' before ''were juvenile adjudications''.

SEC. 1120. INCARCERATION OF VIOLENT OFFENDERS.

Section 5039 of title 18, United States Code, is amended—

(1) by designating the first 3 undesignated paragraphs as subsections (a) through (c), respectively; and

(2) by adding at the end the following:

''(d) SEGREGATION OF JUVENILES CONVICTED OF VIOLENT OFFENSES.—

''(1) DEFINITION.—In this subsection, the term 'crime of violence' has the same meaning as in section 16 of title 18, United States Code.

''(2) SEGREGATION.—The Director of the Bureau of Prisons shall ensure that juveniles who are alleged to be or determined to be delinquent are not confined in any institution in which the juvenile has regular sustained physical contact with adult persons who are detained or confined.''.

SEC. 1121. FEDERAL SENTENCING GUIDELINES.

Section 994(h) of title 28, United States Code, is amended by inserting '', or in which the defendant is a juvenile who is tried as an adult,'' after ''old or older''.

Subtitle B—Juvenile Gangs

SEC. 1141. SHORT TITLE.

This subtitle may be cited as the ''Federal Gang Violence Act''.

SEC. 1142. INCREASE IN OFFENSE LEVEL FOR PARTICIPATION IN CRIME AS A GANG MEMBER.

(a) DEFINITION.—In this section, the term ''criminal street gang'' has the same meaning as in section 521(a) of title 18, United States Code, as amended by section 1243 of this subtitle.

(b) AMENDMENT OF SENTENCING GUIDELINES.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to provide an appropriate enhancement, increasing the offense level by not less than 6 levels, for any offense, if the offense was both committed in connection with, or in furtherance of, the activities of a criminal street gang and the defendant was a member of the criminal street gang at the time of the offense.

(c) CONSTRUCTION WITH OTHER GUIDELINES.—The amendment made pursuant to subsection (b) shall provide that the increase in the offense level shall be in addition to any other adjustment under chapter 3 of the Federal sentencing guidelines.

SEC. 1143. AMENDMENT OF TITLE 18 WITH RESPECT TO CRIMINAL STREET GANGS.

(a) IN GENERAL.—Section 521 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking ''(a) DEFINITIONS.—'' and inserting the following:

''(a) DEFINITIONS.—In this section:'', and

(B) by striking '' 'conviction'' and all that follows through the end of the subsection and inserting the following:

''(1) CRIMINAL STREET GANG.—The term 'criminal street gang' means an ongoing group, club, organization, or association of 3 or more persons, whether formal or informal—

''(A) a primary activity of which is the commission of 1 or more predicate gang crimes;

''(B) any members of which engage, or have engaged during the 5-year period preceding the date in question, in a pattern of criminal gang activity; and

''(C) the activities of which affect interstate or foreign commerce.

''(2) PATTERN OF CRIMINAL GANG ACTIVITY.—The term 'pattern of criminal gang activity' means the commission of 2 or more predicate gang crimes committed in connection with, or in furtherance of, the activities of a criminal street gang—

''(A) at least 1 of which was committed after the date of enactment of the Federal Gang Violence Act;

''(B) the first of which was committed not more than 5 years before the commission of another predicate gang crime; and

''(C) that were committed on separate occasions.

''(3) PREDICATE GANG CRIME.—The term 'predicate gang crime' means an offense, including an act of juvenile delinquency that, if committed by an adult, would be an offense that is—

''(A) a Federal offense—

''(i) that is a crime of violence (as that term is defined in section 16) including carjacking, drive-by-shooting, shooting at an unoccupied dwelling or motor vehicle, assault with a deadly weapon, and homicide;

''(ii) that involves a controlled substance (as that term is defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which the penalty is imprisonment for not less than 5 years;

''(iii) that is a violation of section 844, section 875 or 876 (relating to extortion and threats), section 1084 (relating to gambling), section 1955 (relating to gambling), chapter 44 (relating to firearms), or chapter 73 (relating to obstruction of justice);

''(iv) that is a violation of section 1956 (relating to money laundering), insofar as the violation of such section is related to a Federal or State offense involving a controlled substance (as that term is defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or

''(v) that is a violation of section 274(a)(1)(A), 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1324(a)(1)(A), 1327, or 1328) (relating to alien smuggling);

''(B) a State offense involving conduct that would constitute an offense under subparagraph (A) if Federal jurisdiction existed or had been exercised; or

''(C) a conspiracy, attempt, or solicitation to commit an offense described in subparagraph (A) or (B).

''(3) STATE.—The term 'State' includes a State of the United States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, and any other territory of possession of the United States.''; and

(2) by striking subsections (b), (c), and (d) and inserting the following:

''(b) CRIMINAL PENALTIES.—Any person who engages in a pattern of criminal gang activity—

''(1) shall be sentenced to—

''(A) a term of imprisonment of not less than 10 years and not more than life, fined in accordance with this title, or both; and

''(B) the forfeiture prescribed in section 413 of the Controlled Substances Act (21 U.S.C. 853); and

''(2) if any person engages in such activity after 1 or more prior convictions under this section have become final, shall be sentenced to—

''(A) a term of imprisonment of not less than 20 years and not more than life, fined in accordance with this title, or both; and

''(B) the forfeiture prescribed in section 412 of the Controlled Substances Act (21 U.S.C. 853).''.

(b) CONFORMING AMENDMENT.—Section 3663(c)(4) of title 18, United States Code, is amended by inserting before ''chapter 46'' the following: ''section 521 of this title,''.

SEC. 1144. INTERSTATE AND FOREIGN TRAVEL OR TRANSPORTATION IN AID OF CRIMINAL STREET GANGS.

(a) TRAVEL ACT AMENDMENTS.—

(1) PROHIBITED CONDUCT AND PENALTIES.—Section 1952(a) of title 18, United States Code, is amended to read as follows:

''(a) PROHIBITED CONDUCT AND PENALTIES.—

''(1) IN GENERAL.—Any person who—

''(A) travels in interstate or foreign commerce or uses the mail or any facility in interstate or foreign commerce, with intent to—

''(i) distribute the proceeds of any unlawful activity; or

''(ii) otherwise promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on, of any unlawful activity; and

''(B) after travel or use of the mail or any facility in interstate or foreign commerce described in subparagraph (A), performs, attempts to perform, or conspires to perform an act described in clause (i) or (ii) of subparagraph (A),

shall be fined under this title, imprisoned not more than 10 years, or both.

''(2) CRIMES OF VIOLENCE.—Any person who—

''(A) travels in interstate or foreign commerce or uses the mail or any facility in interstate or foreign commerce, with intent to commit any crime of violence to further any unlawful activity; and

''(B) after travel or use of the mail or any facility in interstate or foreign commerce described in subparagraph (A), commits, attempts to commit, or conspires to commit any crime of violence to further any unlawful activity,

shall be fined under this title, imprisoned for not more than 20 years, or both, and if death results shall be sentenced to death or be imprisoned for any term of years or for life.''.

(2) DEFINITIONS.—Section 1952(b) of title 18, United States Code, is amended to read as follows:

''(b) DEFINITIONS.—In this section:

''(1) CONTROLLED SUBSTANCE.—The term 'controlled substance' has the same meaning as in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

''(2) STATE.—The term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

''(3) UNLAWFUL ACTIVITY.—The term 'unlawful activity' means—

''(A) predicate gang crime (as that term is defined in section 521);

''(B) any business enterprise involving gambling, liquor on which the Federal excise tax has not been paid, narcotics or controlled substances, or prostitution offenses in violation of the laws of the State in which the offense is committed or of the United States;

''(C) extortion, bribery, arson, robbery, burglary, assault with a deadly weapon, retaliation against or intimidation of witnesses, victims, jurors, or informants, assault resulting in bodily injury, possession of or trafficking in stolen property, illegally trafficking in firearms, kidnapping, alien smuggling, or shooting at an occupied dwelling or motor vehicle, in each case, in violation of the laws of the State in which the offense is committed or of the United States; or

''(D) any act that is indictable under section 1956 or 1957 of this title or under subchapter II of chapter 53 of title 31.''.

(b) AMENDMENT OF SENTENCING GUIDELINES.—

(1) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend chapter 2 of the Federal sentencing guidelines so that—

(A) the base offense level for traveling in interstate or foreign commerce in aid of a criminal street gang or other unlawful activity is increased to 12; and

(B) the base offense level for the commission of a crime of violence in aid of a criminal street gang or other unlawful activity is increased to 24.

(2) DEFINITIONS.—In this subsection—

(A) the term ''crime of violence'' has the same meaning as in section 16 of title 18, United States Code;

(B) the term ''criminal street gang'' has the same meaning as in 521(a) of title 18, United States Code, as amended by section 1243 of this subtitle; and

(C) the term ''unlawful activity'' has the same meaning as in section 1952(b) of title 18, United States Code, as amended by this section.

SEC. 1145. SOLICITATION OR RECRUITMENT OF PERSONS IN CRIMINAL GANG ACTIVITY.

(a) PROHIBITED ACTS.—Chapter 26 of title 18, United States Code, is amended by adding at the end the following:

''§ 522. Recruitment of persons to participate in criminal street gang activity

''(a) PROHIBITED ACT.—It shall be unlawful for any person to—

''(1) use any facility in, or travel in, interstate or foreign commerce, or cause another to do so, to recruit, solicit, request, induce, counsel, command, or cause another person to be a member of a criminal street gang, or conspire to do so; or

''(2) recruit, solicit, request, induce, counsel, command, or cause another person to engage in a predicate gang crime for which such person may be prosecuted in a court of the United States, or conspire to do so.

''(b) PENALTIES.—A person who violates subsection (a) shall—

''(1) if the person recruited—

''(A) is a minor, be imprisoned for a term of not less than 4 years and not more than 10 years, fined in accordance with this title, or both; or

''(B) is not a minor, be imprisoned for a term of not less than 1 year and not more than 10 years, fined in accordance with this title, or both; and

''(2) be liable for any costs incurred by the Federal Government or by any State or local government for housing, maintaining, and treating the minor until the minor reaches the age of 18.

''(c) DEFINITIONS.—In this section—

''(1) the terms 'criminal street gang' and 'predicate gang crime' have the same meanings as in section 521; and

''(2) the term 'minor' means a person who is younger than 18 years of age.''.

(b) SENTENCING GUIDELINES.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend chapter 2 of the Federal sentencing guidelines to provide an appropriate enhancement for any offense involving the recruitment of a minor to participate in a gang activity.

(c) TECHNICAL AMENDMENT.—The chapter analysis for chapter 26 of title 18, United States Code, is amended by adding at the end the following:

''522. Recruitment of persons to participate in criminal street gang activity.''.

SEC. 1146. CRIMES INVOLVING THE RECRUITMENT OF PERSONS TO PARTICIPATE IN CRIMINAL STREET GANGS AND FIREARMS OFFENSES AS RICO PREDICATES.

Section 1961(1) of title 18, United States Code, is amended—

(1) by striking ''or'' before ''(F)''; and

(2) by inserting before the semicolon at the end the following: '', (G) an offense under section 522 of this title, or (H) an act or conspiracy to commit any violation of chapter 44 of this title (relating to firearms)''.

SEC. 1147. PROHIBITIONS RELATING TO FIREARMS.

(a) PENALTIES.—Section 924(a)(6) of title 18, United States Code, is amended—

(1) by striking subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (A);

(3) in subparagraph (A), as redesignated—

(A) by striking ''(B) A person other than a juvenile who knowingly'' and inserting ''(A) A person who knowingly'';

(B) in clause (i), by striking ''not more than 1 year'' and inserting ''not less than 1 year and not more than 5 years''; and

(C) in clause (ii), by inserting ''not less than 1 year and'' after ''imprisoned''; and

(4) by adding at the end the following:

''(B) Notwithstanding subparagraph (A), no mandatory minimum sentence shall apply to a juvenile who is less than 13 years of age.''.

(b) SERIOUS JUVENILE DRUG OFFENSES AS ARMED CAREER CRIMINAL PREDICATES.—Section 924(e)(2)(A) of title 18, United States Code, is amended—

(1) in clause (i), by striking ''or'' at the end;

(2) in clause (ii), by adding ''or'' at the end; and

(3) by adding at the end the following:

''(iii) any act of juvenile delinquency that if committed by an adult would be an offense described in clause (i) or (ii);''.

(c) TRANSFER OF FIREARMS TO MINORS FOR USE IN CRIME.—Section 924(h) of title 18, United States Code, is amended by striking ''10 years, fined in accordance with this title, or both'' and inserting ''10 years, and if the transferee is a person who is under 18 years of age, imprisoned for a term of not less than 3 years, fined in accordance with this title, or both''.

SEC. 1148. AMENDMENT OF SENTENCING GUIDELINES WITH RESPECT TO BODY ARMOR.

(a) DEFINITIONS.—In this section—

(1) the term ''body armor'' means any product sold or offered for sale as personal protective body covering intended to protect against gunfire, regardless of whether the product is to be worn alone or is sold as a complement to another product or garment; and

(2) the term ''law enforcement officer'' means any officer, agent, or employee of the United States, a State, or a political subdivision of a State, authorized by law or by a government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of criminal law.

(b) SENTENCING ENHANCEMENT.—The United States Sentencing Commission shall amend the Federal sentencing guidelines to provide an appropriate sentencing enhancement, increasing the offense level not less than 2 levels, for any crime in which the defendant used body armor.

(c) APPLICABILITY.—No Federal sentencing guideline amendment made pursuant to this section shall apply if the Federal crime in which the body armor is used constitutes a violation of, attempted violation of, or conspiracy to violate the civil rights of a person by a law enforcement officer acting under color of the authority of such law enforcement officer.

SEC. 1149. ADDITIONAL PROSECUTORS.

There are authorized to be appropriated $20,000,000 for each of the fiscal years 1998, 1999, 2000, 2001, and 2002 for the hiring of Assistant United States Attorneys and attorneys in the Criminal Division of the Department of Justice to prosecute juvenile criminal street gangs (as that term is defined in section 521(a) of title 18, United States Code, as amended by section 1243 of this subtitle).

Subtitle C—Juvenile Crime Control and Accountability

SEC. 1161. FINDINGS; DECLARATION OF PURPOSE; DEFINITIONS.

Title I of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) is amended to read as follows:

''TITLE I—FINDINGS AND DECLARATION OF PURPOSE

''SEC. 101. FINDINGS.

''Congress finds that—

''(1) during the past several years, the United States has experienced an alarming increase in arrests of adolescents for murder, assault, and weapons offenses;

''(2) in 1994, juveniles accounted for 1 in 5 arrests for violent crimes, including murder, robbery, aggravated assault, and rape, including 514 such arrests per 100,000 juveniles 10 through 17 years of age;

''(3) understaffed, overcrowded juvenile courts, prosecutorial and public defender offices, probation services, and correctional facilities no longer adequately address the changing nature of juvenile crime, protect the public, and correct youth offenders;

''(4) the juvenile justice system has proven inadequate to meet the needs of society, because insufficient sanctions are imposed on serious youth offenders and the needs of children, who may be at risk of becoming delinquents;

''(5) existing programs and policies have not adequately responded to the particular threat of drugs, alcohol abuse, violence, and gangs pose to the youth of the Nation;

''(6) demographic increases projected in the number of youth offenders require reexamination of the prosecution and incarceration policies for serious violent youth offenders;

''(7) State and local communities that experience directly the devastating failures of the juvenile justice system require assistance to deal comprehensively with the problems of juvenile delinquency;

''(8) Existing Federal programs have not provided the States with necessary flexibility, and have not provided coordination, resources, and leadership required to meet the crisis of youth violence.

''(9) Overlapping and uncoordinated Federal programs have created a multitude of Federal funding streams to State and local governments, that have become a barrier to effective program coordination, responsive public safety initiatives, and the provision of comprehensive services for children and youth.

''(10) Violent crime by juveniles constitutes a growing threat to the national welfare that requires an immediate and comprehensive governmental response, combining flexibility and coordinated evaluation.

''(11) Limited State and local resources are being wasted complying with the unnecessary Federal mandate that status offenders be desinstitutionalized. Some communities believe that curfews are appropriate for juveniles, and those communities should not be prohibited by the Federal Government from using confinement for status offenses as a means of dealing with delinquent behavior before it becomes criminal conduct.

''(12) Limited State and local resources are being wasted complying with the unnecessary Federal mandate that no juvenile be detained or confined in any jail or lockup for adults, because it can be feasible to separate adults and juveniles in 1 facility. This mandate is particularly burdensome for rural communities.

''(13) The role of the Federal Government should be to encourage and empower communities to develop and implement policies to protect adequately the public from serious juvenile crime as well as comprehensive programs to reduce risk factors and prevent juvenile delinquency.

''(14) A strong partnership among law enforcement, local government, juvenile and family courts, schools, businesses, philanthropic organizations, families, and the religious community, can create a community environment that supports the youth of the Nation in reaching their highest potential and reduces the destructive trend of juvenile crime.

''SEC. 102. PURPOSE AND STATEMENT OF POLICY.

''(a) IN GENERAL.—The purposes of this Act are—

''(1) to protect the public and to hold juveniles accountable for their acts;

''(2) to empower States and communities to develop and implement comprehensive programs that support families and reduce risk factors and prevent serious youth crime and juvenile delinquency;

''(3) to provide for the thorough and ongoing evaluation of all federally funded programs addressing juvenile crime and delinquency;

''(4) to provide technical assistance to public and private nonprofit entities that protect public safety, administer justice and corrections to delinquent youth, or provide services to youth at risk of delinquency, and their families;

''(5) to establish a centralized research effort on the problems of youth crime and juvenile delinquency, including the dissemination of the findings of such research and all related data;

''(6) to establish a Federal assistance program to deal with the problems of runaway and homeless youth;

''(7) to assist State and local governments in improving the administration of justice for juveniles;

''(8) to assist the State and local governments in reducing the level of youth violence;

(9) to assist State and local governments in promoting public safety by supporting juvenile delinquency prevention and control activities;

(10) to encourage and promote programs designed to keep in school juvenile delinquents expelled or suspended for disciplinary reasons;

(11) to assist State and local governments in promoting public safety by encouraging accountability through the imposition of meaningful sanctions for acts of juvenile delinquency;

(12) to assist State and local governments in promoting public safety by improving the extent, accuracy, availability and usefulness of juvenile court and law enforcement records and the openness of the juvenile justice system;

(13) to assist State and local governments in promoting public safety by encouraging the identification of violent and hardcore juveniles and transferring such juveniles out of the jurisdiction of the juvenile justice system and into the jurisdiction of adult criminal court;

(14) to assist State and local governments in promoting public safety by providing resources to States to build or expand juvenile detention facilities;

(15) to provide for the evaluation of federally assisted juvenile crime control programs, and training necessary for the establishment and operation of such programs;

(16) to ensure the dissemination of information regarding juvenile crime control programs by providing a national clearinghouse; and

(17) to provide technical assistance to public and private nonprofit juvenile justice and delinquency prevention programs.''.

''(b) STATEMENT OF POLICY.—It is the policy of Congress to provide resources, leadership, and coordination—

''(1) to combat youth violence and to prosecute and punish effectively violent juvenile offenders; and

''(2) to improve the quality of juvenile justice in the United States.

''SEC. 103. DEFINITIONS.

''In this Act:

''(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Office of Juvenile Crime Control and Accountability.

''(2) CONSTRUCTION.—The term 'construction' means acquisition, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings, or any combination of such activities (including architects' fees but not the cost of acquisition of land for buildings).

''(3) JUVENILE POPULATION.—The term 'juvenile population' means the population of a State under 18 years of age.

''(4) OFFICE.—The term 'Office' means the Office of Juvenile Crime Control and Accountability established under section 201.

''(5) OUTCOME OBJECTIVE.—The term 'outcome objective' means an objective that relates to the impact of a program or initiative, that measures the reduction of high risk behaviors, such as incidence of arrest, the commission of criminal acts or acts of delinquency, failure in school, violence, the use of alcohol or illegal drugs, involvement of youth gangs, and teenage pregnancy, among youth in the community.

''(6) PROCESS OBJECTIVE.—The term 'process objective' means an objective that relates to the manner in which a program or initiative is carried out, including—

''(A) an objective relating to the degree to which the program or initiative is reaching the target population; and

''(B) an objective relating to the degree to which the program or initiative addresses known risk factors for youth problem behaviors and incorporates activities that inhibit the behaviors and that build on protective factors for youth.

''(7) STATE.—The term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

''(8) STATE OFFICE.—The term 'State office' means an office designated by the chief executive officer of a State to carry out this title, as provided in section 507 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3757).

''(9) TREATMENT.—The term 'treatment' includes medical and other rehabilitative services designed to protect the public, including any services designed to benefit addicts and other users by—

''(A) eliminating their dependence on alcohol or other addictive or nonaddictive drugs; or

''(B) controlling their dependence and susceptibility to addiction or use.

''(10) YOUTH.—The term 'youth' means an individual who is not less than 6 years of age and not more than 17 years of age.''.

SEC. 1162. YOUTH CRIME CONTROL AND ACCOUNTABILITY BLOCK GRANTS.

(a) OFFICE OF JUVENILE CRIME CONTROL AND ACCOUNTABILITY.—Section 201 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611) is amended—

(1) in subsection (a), by striking ''Office of Juvenile Justice and Delinquency Prevention'' and inserting ''Office of Juvenile Crime Control and Accountability''; and

(2) by adding at the end the following:

''(d) DELEGATION AND ASSIGNMENT.—

''(1) IN GENERAL.—Except as otherwise expressly prohibited by law or otherwise provided by this title, the Administrator may—

''(A) delegate any of the functions of the Administrator, and any function transferred or granted to the Administrator after the date of enactment of this Act, to such officers and employees of the Office as the Administrator may designate; and

''(B) authorize successive redelegations of such functions as may be necessary or appropriate.

''(2) RESPONSIBILITY.—No delegation of functions by the Administrator under this subsection or under any other provision of this title shall relieve the Administrator of responsibility for the administration of such functions.

''(e) REORGANIZATION.—The Administrator may allocate or reallocate any function transferred among the officers of the Office, and establish, consolidate, alter, or discontinue such organizational entities in that Office as may be necessary or appropriate.''.

(b) NATIONAL PROGRAM.—Section 204 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614) is amended to read as follows:

''SEC. 204. NATIONAL PROGRAM.

''(a) NATIONAL JUVENILE CRIME CONTROL AND JUVENILE OFFENDER ACCOUNTABILITY PLAN.—

''(1) IN GENERAL.—The Administrator shall develop objectives, priorities, and short- and long-term plans, and shall implement overall policy and a strategy to carry out such plan, for all Federal juvenile crime control and juvenile offender accountability programs and activities relating to improving juvenile crime control and the enhancement of accountability by offenders within the juvenile justice system in the United States.

''(2) CONTENTS OF PLANS.—

''(A) IN GENERAL.—Each plan described in paragraph (1) shall—

''(i) contain specific, measurable goals and criteria for reducing the incidence of crime and delinquency among juveniles, improving juvenile crime control, and ensuring accountability by offenders within the juvenile justice system in the United States, and shall include criteria for any discretionary grants and contracts, for conducting research, and for carrying out other activities under this title;

''(ii) provide for coordinating the administration of programs and activities under this title with the administration of all other Federal juvenile crime control and juvenile offender accountability programs and activities, including proposals for joint funding to be coordinated by the Administrator;

''(iii) provide a detailed summary and analysis of the most recent data available regarding the number of juveniles taken into custody, the rate at which juveniles are taken into custody, and the trends demonstrated by such data.

''(iv) provide a description of the activities for which amounts are expended under this title;

''(v) provide specific information relating to the attainment of goals set forth in the plan, including specific, measurable standards for assessing progress toward national juvenile crime reduction and juvenile offender accountability goals; and

''(vi) provide for the coordination of Federal, State, and local initiatives for the reduction of youth crime and ensuring accountability for juvenile offenders.

''(B) SUMMARY AND ANALYSIS.—Each summary and analysis under subparagraph (A)(iii) shall set out the information required by clauses (i), (ii), and (iii) of this subparagraph separately for juvenile nonoffenders, juvenile status offenders, and other juvenile offenders. Such summary and analysis shall separately address with respect to each category of juveniles specified in the preceding sentence—

''(i) the types of offenses with which the juveniles are charged;

''(ii) the ages of the juveniles;

''(iii) the types of facilities used to hold the juveniles (including juveniles treated as adults for purposes of prosecution) in custody, including secure detention facilities, secure correctional facilities, jails, and lockups; and

''(iv) the number of juveniles who died while in custody and the circumstances under which each juvenile died.

''(3) ANNUAL REVIEW.—The Administrator shall annually—

''(A) review each plan submitted under this subsection;

''(B) revise the plans, as the Administrator considers appropriate; and

''(C) not later than March 1 of each year, present the plans to the Committees on the Judiciary of the Senate and the House of Representatives.

''(b) DUTIES OF ADMINISTRATOR.—In carrying out this title, the Administrator shall—

''(1) advise the President through the Attorney General as to all matters relating to federally assisted juvenile crime control and juvenile offender accountability programs, and Federal policies regarding juvenile crime and justice, including policies relating to juveniles prosecuted or adjudicated in the Federal courts;

''(2) implement and coordinate Federal juvenile crime control and juvenile offender accountability programs and activities among Federal departments and agencies and between such programs and activities and other Federal programs and activities that the Administrator determines may have an important bearing on the success of the entire national juvenile crime control and juvenile offender accountability effort;

''(3) provide for the auditing of grants provided pursuant to this title;

''(4) collect, prepare, and disseminate useful data regarding the prevention, correction, and control of juvenile crime and delinquency, and issue, not less frequently than once each calendar year, a report on successful programs and juvenile crime reduction methods utilized by States, localities, and private entities;

''(5) ensure the performance of comprehensive rigorous independent scientific evaluations, each of which shall—

''(A) be independent in nature, and shall employ rigorous and scientifically valid standards and methodologies; and

''(B) include measures of outcome and process objectives, such as reductions in juvenile crime, youth gang activity, youth substance abuse, and other high risk factors, as well as increases in protective factors that reduce the likelihood of delinquency and criminal behavior;

''(6) involve consultation with appropriate authorities in the States and with appropriate private entities in the development, review, and revision of the plans required by subsection (a) and in the development of policies relating to juveniles prosecuted or adjudicated in the Federal courts; and

''(7) provide technical assistance to the States, units of local government, and private entities in implementing programs funded by grants under this title.

''(c) NATIONAL JUVENILE CRIME CONTROL AND JUVENILE OFFENDER ACCOUNTABILITY BUDGET.—

''(1) IN GENERAL.—The Administrator shall—

''(A) develop for each fiscal year, with the advice of the program managers of departments and agencies with responsibilities for any Federal juvenile crime control or juvenile offender accountability program, a consolidated National Juvenile Crime Control and Juvenile Offender Accountability Plan budget proposal to implement the National Juvenile Crime Control and Juvenile Offender Accountability Plan; and

''(B) transmit such budget proposal to the President and to Congress.

''(2) SUBMISSION OF JUVENILE OFFENDER ACCOUNTABILITY BUDGET REQUEST.—

''(A) IN GENERAL.—Each Federal Government program manager, agency head, and department head with responsibility for any Federal juvenile crime control or juvenile offender accountability program shall submit the juvenile crime control and juvenile offender accountability budget request of the program, agency, or department to the Administrator at the same time as such request is submitted to their superiors (and before submission to the Office of Management and Budget) in the preparation of the budget of the President submitted to Congress under section 1105(a) of title 31, United States Code.

''(B) TIMELY DEVELOPMENT AND SUBMISSION.—The head of each department or agency with responsibility for a Federal juvenile crime control or juvenile offender accountability program shall ensure timely development and submission to the Administrator of juvenile crime control and juvenile offender accountability budget requests transmitted pursuant to this subsection, in such format as may be designated by the Administrator with the concurrence of the Administrator of the Office of Management and Budget.

''(3) REVIEW AND CERTIFICATION.—The Administrator shall—

''(A) review each juvenile crime control and juvenile offender accountability budget request transmitted to the Administrator under paragraph (2);

''(B) certify in writing as to the adequacy of such request in whole or in part to implement the objectives of the National Juvenile Crime Control and Juvenile Offender Accountability Plan for the year for which the request is submitted and, with respect to a request that is not certified as adequate to implement the objectives of the National Juvenile Crime Control and Juvenile Offender Accountability Plan, include in the certification an initiative or funding level that would make the request adequate; and

''(C) notify the program manager, agency head, or department head, as applicable, regarding the certification of the Administrator under subparagraph (B).

''(4) RECORDKEEPING REQUIREMENT.—The Administrator shall maintain records regarding certifications under paragraph (3)(B).

''(5) FUNDING REQUESTS.—The Administrator shall request the head of a department or agency to include in the budget submission of the department or agency to the Office of Management and Budget, funding requests for specific initiatives that are consistent with the priorities of the President for the National Juvenile Crime Control and Juvenile Offender Accountability Plan and certifications made pursuant to paragraph (3), and the head of the department or agency shall comply with such a request.

''(6) REPROGRAMMING AND TRANSFER REQUESTS.—

''(A) IN GENERAL.—No department or agency with responsibility for a Federal juvenile crime control or juvenile offender accountability program shall submit to Congress a reprogramming or transfer request with respect to any amount of appropriated amounts greater than $5,000,000 that is included in the National Juvenile Crime Control and Juvenile Offender Accountability Plan budget unless such request has been approved by the Administrator.

''(B) The head of any department or agency with responsibility for a Federal juvenile crime control or juvenile offender accountability program may appeal to the President any disapproval by the Administrator of a reprogramming or transfer request.

''(7) QUARTERLY REPORTS.—The Administrator shall report to Congress on a quarterly basis regarding the need for any reprogramming or transfer of appropriated amounts for National Juvenile Crime Control and Juvenile Offender Accountability Plan activities.

''(d) INFORMATION, REPORTS, STUDIES, AND SURVEYS FROM OTHER AGENCIES.—The Administrator may require, through appropriate authority, Federal departments and agencies engaged in any activity involving any Federal juvenile crime control and juvenile offender accountability program to provide the Administrator with such information and reports, and to conduct such studies and surveys, as the Administrator determines to be necessary to carry out the purposes of this title.

''(e) UTILIZATION OF SERVICES AND FACILITIES OF OTHER AGENCIES; REIMBURSEMENT.—The Administrator may utilize the services and facilities of any agency of the Federal Government and of any other public agency or institution in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement as may be agreed upon.

''(f) COORDINATION OF FUNCTIONS OF ADMINISTRATOR AND SECRETARY OF HEALTH AND HUMAN SERVICES.—All functions of the Administrator under title shall be coordinated as appropriate with the functions of the Secretary of Health and Human Services under title III.

''(g) ANNUAL JUVENILE DELINQUENCY DEVELOPMENT STATEMENTS.—

''(1) IN GENERAL.—The Administrator shall require through appropriate authority each Federal agency that administers a Federal juvenile crime control and juvenile offender accountability program to submit annually to the Office a juvenile crime control and juvenile offender accountability development statement. Such statement shall be in addition to any information, report, study, or survey that the Administrator may require under subsection (d).

''(2) CONTENTS.—Each development statement submitted to the Administrator under paragraph (1) shall contain such information, data, and analyses as the Administrator may require. Such analyses shall include an analysis of the extent to which the program of the Federal agency submitting such development statement conforms with and furthers Federal juvenile crime control and juvenile offender accountability prevention and treatment goals and policies.

''(3) REVIEW AND COMMENT.—

''(A) IN GENERAL.—The Administrator shall review and comment upon each juvenile crime control and juvenile offender accountability development statement transmitted to the Administrator under paragraph (1).

''(B) INCLUSION IN OTHER DOCUMENTATION.—Such development statement, together with the comments of the Administrator, shall be included by the Federal agency involved in every recommendation or request made by such agency for Federal legislation that significantly affects juvenile crime control and juvenile offender accountability.

''(h) JUVENILE CRIME CONTROL AND JUVENILE OFFENDER ACCOUNTABILITY INCENTIVE BLOCK GRANTS.—

''(1) IN GENERAL.—The Administrator shall make, subject to the availability of appropriations, grants to States to assist them in planning, establishing, operating, coordinating, and evaluating projects, directly or through grants and contracts with public and private agencies, for the development of more effective investigation, prosecution, and punishment (including the imposition of graduated sanctions) of crimes or acts of delinquency committed by juveniles, programs to improve the administration of justice for and ensure accountability by juvenile offenders, and programs to reduce the risk factors (such as truancy, drug or alcohol use, and gang involvement) associated with juvenile crime or delinquency.

''(2) USE OF GRANTS.—Grants under this title may be used—

''(A) for programs to enhance the identification, investigation, prosecution, and punishment of juvenile offenders, such as—

''(i) the utilization of graduated sanctions;

''(ii) the utilization of short-term confinement of juveniles who are charged with or who are convicted of—

''(I) a crime of violence (as that term is defined in section 16 of title 18, United States Code);

''(II) an offense involving a controlled substance (as that term is defined in section 102 of the Controlled Substances Act (21 U.S.C. 802);

''(III) an offense involving possession of a firearm (as that term is defined in section 921(a) of title 18, United States Code); or

''(IV) an offense involving possession of a destructive device (as that term is defined in section 921(a) of title 18, United States Code);

''(iii) the hiring of prosecutors, judges, and probation officers to implement policies to control juvenile crime and ensure accountability of juvenile offenders; and

''(iv) the incarceration of violent juvenile offenders for extended periods of time (including up to the length of adult sentences);

''(B) for programs that provide restitution to the victims of crimes committed by juveniles;

''(C) for programs that require juvenile offenders to attend and successfully complete school or vocational training;

''(D) for programs that require juvenile offenders who are parents to demonstrate parental responsibility by working and paying child support;

''(E) for programs that seek to curb or punish truancy;

''(F) for programs designed to collect, record, and disseminate information useful in the identification, prosecution, and sentencing of offenders, such as criminal history information, fingerprints, and DNA tests;

''(G) for programs that provide that, whenever a juvenile who is not less than 14 years of age is adjudicated delinquent, as defined by Federal or State law in a juvenile delinquency proceeding for conduct that, if committed by an adult, would constitute a felony under Federal or State law, the State shall ensure that a record is kept relating to the adjudication that is—

''(i) equivalent to the record that would be kept of an adult conviction for such an offense;

''(ii) retained for a period of time that is equal to the period of time that records are kept for adult convictions;

''(iii) made available to law enforcement agencies of any jurisdiction; and

''(iv) made available to officials of a school, school district, or postsecondary school where the individual who is the subject of the juvenile record seeks, intends, or is instructed to enroll, and that such officials are held liable to the same standards and penalties that law enforcement and juvenile justice system employees are held liable to, under Federal and State law, for handling and disclosing such information;

''(H) for juvenile crime control and prevention programs (such as curfews, youth organizations, antidrug programs, antigang programs, and after school activities) that include a rigorous, comprehensive evaluation component that measures the decrease in risk factors associated with the juvenile crime and delinquency and employs scientifically valid standards and methodologies;

''(I) for the development and implementation of coordinated multijurisdictional or multiagency programs for the identification, control, supervision, prevention, investigation, and treatment of the most serious juvenile offenses and offenders, sometimes known as a 'SHOCAP Program' (Serious Habitual Offenders Comprehensive Action Program); or

''(J) for the development and implementation of coordinated multijurisdictional or multiagency programs for the identification, control, supervision, prevention, investigation, and disruption of youth gangs.

''(3) REQUIREMENTS.—To be eligible to receive a grant under this title, a State shall make reasonable efforts, as certified by the Governor, to ensure that, not later than July 1, 2000—

''(A) juveniles age 14 and older can be prosecuted under State law as adults, as a matter of law or prosecutorial discretion for a crime of violence (as that term is defined in section 16 of title 18, United States Code) such as murder or armed robbery, an offense involving a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), or the unlawful possession of a firearm (as that term is defined in section 921(a) of title 18, United States Code) or a destructive device (as that term is defined in section 921(a) of title 18, United States Code);

''(B) the State has in place a system of graduated sanctions for juvenile offenders;

''(C) the State has in place a juvenile court system that treats juvenile offenders uniformly throughout the State;

''(D) the State collects, records, and disseminates information useful in the identification, prosecution, and sentencing of offenders, such as criminal history information, fingerprints, and DNA tests (if taken), to other Federal, State, and local law enforcement agencies;

''(E) the State ensures that religious organizations can participate in rehabilitative programs designed to purposes authorized by this title; and

''(F) the State shall not detain or confine juveniles who are alleged to be or determined to be delinquent in any institution in which the juvenile has regular sustained physical contact with adult persons who are detained or confined.

''(j) DISTRIBUTION BY STATE OFFICES TO ELIGIBLE APPLICANTS.—

''(1) IN GENERAL.—Of amounts made available to the State, not more than 20 percent shall be used for programs pursuant to paragraph (2)(ii).

''(2) ELIGIBLE APPLICANTS.—Entities eligible to receive amounts distributed by the State office under this title are—

''(A) a unit of local government;

''(B) local police or sheriff's departments;

''(C) State or local prosecutor's offices;

''(D) State or local courts responsible for the administration of justice in cases involving juvenile offenders;

''(E) schools;

''(F) nonprofit, educational, religious, or community groups active in crime prevention or drug use prevention and treatment; or

''(G) any combination of the entities described in subparagraphs (A) through (F).

''(k) APPLICATION TO STATE OFFICE.—

''(1) IN GENERAL.—To be eligible to receive amounts from the State office, the applicant shall prepare and submit to the State office an application in written form that—

''(A) describes the types of activities and services for which the amount will be provided;

''(B) includes information indicating the extent to which the activities and services achieve the purposes of the title;

''(C) provide for the evaluation component required by subsection (b)(2), which evaluation shall be conducted by an independent entity; and

''(D) provides any other information that the State office may require.

''(2) PRIORITY.—In approving applications under this subsection, the State office should give priority to those applicants demonstrating coordination with, consolidation of, or expansion of existing State or local juvenile crime control and juvenile offender accountability programs.

''(l) FUNDING PERIOD.—The State office may award such a grant for a period of not more than 3 years.

''(m) RENEWAL OF GRANTS.—The State office may renew grants made under this title. After the initial grant period, in determining whether to renew a grant to an entity to carry out activities, the State office shall give substantial weight to the effectiveness of the activities in achieving reductions in crimes committed by juveniles and in improving the administration of justice to juvenile offenders.

''(n) SPECIAL GRANTS.—Of amounts made available under this title in any fiscal year, the Administrator may use—

''(1) not more than 7 percent for grants for research and evaluation;

''(2) not more than 3 percent for grants to Indian tribes for purposes authorized by this title; and

''(3) not more than 5 percent for salaries and expenses of the Office related to administering this title.''.

(c) REPEALS; ADMINISTRATIVE PROVISIONS.—Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) is amended—

(1) by striking sections 206 and 207 and inserting the following:

''SEC. 206. ALLOCATION OF GRANTS AND AUTHORIZATION OF APPROPRIATIONS.—

''(a) ALLOCATION OF GRANT AMOUNTS.—

''(1) IN GENERAL.—Amounts made available under section 204(h) or part B shall be allocated to the States as follows:

''(A) 0.25 percent shall be allocated to each State; and

''(B) of the total amount remaining after the allocation under subparagraph (A), there shall be allocated to each State an amount that bears the same ratio to the amount of remaining funds described in this paragraph as the juvenile population of such State bears to the juvenile population of all the States.

''(2) EXCEPTIONS.—The amount allocated to the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands shall be not less than $75,000 and not more than $100,000.

''(3) REALLOCATION PROHIBITED.—Any amounts appropriated but not allocated due to the ineligibility or nonparticipation of any State shall not be reallocated, but shall revert to the Treasury at the end of the fiscal year for which they were appropriated.

''(4) RESTRICTIONS ON THE USE OF AMOUNTS.—

''(A) EXPERIMENTATION ON INDIVIDUALS.—

''(i) IN GENERAL.—No amounts made available to carry out this title may be used for any biomedical or behavior control experimentation on individuals or any research involving such experimentation.

''(ii) DEFINITION OF 'BEHAVIOR CONTROL'.—In this subparagraph, the term 'behavior control'—

''(I) means any experimentation or research employing methods that—

''(aa) involve a substantial risk of physical or psychological harm to the individual subject; and

''(bb) are intended to modify or alter criminal and other antisocial behavior, including aversive conditioning therapy, drug therapy, chemotherapy (except as part of routine clinical care), physical therapy of mental disorders, electroconvulsive therapy, or physical punishment; and

''(II) does not include a limited class of programs generally recognized as involving no such risk, including methadone maintenance and certain alcohol treatment programs, psychological counseling, parent training, behavior contracting, survival skills training, restitution, or community service, if safeguards are established for the informed consent of subjects (including parents or guardians of minors).

''(B) PROHIBITION AGAINST USE OF AMOUNTS IN CONSTRUCTION.—No amount made available to any public or private agency, or institution or to any individual under this title (either directly or through a State office) may be used for construction, except for minor renovations or additions to an existing structure.

''(C) JOB TRAINING.—No amount made available under this title may be used to carry out a youth employment program to provide subsidized employment opportunities, job training activities, or school-to-work activities for participants.

''(D) LOBBYING.—

''(i) IN GENERAL.—Except as provided in clause (ii), no amount made available under this title to any public or private agency, organization, or institution or to any individual shall be used to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or other device intended or designed to influence a Member of Congress or any other Federal, State, or local elected official to favor or oppose any Act, bill, resolution, or other legislation, or any referendum, initiative, constitutional amendment, or any other procedure of Congress, any State legislature, any local council, or any similar governing body.

''(ii) EXCEPTION.—This subparagraph does not preclude the use of amounts made available under this title in connection with communications to Federal, State, or local elected officials, upon the request of such officials through proper official channels, pertaining to authorization, appropriation, or oversight measures directly affecting the operation of the program involved.

''(E) LEGAL ACTION.—No amounts made available under this title to any public or private agency, organization, institution, or to any individual, shall be used in any way directly or indirectly to file an action or otherwise take any legal action against any Federal, State, or local agency, institution, or employee.

''(F) RELIGIOUS ORGANIZATIONS.—

''(i) IN GENERAL.—The purpose of this subparagraph is to allow State and local governments to contract with religious organizations, or to allow religious organizations to accept certificates, vouchers, or other forms of disbursement under any program described in this title, on the same basis as any other nongovernmental provider without impairing the religious character of such organizations, and without impairing the religious character of such organizations, and without diminishing the religious freedom of beneficiaries of assistance funded under such program.

''(ii) NONDISCRIMINATION AGAINST RELIGIOUS ORGANIZATIONS.—If a State or local government exercises its authority under religious organizations are eligible, on the same basis as any other private organization, as contractors to provide assistance, or to accept certificates, vouchers, or other forms of disbursement, under any program described in this title, so long as the programs are implemented consistent with the Establishment Clause of the United States Constitution. Except as provided in clause (x), neither the Federal Government nor a State receiving funds under such programs shall discriminate against an organization which is or applies to be a contractor to provide assistance, or which is or applies to be a contractor to provide assistance, or which accepts certificates, vouchers, or other forms of disbursement, on the basis that the organization has a religious character.

''(iii) RELIGIOUS CHARACTER AND FREEDOM.—

''(I) RELIGIOUS ORGANIZATIONS.—A religious organization that participates in a program authorized by this title shall retain its independence from Federal, State, and local governments, including such organization's control over the definition, development, practice, and expression of its religious beliefs.

''(II) ADDITIONAL SAFEGUARDS.—Neither the Federal Government nor a State shall require a religious organization to—

''(aa) alter its form of internal governance; or

''(bb) remove religious art, icons, scripture, or other symbols;

in order to be eligible to contract to provide assistance, or to accept certificates, vouchers, or other forms of disbursements, funded under a program described in this title.

''(iv) RIGHTS OF BENEFICIARIES OF ASSISTANCE.—If juvenile offender has an objection to the religious character of the organization or institution from which the juvenile offender receives, or would receive, assistance funded under any program described in this title, the State in which the individual resides shall provide such individual (if otherwise eligible for such assistance) within a reasonable period of time after the date of such objection with assistance from an alternative provider.

''(v) EMPLOYMENT PRACTICES.—A religious organization's exemption provided under section 702 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–1a) regarding employment practices shall not be affected by its participation in, or receipt of funds from, programs described in this title.

''(vi) NONDISCRIMINATION AGAINST BENEFICIARIES.—Except as otherwise provided in law, a religious organization shall not discriminate against an individual in regard to rendering assistance funded under any program described in this title on the basis of religion, a religious belief, or refusal to actively participate in a religious practice.

''(vii) FISCAL ACCOUNTABILITY.—

''(I) IN GENERAL.—Subject to subclause (II), any religious organization contracting to provide assistance funded under any program described in clause (i)(II) shall be subject to the same regulations as other contractors to account in accord with generally accepted auditing principles for the use of such funds provided under such programs.

''(II) LIMITED AUDIT.—If such organization segregates Federal funds provided under such programs into separate accounts, then only the financial assistance provided with such funds shall be subject to audit.

''(viii) COMPLIANCE.—Any party which seeks to enforce its rights under this subparagraph may assert a civil action for injunctive relief exclusively in an appropriate State court against the entity or agency that allegedly commits such violation.

''(ix) LIMITATIONS ON USE OF FUNDS FOR CERTAIN PURPOSES.—No funds provided directly to institutions or organizations to provide services and administer programs under this title shall be expended for sectarian worship, instruction, or proselytization.

''(x) PREEMPTION.—Nothing in this subparagraph shall be construed to preempt any

provision of a State constitution or State statute that prohibits or restricts the expenditure of State funds in or by religious organizations.

''(5) PENALTIES.—

''(A) IN GENERAL.—If any amounts are used for the purposes prohibited in either subparagraph (D) or (E) of paragraph (4)—

''(i) all funding for the agency, organization, institution, or individual at issue shall be immediately discontinued;

''(ii) the agency, organization, institution, or individual using amounts for the purpose prohibited in subparagraph (D) or (E) of paragraph (4) shall be liable for reimbursement of all amounts granted to the individual or entity for the fiscal year for which the amounts were granted.

''(B) LIABILITY FOR EXPENSES AND DAMAGES.—In relation to a violation of paragraph (4)(D), the individual filing the lawsuit or responsible for taking the legal action against the Federal, State, or local agency or institution, or individual working for the Government, shall be individually liable for all legal expenses and any other expenses of the government agency, institution, or individual working for the Government, including damages assessed by the jury against the Government agency, institution, or individual working for the government, and any punitive damages.

''(b) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to carry out this title—

''(A) $650,000,000 for fiscal year 1998;

''(B) $650,000,000 for fiscal year 1999;

''(C) $650,000,000 for fiscal year 2000;

''(D) $650,000,000 for fiscal year 2001; and

''(E) $650,000,000 for fiscal year 2002.

''(2) ALLOCATION OF APPROPRIATIONS.—Of amounts authorized to be appropriated under paragraph (1) in each fiscal year—

''(A) $500,000,000 shall be for programs under section 204(h); and

''(B) $150,000,000 shall be for programs under part B.

''(3) AVAILABILITY OF FUNDS.—Amounts made available pursuant to this subsection, and allocated pursuant to paragraph (1) in any fiscal year shall remain available until expended.

''SEC. 207. ADMINISTRATIVE PROVISIONS.

''(a) AUTHORITY OF ADMINISTRATOR.—The Office shall be administered by the Administrator under the general authority of the Attorney General.

''(b) APPLICABILITY OF CERTAIN CRIME CONTROL PROVISIONS.—Sections 809(c), 811(a), 811(b), 811(c), 812(a), 812(b), and 812(d) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789d(c), 3789f(a), 3789f(b), 3789f(c), 3789g(a), 3789g(b), 3789g(d)) shall apply with respect to the administration of and compliance with this Act, except that for purposes of this Act—

''(1) any reference to the Office of Justice Programs in such sections shall be considered to be a reference to the Assistant Attorney General who heads the Office of Justice Programs; and

''(2) the term 'this title' as it appears in such sections shall be considered to be a reference to this Act.

''(c) APPLICABILITY OF CERTAIN OTHER CRIME CONTROL PROVISIONS.—Sections 801(a), 801(c), and 806 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711(a), 3711(c), and 3787) shall apply with respect to the administration of and compliance with this Act, except that, for purposes of this Act—

''(1) any reference to the Attorney General, the Assistant Attorney General who heads the Office of Justice Programs, the Director of the National Institute of Justice, the Director of the Bureau of Justice Statistics, or the Director of the Bureau of Justice Assistance shall be considered to be a reference to the Administrator;

''(2) any reference to the Office of Justice Programs, the Bureau of Justice Assistance, the National Institute of Justice, or the Bureau of Justice Statistics shall be considered to be a reference to the Office of Juvenile Justice and Delinquency Prevention; and

''(3) the term 'this title' as it appears in such sections shall be considered to be a reference to this Act.

''(d) RULES, REGULATIONS, AND PROCEDURES.—The Administrator may, after appropriate consultation with representatives of States and units of local government, establish such rules, regulations, and procedures as are necessary for the exercise of the functions of the Office and as are consistent with the purpose of this Act.

''(e) WITHHOLDING.—The Administrator shall initiate such proceedings as the Administrator determines to be appropriate if the Administrator, after giving reasonable notice and opportunity for hearing to a recipient of financial assistance under this title, finds that—

''(1) the program or activity for which the grant or contract involved was made has been so changed that the program or activity no longer complies with this title; or

''(2) in the operation of such program or activity there is failure to comply substantially with any provision of this title.'';

(2) in part B—

(A) in section 221(b)—

(i) in paragraph (1)—

(I) by striking ''section 223'' and inserting ''section 222''; and

(II) by striking ''section 223(c)'' and inserting ''section 222(c)''; and

(ii) in paragraph (2), by striking ''section 299(c)(1)'' and inserting ''section 222(a)(1)''; and

(B) by striking sections 222 and 223 and inserting the following:

''SEC. 222. STATE PLANS.

''(a) IN GENERAL.—In order to receive formula grants under this part, a State shall submit a plan for carrying out its purposes applicable to a 3-year period. The State shall submit annual performance reports to the Administrator which shall describe progress in implementing programs contained in the original plan, and shall describe the status of compliance with State plan requirements. In accordance with regulations which the Administrator shall prescribe, such plan shall—

''(1) designate a State agency as the sole agency for supervising the preparation and administration of the plan;

''(2) contain satisfactory evidence that the State agency designated in accordance with paragraph (1) has or will have authority, by legislation if necessary, to implement such plan in conformity with this part;

''(3) provide for the active consultation with and participation of units of general local government or combinations thereof in the development of a State plan which adequately takes into account the needs and requests of local governments, except that nothing in the plan requirements, or any regulations promulgated to carry out such requirements, shall be construed to prohibit or impede the State from making grants to, or entering into contracts with, local private agencies, including religious organizations;

''(4) provide that the chief executive officer of the unit of general local government shall assign responsibility for the preparation and administration of the local government's part of a State plan, or for the supervision of the preparation and administration of the local government's part of the State plan, to that agency within the local government's structure or to a regional planning agency (in this part referred to as the 'local agency') which can most effectively carry out the purposes of this part and shall provide for supervision of the programs funded under this part by that local agency;

''(5)(A) provide for—

''(i) an analysis of juvenile crime problems (including the joining of gangs that commit crimes) and juvenile justice and delinquency prevention needs (including educational needs) within the relevant jurisdiction (including any geographical area in which an Indian tribe performs law enforcement functions), a description of the services to be provided, and a description of performance goals and priorities, including a specific statement of the manner in which programs are expected to meet the identified juvenile crime problems (including the joining of gangs that commit crimes) and juvenile justice and delinquency prevention needs (including educational needs) of the jurisdiction;

''(ii) an indication of the manner in which the programs relate to other similar State or local programs which are intended to address the same or similar problems; and

''(iii) a plan for the concentration of State efforts which shall coordinate all State juvenile delinquency programs with respect to overall policy and development of objectives and priorities for all State juvenile delinquency programs and activities, including provision for regular meetings of State officials with responsibility in the area of juvenile justice and delinquency prevention;

''(B) contain—

''(i) an analysis of services for the prevention and treatment of juvenile delinquency in rural areas, including the need for such services, the types of such services available in rural areas, and geographically unique barriers to providing such services; and

''(ii) a plan for providing needed services for the prevention and treatment of juvenile delinquency in rural areas; and

''(C) contain—

''(i) an analysis of mental health services available to juveniles in the juvenile justice system (including an assessment of the appropriateness of the particular placements of juveniles in order to receive such services) and of barriers to access to such services; and

''(ii) a plan for providing needed mental health services to juveniles in the juvenile justice system;

''(6) provide for the active consultation with and participation of private agencies in the development and execution of the State plan; and provide for coordination and maximum utilization of existing juvenile delinquency programs and other related programs, such as education, special education, recreation, health, and welfare within the State;

''(7) provide for the development of an adequate research, training, and evaluation capacity within the State;

''(8) provide that not less than 75 percent of the funds made available to the State pursuant to grants under section 221, whether expended directly by the State, by the unit of general local government, or by a combination thereof, or through grants and contracts with public or private nonprofit agencies, shall be used for—

''(A) community-based alternatives (including home-based alternatives) to incarceration and institutionalization, specifically—

''(i) for youth who can remain at home with assistance, home probation and programs providing professional supervised group activities or individualized mentoring relationships with adults that involve the family and provide counseling and other supportive services;

''(ii) for youth who need temporary placement, crisis intervention, shelter, and aftercare; and

''(iii) for youth who need residential placement, a continuum of foster care or group home alternatives that provide access to a comprehensive array of services;

''(B) community-based programs and services to work with—

''(i) parents and other family members to strengthen families, including parent self-help groups, so that juveniles may be retained in their homes;

''(ii) juveniles during their incarceration, and with their families, to ensure the safe return of such juveniles to their homes and to strengthen the families; and

''(iii) parents with limited English-speaking ability, particularly in areas where there is a large population of families with limited-English speaking ability;

''(C) comprehensive juvenile justice and delinquency prevention programs that meet the needs of youth through the collaboration of the many local systems before which a youth may appear, including schools, courts, law enforcement agencies, child protection agencies, mental health agencies, welfare services, health care agencies, and private nonprofit agencies offering youth services;

''(D) projects designed to develop and implement programs stressing advocacy activities aimed at improving services for and protecting the rights of youth affected by the juvenile justice system;

''(E) educational programs or supportive services for delinquent or other juveniles, provided equitably regardless of sex, race, or family income, designed to—

''(i) encourage juveniles to remain in elementary and secondary schools or in alternative learning situations, including—

''(I) education in settings that promote experiential, individualized learning and exploration of academic and career options;

''(II) assistance in making the transition to the world of work and self-sufficiency;

''(III) alternatives to suspension and expulsion; and

''(IV) programs to counsel delinquent juveniles and other juveniles regarding the opportunities that education provides; and

''(ii) enhance coordination with the local schools that such juveniles would otherwise attend, to ensure that—

''(I) the instruction that juveniles receive outside school is closely aligned with the instruction provided in school; and

''(II) information regarding any learning problems identified in such alternative learning situations are communicated to the schools;

''(F) expanded use of home probation and recruitment and training of home probation officers, other professional and paraprofessional personnel, and volunteers to work effectively to allow youth to remain at home with their families as an alternative to incarceration or institutionalization;

''(G) youth-initiated outreach programs designed to assist youth (including youth with limited proficiency in English) who otherwise would not be reached by traditional youth assistance programs;

''(H) programs designed to develop and implement projects relating to juvenile delinquency and learning disabilities, including on-the-job training programs to assist community services, law enforcement, and juvenile justice personnel to more effectively recognize and provide for learning disabled and other handicapped youth;

''(I) projects designed both to deter involvement in illegal activities and to promote involvement in lawful activities on the part of gangs whose membership is substantially composed of youth;

''(J) programs and projects designed to provide for the treatment of youths' dependence on or abuse of alcohol or other addictive or nonaddictive drugs;

''(K) law-related education programs (and projects) for delinquent and at-risk youth designed to prevent juvenile delinquency;

''(L) programs for positive youth development that assist delinquent and other at-risk youth in obtaining—

''(i) a sense of safety and structure;

''(ii) a sense of belonging and membership;

''(iii) a sense of self-worth and social contribution;

''(iv) a sense of independence and control over one's life;

''(v) a sense of closeness in interpersonal relationships; and

''(vi) a sense of competence and mastery including health and physical competence, personal and social competence, cognitive and creative competence, vocational competence, and citizenship competence, including ethics and participation;

''(M) programs that, in recognition of varying degrees of the seriousness of delinquent behavior and the corresponding gradations in the responses of the juvenile justice system in response to that behavior, are designed to—

''(i) encourage courts to develop and implement a continuum of post-adjudication restraints that bridge the gap between traditional probation and confinement in a correctional setting (including expanded use of probation, mediation, restitution, community service, treatment, home detention, intensive supervision, electronic monitoring, boot camps and similar programs, and secure community-based treatment facilities linked to other support services such as health, mental health, education (remedial and special), job training, and recreation); and

''(ii) assist in the provision by the Administrator of information and technical assistance, including technology transfer, to States in the design and utilization of risk assessment mechanisms to aid juvenile justice personnel in determining appropriate sanctions for delinquent behavior;

''(N) programs designed to prevent and reduce hate crimes committed by juveniles, including educational programs and sentencing programs designed specifically for juveniles who commit hate crimes and that provide alternatives to incarceration; and

''(O) programs (including referral to literacy programs and social service programs) to assist families with limited English-speaking ability that include delinquent juveniles to overcome language and cultural barriers that may prevent the complete treatment of such juveniles and the preservation of their families;

''(9) provide for the development of an adequate research, training, and evaluation capacity within the State;

''(10) provide that the State shall not detain or confine juveniles who are alleged to be or determined to be delinquent in any institution in which the juvenile has regular sustained physical contact with adult persons who are detained or confined;

''(11) provide for an adequate system of monitoring jails, detention facilities, correctional facilities, and non-secure facilities to insure that the requirements of paragraph (10) are met, and for annual reporting of the results of such monitoring to the Administrator, except that such reporting requirements shall not apply in the case of a State which is in compliance with the other requirements of this paragraph, which is in compliance with the requirements in paragraph (10), and which has enacted legislation which conforms to such requirements and which contains, in the opinion of the Administrator, sufficient enforcement mechanisms to ensure that such legislation will be administered effectively;

''(12) provide assurance that youth in the juvenile justice system are treated equitably on the basis of gender, race, family income, and mentally, emotionally, or physically handicapping conditions;

''(13) provide assurance that consideration will be given to and that assistance will be available for approaches designed to strengthen the families of delinquent and other youth to prevent juvenile delinquency (which approaches should include the involvement of grandparents or other extended family members when possible and appropriate and the provision of family counseling during the incarceration of juvenile family members and coordination of family services when appropriate and feasible);

''(14) provide for procedures to be established for protecting the rights of recipients of services and for assuring appropriate privacy with regard to records relating to such services provided to any individual under the State plan;

''(15) provide for such fiscal control and fund accounting procedures necessary to assure prudent use, proper disbursement, and accurate accounting of funds received under this title;

''(16) provide reasonable assurances that Federal funds made available under this part for any period shall be so used as to supplement and increase (but not supplant) the level of the State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs described in this part, and shall in no event replace such State, local, and other non-Federal funds; and

''(17) provide that the State agency designated under paragraph (1) will from time to time, but not less often than annually, review its plan and submit to the Administrator an analysis and evaluation of the effectiveness of the programs and activities carried out under the plan, and any modifications in the plan, including the survey of State and local needs, which it considers necessary.

''(b) APPROVAL BY STATE AGENCY.—The State agency designated under subsection (a)(1) shall approve the State plan and any modification thereof prior to submission to the Administrator.

''(c) APPROVAL BY ADMINISTRATOR; COMPLIANCE WITH STATUTORY REQUIREMENTS.—

''(1) IN GENERAL.—The Administrator shall approve any State plan and any modification thereof that meets the requirements of this section.

''(2) REDUCED ALLOCATIONS.—If a State fails to comply with any requirement of subsection (a)(8) in any fiscal year beginning after January 1, 1998, the State shall be ineligible to receive any allocation under that section for such fiscal year unless—

''(A) the State agrees to expend all the remaining funds the State receives under this part (excluding funds required to be expended to comply with subsection (a)(4)(C)) for that fiscal year only to achieve compliance with such paragraph; or

''(B) the Administrator determines, in the discretion of the Administrator, that the State—

''(i) has achieved substantial compliance with such paragraph; and

''(ii) has made, through appropriate executive or legislative action, an unequivocal commitment to achieving full compliance within a reasonable time.''; and

(3) by striking parts C, D, E, F, G, and H, and each part designated as part I.

SEC. 1163. RUNAWAY AND HOMELESS YOUTH.

Section 385 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5751) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''1993 and such sums as may be necessary for fiscal years 1994, 1995, and 1996'' and inserting ''1998 and such sums as may be necessary for fiscal years 1999, 2000, 2001, and 2002''; and

(B) by striking paragraph (3) and redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively;

(2) in subsection (b), by striking ''1993 and such sums as may be necessary for fiscal years 1994, 1995, and 1996'' and inserting ''1998 and such sums as may be necessary for fiscal years 1999, 2000, 2001, and 2002''; and

(3) in subsection (c), by striking ''1993, 1994, 1995, and 1996'' and inserting ''1998, 1999, 2000, 2001, and 2002''.

SEC. 1164. AUTHORIZATION OF APPROPRIATIONS.

Title IV of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5771 et seq.) is amended—

(1) in section 403, by striking paragraph (2) and inserting the following:

''(2) the term 'Administrator' means the Administrator of the Office of Juvenile Crime Control and Accountability.'';

(2) by striking section 404; and

(3) in section 408, by striking ''1993, 1994, 1995, and 1996'' and inserting ''1998, 1999, 2000, 2001, and 2002''.

SEC. 1165. REPEAL.

Title V of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5781 et seq.) is repealed.

SEC. 1166. TRANSFER OF FUNCTIONS AND SAVINGS PROVISIONS.

(a) DEFINITIONS.—In this section, unless otherwise provided or indicated by the context—

(1) the term ''Administrator of the Office'' means the Administrator of the Office of Juvenile Justice and Delinquency Prevention;

(2) the term ''Bureau of Justice Assistance'' means the bureau established under section 401 of title I of the Omnibus Crime Control and Safe Streets Act of 1968;

(3) the term ''Administrator'' means the Administrator of the Office of Juvenile Crime Control and Accountability established by operation of subsection (b);

(4) the term ''Federal agency'' has the meaning given the term ''agency'' by section 551(1) of title 5, United States Code;

(5) the term ''function'' means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program;

(6) the term ''Office of Juvenile Crime Control and Accountability'' means the office established by operation of subsection (b);

(7) the term ''Office of Juvenile Justice and Delinquency Prevention'' means the Office of Juvenile Justice and Delinquency Prevention within the Department of Justice, established by section 201 of the Juvenile Justice and Delinquency Prevention Act of 1974, as in effect on the day before the date of enactment of this Act; and

(8) the term ''office'' includes any office, administration, agency, institute, unit, organizational entity, or component thereof.

(b) TRANSFER OF FUNCTIONS.—There are transferred to the Office of Juvenile Crime Control and Accountability all functions that the Administrator of the Office exercised before the date of enactment of this Act (including all related functions of any officer or employee of the Office of Juvenile Justice and Delinquency Prevention), and authorized after the enactment of this Act, relating to carrying out the Juvenile Justice and Delinquency Prevention Act of 1974.

(c) TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL.—

(1) IN GENERAL.—Except as otherwise provided in this section and in section 101(a) (relating to Juvenile Justice Programs) of the Omnibus Consolidated Appropriations Act, 1997, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other amounts employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by this section, subject to section 1531 of title 31, United States Code, shall be transferred to the Office of Juvenile Crime Control and Accountability.

(2) UNEXPENDED AMOUNTS.—Any unexpended amounts transferred pursuant to this subsection shall be used only for the purposes for which the amounts were originally authorized and appropriated.

(d) INCIDENTAL TRANSFERS.—

(1) IN GENERAL.—The Director of the Office of Management and Budget, at such time or times as the Director of that Office shall provide, may make such determinations as may be necessary with regard to the functions transferred by this section, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other amounts held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out this section.

(2) TERMINATION OF AFFAIRS.—The Director of the Office of Management and Budget shall provide for the termination of the affairs of all entities terminated by this section and for such further measures and dispositions as may be necessary to effectuate the purposes of this section.

(e) EFFECT ON PERSONNEL.—

(1) IN GENERAL.—Except as otherwise provided by this section, the transfer pursuant to this section of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for 1 year after the date of transfer of such employee under this section.

(2) EXECUTIVE SCHEDULE POSITIONS.—Except as otherwise provided in this section, any person who, on the day before the date of enactment of this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Office of Juvenile Crime Control and Accountability to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position, for the duration of the service of such person in such new position.

(3) TRANSITION RULE.—

(A) IN GENERAL.—The incumbent Administrator of the Office as of the date immediately preceding the date of enactment of this Act shall continue to serve as Administrator after the enactment of this Act until such time as the incumbent resigns, is relieved of duty by the President, or an Administrator is appointed by the President, by and with the advice and consent of the Senate.

(B) NOMINEE.—Not later than 6 months after the date of enactment of this Act, the President shall submit to the Senate for consideration the name of the individual nominated to be appointed as the Administrator.

(f) SAVINGS PROVISIONS.—

(1) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(A) that have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions that are transferred under this section; and

(B) that are in effect at the time this section takes effect, or were final before the date of enactment of this Act and are to become effective on or after the date of enactment of this Act, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Administrator, or other authorized official, a court of competent jurisdiction, or by operation of law.

(2) PROCEEDINGS NOT AFFECTED.—

(A) IN GENERAL.—This section shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the Office of Juvenile Justice and Delinquency Prevention on the date on which this section takes effect, with respect to functions transferred by this section but such proceedings and applications shall be continued.

(B) ORDERS; APPEALS; PAYMENTS.—Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this section had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(C) DISCONTINUANCE OR MODIFICATION.—Nothing in this paragraph shall be construed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this paragraph had not been enacted.

(3) SUITS NOT AFFECTED.—This section shall not affect suits commenced before the date of enactment of this Act, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this section had not been enacted.

(4) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Office of Juvenile Justice and Delinquency Prevention, or by or against any individual in the official capacity of such individual as an officer of the Office of Juvenile Justice and Delinquency Prevention, shall abate by reason of the enactment of this section.

(5) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by the Office of Juvenile Justice and Delinquency Prevention relating to a function transferred under this section may be continued, to the extent authorized by this section, by the Office of Juvenile Crime Control and Accountability with the same effect as if this section had not been enacted.

(g) TRANSITION.—The Administrator may utilize—

(1) the services of such officers, employees, and other personnel of the Office of Juvenile Justice and Delinquency Prevention with respect to functions transferred to the Office of Juvenile Crime Control and Accountability by this section; and

(2) amounts appropriated to such functions for such period of time as may reasonably be needed to facilitate the orderly implementation of this section.

(h) REFERENCES.—Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to—

(1) the Administrator of the Office of Juvenile Justice and Delinquency Prevention with regard to functions transferred by operation of subsection (b), shall be considered to refer to the Administrator of the Office of Juvenile Crime Control and Accountability; and

(2) the Office of Juvenile Justice and Delinquency Prevention with regard to functions transferred by operation of subsection (b), shall be considered to refer to the Office of Juvenile Crime Control and Accountability.

(i) TECHNICAL AND CONFORMING AMENDMENT.—Section 5315 of title 5, United States Code, is amended by striking ''Administrator, Office of Juvenile Crime Control and Accountability''.

SEC. 1167. REPEAL OF UNNECESSARY AND DUPLICATIVE PROGRAMS.

(a) VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994.—

(1) TITLE III.—Title III of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13741 et seq.) is amended by striking subtitles A through S, subtitle U, and subtitle X.

(2) TITLE V.—Title V of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 3797 et seq.) is repealed.

(3) TITLE XXVII.—Title XXVII of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14191 et seq.) is repealed.

(b) ELEMENTARY AND SECONDARY EDUCATION ACT.—

(1) TITLE IV.—Title IV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7101) is repealed.

(2) TITLE V.—Part C of title V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7261 et seq.) is repealed.

(d) PUBLIC HEALTH SERVICE ACT.—Section 517 of the Public Health Service Act (42 U.S.C. 290bb–23) is repealed.

(e) HUMAN SERVICES REAUTHORIZATION ACT.—Section 408 of the Human Services Reauthorization Act is repealed.

(f) COMMUNITY SERVICES BLOCK GRANTS ACT.—Section 682 of the Community Services Block Grants Act (42 U.S.C. 9901) is repealed.

(g) ANTI-DRUG ABUSE ACT.—Subtitle B of title III of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11801 et seq.) is amended by striking chapters 1 and 2.

SEC. 1168. HOUSING JUVENILE OFFENDERS.

Section 20105(a)(1) of subtitle A of title II of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13705(a)(1)) is amended by striking ''15'' and inserting ''30''.

SEC. 1169. CIVIL MONETARY PENALTY SURCHARGE.

(a) IMPOSITION.—Subject to subsection (b) and notwithstanding any other provision of law, a surcharge of 40 percent of the principal amount of a civil monetary penalty shall be added to each civil monetary penalty assessed by the United States or any agency thereof at the time the penalty is assessed.

(b) LIMITATION.—This section does not apply to any monetary penalty assessed under the Internal Revenue Code of 1986.

(c) USE OF SURCHARGES.—Amounts collected from the surcharge imposed under this section shall be used for Federal programs to combat youth violence.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—A surcharge under subsection (b) shall be added to each civil monetary penalty assessed on or after the later of October 1, 1997 and the date of enactment of this Act.

(2) EXPIRATION OF AUTHORITY.—The authority to add a surcharge under this subsection shall terminate at the close of September 30, 2002.

By Mr. ASHCROFT (for himself, Mrs. HUTCHISON, Mr. LOTT, Mr. NICKLES, Mr. CRAIG, Ms. COLLINS, Mr. DEWINE, Mr. ALLARD, Mr. BROWNBACK, Mr. CHAFEE, Mr. COATS, Mr. DOMENICI, Mr. ENZI, Mr. FAIRCLOTH, Mr. GRAMM, Mr. GRAMS, Mr. GRASSLEY, Mr. HAGEL, Mr. HATCH, Mr. HELMS, Mr. HUTCHINSON, Mr. KYL, Mr. MURKOWSKI, Mr. ROBERTS, Mr. SESSIONS, Mr. THURMOND, Mr. WARNER, Mr. COVERDELL, and Mr. JEFFORDS):

S. 4. A bill to amend the Fair Labor Standards Act of 1938 to provide to private sector employees the same opportunities for time-and-a-half compensatory time off, biweekly work programs, and flexible credit hour programs as Federal employees currently enjoy to help balance the demands and needs of work and family, to clarify the provisions relating to exemptions of certain professionals from the minimum wage and overtime requirements of the Fair Labor Standards Act of 1938, and for other purposes; to the Committee on Labor and Human Resources.

THE FAMILY FRIENDLY WORKPLACE ACT

Mr. ASHCROFT. Mr. President, I am delighted to have the opportunity to file, in conjunction with Senators HUTCHISON, LOTT, NICKLES, CRAIG, COLLINS, ENZI, GRASSLEY, COATS, WARNER, HELMS, B. SMITH, and GRAMM, the Family Friendly Workplace Act. This is an important piece of legislation, which should free our families from inflexible work schedules in order to meet the competing demands of the workplace and their families.

This demand for our time, which stresses us and stretches us, has been recognized by people on both sides of the political aisle. As a matter of fact, the Clinton administration's Labor Department developed a report to the Nation and to the President called ''Working Women Count.'' In order to do so, they surveyed hundreds of thousands of working women. And the conclusion of the report is as follows:

The number one issue women want to bring to the President's attention is the difficulty of balancing work and family obligations.

The Family Friendly Workplace Act is a way of helping people do just that—meet their responsibilities to their employers and meet their responsibilities to their families. Frankly, it is a way of doing it without taking a pay cut.

Now, some have suggested that the way to do this is to have a family leave policy that allows workers to simply take time off work without pay. Well, that really exacerbates some of the tension in most of our families, because we have financial tension as well as this social tension that stretches us between the workplace and the home place. And so, really, what we have in the Family Friendly Workplace Act is the ability to have flexible working schedules at the option of the employee and at the request of the employee, when the employer will agree, that allows a person, for instance, to take time off on Friday afternoon and to make it up on Monday.

Most Americans don't realize it, but it is against the law for an employer to agree with his employee that the employee can take time off on Friday afternoon to see his daughter get an award at the local high school and to make up that same time on Monday. The strict laws about hours and overtime make it difficult for that to happen, make it impossible, make it illegal.

Those laws were developed in the 1930's. They put a lot of stress on American families. In the 1930's, we didn't have so many working mothers. One out of every 6 mothers of school-aged children worked in the 1930's, and well over 70 percent of them work in the 1990's. As we move to the next century, it is time for us to revamp our approach and to welcome the next century by accommodating these competing demands.

Flexible work arrangements have been available to Federal Government workers since 1978—in the 1970's, 1980's, and 1990's, Government workers have had a special privilege. The Federal program has been so successful that the President of the United States, by Executive order in 1993 extended it to parts of the Federal Government that had not yet had the benefits of that program. It is high time that the workers in the private sector of this country enjoy the same benefits of agreeing with their employers on flexible working arrangements at the option of the worker, never to be imposed by the employer, which would allow the worker to accommodate the competing needs and demands of family and the workplace.

Allowing workplace flexibility is a tremendous step forward. It has been asked for by the women of America as reflected in the Clinton administration document. It has been written about, like this Time Magazine article featuring the difficulties of Lori Lucas, a single mother, working full-time in Shrewsbury, Missouri. The President of the United States has talked about flextime and the need to have it, and it is time for us to deliver it to the American people—albeit 15 or more years after we delivered it to the workers in the Federal Government.

I believe that working women know what they need. Working Women Magazine and Working Mother magazines have endorsed it, and is time to have those flexible working arrangements. Working Women Magazine said in its support of this legislation, that it is time for Congress to give women what they want, and not what you Congress thinks they need.

Similarly, when parents spend time at work, they can never replace that

time with their families no matter how much overtime they may bring home. Sometimes people would like, instead of being paid time and a half for overtime, to take time and a half off sometime later in order to spend time with their families. That is another part of this bill—to allow people to take as compensation for overtime—compensatory time instead of money. While it would allow a worker to ask for the money, the worker would have a complete, unchallenged and unfettered right to be paid money for the overtime.

This bill is really designed to give workers choices and the opportunity to choose to be with their families instead of being forced to take their overtime in money. For some workers, there comes a point when no matter how much money they have, they simply want and need to be able to spend some time with their families.

I am delighted that I have been joined in this particular endeavor in developing this legislation by one of the individuals who is most careful regarding the rights, options and choices of individuals not only in the workplace but as American citizens. I would like to yield to the Senator from Texas, Senator HUTCHISON, who is the primary cosponsor of this legislation, the Family Friendly Workplace Act, and to call upon her for remarks.

The PRESIDING OFFICER (Mr. FRIST). The Senator from Texas is recognized.

Mrs. HUTCHISON. Thank you, Mr. President. I thank the Senator from Missouri for providing leadership on this very important issue. He was out there fighting for this issue from the first day he came to the Senate, and he has certainly demonstrated his commitment to family flexibility throughout his Government career.

I am reminded of the speech that I heard my friend, Congresswoman SUSAN MOLINARI, give this summer. Congresswoman MOLINARI is a working mom. She says what we need most as working moms in this country is more hours in the day. Senator ASHCROFT and I would like to provide more hours in the day. That is not an option for us. But we are going to do something that we think will be second best to producing more hours in a day for a working mom or a working dad who wants to work or is forced to work to make ends meet, either way, but yet also wants more time with his or her children.

This bill will primarily benefit the hourly employees in our country. Because salaried employees are presently exempt from many federal wage and hour laws, this is not as much an issue for them. They and their employers are able to work out flexible work arrangements. But in the hourly category, employers and employees do not have that option. They are not able to do what anybody would think in this country is common sense; and that is sit down and say, ''Could I work 2 extra hours on Friday in order to take off at 3 o'clock to go to the PTA meeting on Monday?'' That is what Senator ASHCROFT and I would like to do with the Family Friendly Workplace Act that we have introduced today.

It is a fact that in two-thirds of the households in this country, both the mother and the father are working. In fact, 75 percent of the mothers of young children are now in the workplace. So we must address the ever-increasing demands on working moms and working dads—to allow them to have more time to do what they need to do to bring their families together and to keep them close-knit. This requires going to the PTA meetings, going to the afternoon basketball game, or to the soccer game, or whatever it is that will allow that family to bond together and maintain its strength, thereby strengthening our country. We all know that the family unit is the core strength of our nation, and if we allow that to deteriorate, then nothing else is going to matter. In the history of civilization, no country has ultimately survived where the family unit has deteriorated.

That is why we are looking for creative ways to help the working family—and in this case it is the hourly wage working families who are struggling the hardest to make ends meet—to be able to do what they need to do for their families while maintaining a good working relationship with their employers and preserving their family income.

The bill that Senator ASHCROFT and I are introducing today will relieve stress in the family by allowing the employer and the hourly employee to sit down and negotiate to, for example, take off two hours today and work an additional two hours the following week, or perhaps to work an extra hour every day and bank that time for use when a family need arises, or to work required overtime and have a choice about whether they take time-and-a-half compensation or time and a half hours because then they can bank that time and do even more with their families.

In fact, there was a poll conducted by Penn & Shoen and Associates that revealed that 75 percent of all employees would like to have the ability to choose between getting time-and-a-half in either wages or time. Fifty-seven percent would take time off instead of being paid, if the option were available.

So why not make these options available? The Family Friendly Workplace Act makes these options available, on a totally voluntary basis. There are strict requirements in this law that will keep employers from in any way requiring or coercing an employee to work and not take overtime pay. We want to make sure that does not happen. That is why the law is written very carefully to make sure that it could not happen, and that it will only give employees and employers the ability to voluntarily sit down and do what they think make sense for their schedules and needs.

Let me also mention that where there are union agreements in effect, this law will not affect those agreements. This legislation does not encroach on the collective bargaining of unions in any way. Rather, it would apply to employees who are not in unions who now are restricted by a wage-and-hour law that says you cannot have the option of working a couple of hours on Friday in order to take off at 3 o'clock on Monday. That is exactly what Senator ASHCROFT and I seek to enact with this legislation.

I commend Senator ASHCROFT for his leadership in this area. We are going to work with our colleagues on both sides of the aisle and on both sides of the Rotunda to enact this very important legislation. We must grant hourly wage employees who have families in this country and the same options that people on salaries and, indeed, that federal employees already have.

Thank you, Mr. President. I yield back to the Senator from Missouri.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Mr. President, I thank the Senator from Texas for her sensitivity on this issue and for her commitment to it. I know she is dedicated to helping resolve this. There is simply no reason why the Government of the United States should put a barrier between the employers and employees of America who want to resolve stresses and strengths. We should have laws that allow people to reach these judgments about flexibly and allocating time, with adequate protection which are enforcement mechanisms through the Department of Labor.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 4

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 ''Family Friendly Workplace Act''.

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to assist working people in the United States;

(2) to balance the demands of workplaces with the needs of families;

(3) to provide such assistance and balance such demands by allowing employers to offer compensatory time off, which employees may voluntarily elect to receive, and to establish biweekly work programs and flexible credit hour programs, in which employees may voluntarily participate; and

(4) to give private sector employees the same benefits of compensatory time off, biweekly work schedules, and flexible credit hours as have been enjoyed by Federal Government employees since 1978.

SEC. 3. WORKPLACE FLEXIBILITY OPTIONS.

(a) COMPENSATORY TIME OFF.—

(1) IN GENERAL.—Section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207) is amended by adding at the end the following:

''(r) COMPENSATORY TIME OFF FOR PRIVATE EMPLOYEES.—

''(1) GENERAL RULE.—

''(A) COMPENSATORY TIME OFF.—An employee may receive, in accordance with this subsection and in lieu of monetary overtime compensation, compensatory time off at a rate not less than one and one-half hours for each hour of employment for which monetary overtime compensation is required by this section.

''(B) DEFINITION.—For purposes of this subsection, the term 'employee' does not include an employee of a public agency.

''(2) CONDITIONS.—An employer may provide compensatory time off to employees under paragraph (1)(A) only pursuant to the following:

''(A) Such time may be provided only in accordance with—

''(i) applicable provisions of a collective bargaining agreement between the employer and the representative of the employees recognized as provided in section 9(a) of the National Labor Relations Act (29 U.S.C. 159(a)); or

''(ii) in the case of employees who are not represented by a labor organization recognized as provided in section 9(a) of the National Labor Relations Act, an agreement or understanding arrived at between the employer and employee before the performance of the work involved if such agreement or understanding was entered into knowingly and voluntarily by such employee and was not a condition of employment.

''(B) If such employee has affirmed, in a written or otherwise verifiable statement that is made, kept, and preserved in accordance with section 11(c), that the employee has chosen to receive compensatory time off in lieu of monetary overtime compensation.

''(C) If the employee has not accrued compensatory time off in excess of the limit applicable to the employee prescribed by paragraph (3).

''(3) HOUR LIMIT.—

''(A) MAXIMUM HOURS.—An employee may accrue not more than 240 hours of compensatory time off.

''(B) COMPENSATION DATE.—Not later than January 31 of each calendar year, the employee's employer shall provide monetary compensation for any unused compensatory time off accrued during the preceding calendar year that was not used prior to December 31 of the preceding calendar year at the rate prescribed by paragraph (6). An employer may designate and communicate to the employees of the employer a 12-month period other than the calendar year, in which case such compensation shall be provided not later than 31 days after the end of such 12-month period.

''(C) EXCESS OF 80 HOURS.—The employer may provide monetary compensation for an employee's unused compensatory time off in excess of 80 hours at any time after giving the employee at least 30 days' notice. Such compensation shall be provided at the rate prescribed by paragraph (6).

''(D) POLICY.—An employer that has adopted a policy offering compensatory time off to employees may discontinue such policy upon giving employees 30 days' notice.

''(E) WRITTEN REQUEST.—An employee may withdraw an agreement or understanding described in paragraph (2)(A)(ii) at any time. An employee may also request in writing that monetary compensation be provided, at any time, for all compensatory time off accrued that has not yet been used. Within 30 days after receiving the written request, the employer shall provide the employee the monetary compensation due in accordance with paragraph (6).

''(4) PROHIBITION OF COERCION.—

''(A) IN GENERAL.—An employer that provides compensatory time off under paragraph (1) to employees shall not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any employee for the purpose of—

''(i) interfering with the rights of the employee under this subsection to request or not request compensatory time off in lieu of payment of monetary overtime compensation for overtime hours; or

''(ii) requiring the employee to use such compensatory time off.

''(B) DEFINITION.—As used in subparagraph (A), the term 'intimidate, threaten, or coerce' has the meaning given the term in section 13A(d)(3)(B).''.

(2) REMEDIES AND SANCTIONS.—Section 16 of the Fair Labor Standards Act of 1938 (29 U.S.C. 216) is amended—

(A) in subsection (b), by striking ''(b) Any employer'' and inserting ''(b) Except as provided in subsection (f), any employer''; and

(B) by adding at the end the following:

''(f)(1) An employer that violates section 7(r)(4) shall be liable to the employee affected in an amount equal to—

''(A) the product of—

''(i) the rate of compensation (determined in accordance with section 7(r)(6)(A)); and

''(ii)(I) the number of hours of compensatory time off involved in the violation that was initially accrued by the employee; minus

''(II) the number of such hours used by the employee; and

''(B) as liquidated damages, the product of—

''(i) such rate of compensation; and

''(ii) the number of hours of compensatory time off involved in the violation that was initially accrued by the employee.

''(2) The employer shall be subject to such liability in addition to any other remedy available for such violation under this section or section 17, including a criminal penalty under subsection (a) and a civil penalty under subsection (e).''.

(3) CALCULATIONS AND SPECIAL RULES.—Section 7(r) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(r)), as added by paragraph (1), is amended by adding at the end the following:

''(5) TERMINATION OF EMPLOYMENT.—An employee who has accrued compensatory time off authorized to be provided under paragraph (1) shall, upon the voluntary or involuntary termination of employment, be paid for the unused compensatory time off in accordance with paragraph (6).

''(6) RATE OF COMPENSATION FOR COMPENSATORY TIME OFF.—

''(A) GENERAL RULE.—If compensation is to be paid to an employee for accrued compensatory time off, such compensation shall be paid at a rate of compensation not less than—

''(i) the regular rate received by such employee when the compensatory time off was earned; or

''(ii) the final regular rate received by such employee,

whichever is higher.

''(B) CONSIDERATION OF PAYMENT.—Any payment owed to an employee under this subsection for unused compensatory time off shall be considered unpaid monetary overtime compensation.

''(7) USE OF TIME.—An employee—

''(A) who has accrued compensatory time off authorized to be provided under paragraph (1); and

''(B) who has requested the use of such compensatory time off,

shall be permitted by the employer of the employee to use such time within a reasonable period after making the request if the use of the compensatory time off does not unduly disrupt the operations of the employer.

''(8) DEFINITIONS.—The terms 'monetary overtime compensation' and 'compensatory time off' shall have the meanings given the terms 'overtime compensation' and 'compensatory time', respectively, by subsection (o)(7).''.

(4) NOTICE TO EMPLOYEES.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Labor shall revise the materials the Secretary provides, under regulations published at 29 C.F.R. 516.4, to employers for purposes of a notice explaining the Fair Labor Standards Act of 1938 to employees so that such notice reflects the amendments made to such Act by this subsection.

(b) BIWEEKLY WORK PROGRAMS AND FLEXIBLE CREDIT HOUR PROGRAMS.—

(1) IN GENERAL.—The Fair Labor Standards Act of 1938 is amended by inserting after section 13 (29 U.S.C. 213) the following new section:

''SEC. 13A. BIWEEKLY WORK PROGRAMS AND FLEXIBLE CREDIT HOUR PROGRAMS.

''(a) PURPOSES.—The purposes of this section are—

''(1) to assist working people in the United States;

''(2) to balance the demands of workplaces with the needs of families;

''(3) to provide such assistance and balance such demands by allowing employers to establish biweekly work programs and flexible credit hour programs, in which employees may voluntarily participate; and

''(4) to give private sector employees the same benefits of biweekly work schedules and flexible credit hours as have been enjoyed by Federal Government employees since 1978.

''(b) BIWEEKLY WORK PROGRAMS.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, an employer may establish biweekly work programs that allow the use of a biweekly work schedule—

''(A) that consists of a basic work requirement of not more than 80 hours, over a 2-week period; and

''(B) in which more than 40 hours of the work requirement may occur in a week of the period.

''(2) COMPUTATION OF OVERTIME.—In the case of an employee participating in such a biweekly work program, all hours worked in excess of such a biweekly work schedule or in excess of 80 hours in the 2-week period, that are requested in advance by an employer, shall be overtime hours.

''(3) OVERTIME COMPENSATION PROVISION.—The employee shall be compensated for each such overtime hour at a rate not less than one and one-half times the regular rate at which the employee is employed, in accordance with section 7(a)(1), or receive compensatory time off in accordance with section 7(r) for each such overtime hour.

''(4) COMPENSATION FOR HOURS IN SCHEDULE.—Notwithstanding section 7 or any other provision of law that relates to premium pay for overtime work, the employee shall be compensated for each hour in such a biweekly work schedule at a rate not less than the regular rate at which the employee is employed.

''(c) FLEXIBLE CREDIT HOUR PROGRAMS.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, an employer may establish flexible credit hour programs, under which, at the election of an employee, the employer and the employee jointly designate hours for the employee to work that are in excess of the basic work requirement of the employee so that the employee can accumulate flexible credit hours to reduce the hours

worked in a week or a day subsequent to the day on which the flexible credit hours are worked.

''(2) COMPUTATION OF OVERTIME.—In the case of an employee participating in such a flexible credit hour program, all hours worked in excess of 40 hours in a week that are requested in advance by an employer, other than flexible credit hours, shall be overtime hours.

''(3) OVERTIME COMPENSATION PROVISION.—The employee shall be compensated for each such overtime hour at a rate not less than one and one-half times the regular rate at which the employee is employed, in accordance with section 7(a)(1), or receive compensatory time off in accordance with section 7(r) for each such overtime hour.

''(4) COMPENSATION FOR FLEXIBLE CREDIT HOURS.—Notwithstanding section 7 or any other provision of law that relates to premium pay for overtime work, an employee shall be compensated for each flexible credit hour at a rate not less than the regular rate at which the employee is employed.

''(5) ACCUMULATION AND COMPENSATION.—

''(A) ACCUMULATION OF FLEXIBLE CREDIT HOURS.—An employee who is participating in such a flexible credit hour program can accumulate not more than 50 flexible credit hours.

''(B) COMPENSATION FOR FLEXIBLE CREDIT HOURS OF EMPLOYEES NO LONGER SUBJECT TO PROGRAM.—Any employee who was participating in such a flexible credit hour program and who is no longer subject to such a program shall be paid at a rate not less than the regular rate at which the employee is employed on the date the employee receives such payment, for not more than 50 flexible credit hours accumulated by such employee.

''(C) COMPENSATION FOR ANNUALLY ACCUMULATED FLEXIBLE CREDIT HOURS.—

''(i) IN GENERAL.—Not later than January 31 of each calendar year, the employer of an employee who is participating in such a flexible credit hour program shall provide monetary compensation for any flexible credit hours accumulated as described in subparagraph (A) during the preceding calendar year that were not used prior to December 31 of the preceding calendar year at a rate not less than the regular rate at which the employee is employed on the date the employee receives such payment.

''(ii) DIFFERENT 12-MONTH PERIOD.—An employer may designate and communicate to the employees of the employer a 12-month period other than the calendar year, in which case such compensation shall be provided not later than 31 days after the end of such 12-month period.

''(d) PARTICIPATION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no employee may be required to participate in a program described in this section. Participation in a program described in this section may not be a condition of employment.

''(2) COLLECTIVE BARGAINING AGREEMENT.—In a case in which a valid collective bargaining agreement exists, an employee may only be required to participate in such a program in accordance with the agreement.

''(3) PROHIBITION OF COERCION.—

''(A) IN GENERAL.—An employer may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any employee for the purpose of interfering with the rights of such employee under this section to elect or not to elect to work a biweekly work schedule, to elect or not to elect to participate in a flexible credit hour program, or to elect or not to elect to work flexible credit hours (including working flexible credit hours in lieu of overtime hours).

''(B) DEFINITION.—As used in subparagraph (A), the term 'intimidate, threaten, or coerce' includes promising to confer or conferring any benefit (such as appointment, promotion, or compensation) or effecting or threatening to effect any reprisal (such as deprivation of appointment, promotion, or compensation).

''(e) APPLICATION OF PROGRAMS IN THE CASE OF COLLECTIVE BARGAINING AGREEMENTS.—

''(1) APPLICABLE REQUIREMENTS.—In the case of employees in a unit represented by an exclusive representative, any biweekly work program or flexible credit hour program described in subsection (b) or (c), respectively, and the establishment and termination of any such program, shall be subject to the provisions of this section and the terms of a collective bargaining agreement between the employer and the exclusive representative.

''(2) INCLUSION OF EMPLOYEES.—Employees within a unit represented by an exclusive representative shall not be included within any program under this section except to the extent expressly provided under a collective bargaining agreement between the employer and the exclusive representative.

''(3) COLLECTIVE BARGAINING AGREEMENTS.—Nothing in this section shall be construed to diminish the obligation of an employer to comply with any collective bargaining agreement or any employment benefits program or plan that provides lesser or greater rights to employees than the benefits established under this section.

''(f) DEFINITIONS.—As used in this section:

''(1) BASIC WORK REQUIREMENT.—The term 'basic work requirement' means the number of hours, excluding overtime hours, that an employee is required to work or is required to account for by leave or otherwise.

''(2) COLLECTIVE BARGAINING.—The term 'collective bargaining' means the performance of the mutual obligation of the representative of an employer and the exclusive representative of employees in an appropriate unit to meet at reasonable times and to consult and bargain in a good-faith effort to reach agreement with respect to the conditions of employment affecting such employees and to execute, if requested by either party, a written document incorporating any collective bargaining agreement reached, but the obligation referred to in this paragraph does not compel either party to agree to a proposal or to make a concession.

''(3) COLLECTIVE BARGAINING AGREEMENT.—The term 'collective bargaining agreement' means an agreement entered into as a result of collective bargaining.

''(4) ELECTION.—The term 'at the election of', used with respect to an employee, means at the initiative of, and at the request of, the employee.

''(5) EMPLOYEE.—The term 'employee' means an employee, as defined in section 3, except that the term shall not include an employee, as defined in section 6121(2) of title 5, United States Code.

''(6) EMPLOYER.—The term 'employer' means an employer, as defined in section 3, except that the term shall not include any person acting in relation to an employee, as defined in section 6121(2) of title 5, United States Code.

''(7) EXCLUSIVE REPRESENTATIVE.—The term 'exclusive representative' means any labor organization that—

''(A) is certified as the exclusive representative of employees in an appropriate unit pursuant to Federal law; or

''(B) was recognized by an employer immediately before the date of enactment of this section as the exclusive representative of employees in an appropriate unit—

''(i) on the basis of an election; or

''(ii) on any basis other than an election;

and continues to be so recognized.

''(8) FLEXIBLE CREDIT HOURS.—The term 'flexible credit hours' means any hours, within a flexible credit hour program established under subsection (c), that are in excess of the basic work requirement of an employee and that, at the election of the employee, the employer and the employee jointly designate for the employee to work so as to reduce the hours worked in a week or a day subsequent to the day on which the flexible credit hours are worked.

''(9) OVERTIME HOURS.—The term 'overtime hours'—

''(A) when used with respect to biweekly work programs under subsection (b), means all hours worked in excess of the biweekly work schedule involved or in excess of 80 hours in the 2-week period involved, that are requested in advance by an employer.

''(B) when used with respect to flexible credit hour programs under subsection (c), means all hours worked in excess of 40 hours in a week that are requested in advance by an employer, but does not include flexible credit hours.

''(10) REGULAR RATE.—The term 'regular rate' has the meaning given the term in section 7(e).''.

(2) PROHIBITIONS.—

(A) PURPOSES.—The purposes of this paragraph are to make violations of the biweekly work program and flexible credit hour program provisions by employers unlawful under the Fair Labor Standards Act of 1938, and to provide for appropriate remedies for such violations, including, as appropriate, fines, imprisonment, injunctive relief, and appropriate legal or equitable relief, including liquidated damages.

(B) REMEDIES AND SANCTIONS.—Section 15(a)(3) of the Fair Labor Standards Act of 1938 (29 U.S.C. 215(a)(3)) is amended by inserting before the semicolon the following: '', or to violate any of the provisions of section 13A''.

(c) LIMITATIONS ON SALARY PRACTICES RELATING TO EXEMPT EMPLOYEES.—Section 13 of the Fair Labor Standards Act of 1938 (29 U.S.C. 213) is amended by adding at the end the following:

''(m)(1)(A) In the case of a determination of whether an employee is an exempt employee described in subsection (a)(1), the fact that the employee is subject to deductions in compensation for—

''(i) absences of the employee from employment of less than a full workday; or

''(ii) absences of the employee from employment of less than a full pay period,

shall not be considered in making such determination.

''(B) In the case of a determination described in subparagraph (A), an actual reduction in compensation of the employee may be considered in making the determination.

''(C) For the purposes of this paragraph, the term 'actual reduction in compensation' does not include any reduction in accrued paid leave, or any other practice, that does not reduce the amount of compensation an employee receives for a pay period.

''(2) The payment of overtime compensation or other additions to the compensation of an employee employed on a salary based on hours worked shall not be considered in determining if the employee is an exempt employee described in subsection (a)(1).''.

Mr. JEFFORDS. Mr. President, I am pleased to rise in support of S. 4, the ''Family Friendly Workplace Act of 1997.'' This legislation is designed to address the very pressing and legitimate needs of working families for more flexibility in their workplaces.

We all know how difficult it is for working parents to balance the demands of work and family responsibilities. There are soccer games, parent-teacher conferences, and doctor's appointments that demand a few hours of time during the workweek. Our workplace laws should allow workers the flexibility to work a few extra hours one week, in order to take time off later when they need to for family or personal reasons.

Ironically, current law inhibits more flexible schedules and compensation programs. While this may come as a surprise, it is really not all that hard to understand why. The world of the workplace has undergone a revolution in the last 60 years.

In the 1930's, as the Roosevelt administration and the Congress sought to establish minimum wage and overtime standards, the last thing on their minds was finding free time for workers. With as much as one-third of the work force unemployed, the problem was far too much free time, not too little. The purpose of premium pay for overtime work was not to enrich already-employed workers, but to spread work to the unemployed, in effect reducing free time.

The story of a woman from Poultney, Vermont, near my home town, brought this home to me. She was employed as a school teacher in the midst of the Depression, and had the further good fortune to fall in love and get married to a man who was also employed. Upon her marriage, she quickly resigned from her job. When asked why decades later, she explained it was simply understood that you would not have two full-time jobs in one family.

Such taboos today are little more than an interesting historical footnote. With the rise of single parent families and two-parent families in which both spouses work, it is incredibly difficult to balance the demands of work and family. That difficulty is increased by the Fair Labor Standards Act [FLSA] which was not designed with today's circumstances in mind. The law's minimum wage and overtime protections are just as important today as they were when enacted, but the law needs to be adjusted to the workplace of the 21st century.

For example, the FLSA bars private employers from offering employees the choice of receiving overtime in the form of compensatory time off instead of cash wages. While Federal and public sector workers have had this option since 1985, private sector workers do not. Many employees do not necessarily want money as much as time to address family needs. A recent public opinion poll conducted by Penn & Schoen Associates found that workers strongly favor more flexibility in their work schedules. Seventy-five percent of those surveyed said they would prefer the option to choose to be compensated for overtime with compensatory time off or cash overtime.

Now some of my colleagues may be familiar with what seems to be a contradictory poll conducted by Lake Research which found that nearly two-thirds of poll respondents opposed the policy we propose. Frankly, I would, too, if it was anything like what was described in the poll's question.

The Lake Research poll describes compensatory time off as the employer's decision. It is not. It describes biweekly scheduling as the employer's decision. It is not. Indeed, the poll's question concludes by saying: Employers could schedule you to work 60 hours one week and 20 hours the next, but you would not earn overtime pay. Do you support or oppose such a policy?

It comes as no surprise that most people would not support such a policy. As my colleagues know, you can structure a question on a poll to yield just about any result you want. This is a pretty good example of just that.

What is interesting to me is that even when faced with such a slanted presentation, one-third of the people either supported such a policy or were unsure. It stands to reason that when presented with the facts—that is, that each of these proposals is predicated on the employee's decision, not the employer's—three quarters of Americans support having the option of taking time off instead of cash.

This bill incorporates provisions which passed the House of Representatives last year that would allow the payment of overtime with compensatory time off at a rate of 1.5 hours for each hour worked over 40 in a workweek. Just like in the public sector, however, no employee could be forced to accept comp time off instead of being paid for overtime. A written agreement between the employer and the employee is required, and there are strong penalties against any employer who coerces, intimidates, or threatens workers into accepting such an agreement.

Not all employees want to work a traditional 8-hour day, 5 days a week, with no variation. Some employees would prefer to trade hours between weeks—e.g. work 45 hours one week, 35 hours the next and take every other Friday off—or shift to a schedule that compresses many hours at the front end of the week so that they can put together several days off later. However, companies would have to pay workers overtime for any hours over 40 in the first week, even if the employee would prefer to flex his or her schedule. Currently, only Federal workers can flex their schedules without their employer being subject to the overtime penalty.

S. 4 would remove this limitation and permit employers and employees to mutually agree on a flexible, biweekly schedule consisting of any combination of 80 hours over a 2-week period. As with the comp time provisions, nothing would be forced upon the employer or the employee. If they agreed on such schedules, the employee could trade hours over a 2-week period without violating the FLSA. Any hours in excess of 80 hours would still be paid at 1.5 times the employee's regular rate of pay. If it's good enough for Federal workers, it's good enough for all workers.

Finally, this bill corrects a flexibility problem for salaried workers in both the private and the public sectors. In many instances, salaried employees who want to take a few hours off for personal or family reasons must choose between two equally undesirable options: either to use a portion of their paid leave, that is, vacation or sick leave, or take a full day off without pay. If the employer grants an employee a few hours of unpaid leave—or merely has a policy which permits it—all the salaried employees may lose their exempt status under the FLSA.

Thus, a policy that allows for a partial day of unpaid leave can convert an exempt worker to a nonexempt one who is then owed overtime, even if the worker has a six-figure income and is employed at the highest levels of the company. Multiply this over an entire salaried work force, and the liability to public and private employers soars into the billions of dollars.

This bizarre situation does not apply, however, if an employee is taking leave pursuant to the Family and Medical Leave Act of 1993 [FMLA]. This bill would merely extend this practice to accommodate the desire of many salaried employees to take time off for reasons other than family and medical leave, or for employees who work for small companies. In order to provide maximum flexibility to all salaried workers who wish to take partial day leave under any circumstances, this bill would clarify that salaried workers do not lose their exempt status under the FLSA as long as there has not been an actual reduction in pay. In effect, this provision would encourage the very type of leave that President Clinton feels needs to be accommodated in our workplace laws.

Mr. President, the Senate Committee on Labor and Human Resources and its Subcommittee on Employment and Training, chaired by Senator DEWINE, will thoroughly and deliverately review and debate these proposals in the coming weeks. I am hopeful that we will reach agreement on the need to provide workers with more flexibility in their work arrangements, and will pass legislation that will achieve this goal.

By Mr. ASHCROFT (for himself, Mr. MCCAIN, Mr. LOTT, Mr. ABRAHAM, Mr. ALLARD, Mr. BROWNBACK, Mr. CHAFEE, Mr. COVERDELL, Mr. CRAIG, Mr. DEWINE, Mr. DOMENICI, Mr. ENZI, Mr. FAIRCLOTH, Mr. GRAMS, Mr. HAGEL, Mr. HATCH, Mr. HELMS, Mr. HUTCHINSON, Mr. KYL, Mr. MURKOWSKI, Mr. NICKLES, Mr. ROBERTS, Mr. SANTORUM, Mr. SESSIONS, Mr. SMITH, Mr. THOMAS, Mr. THURMOND, Mr. WARNER, Mr. COATS, Mr. LUGAR, Mr. GRAMM, Mr.

KEMPTHORNE, and Mrs. HUTCHISON):

S. 5. A bill to establish legal standards and procedures for product liability litigation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE PRODUCT LIABILITY REFORM ACT OF 1997

Mr. ASHCROFT. Mr. President, let me quickly encapsulate this important piece of legislation for the American people.

Last year, in a bipartisan effort, we succeeded, and this year this bill is sponsored by a group of individuals including the chairman of the Commerce Committee, Senator MCCAIN, Senator LOTT, Senator COVERDELL, Senator MCCONNELL, Senator ABRAHAM, and Senator GRAMM, and I believe that we will again this year have a bipartisan approach. I have already spoken with a number of the people who were active in this measure—Senator GORTON, Senator ROCKEFELLER, Senator LIEBERMAN, and Senator DODD—about last year's approach. We again have introduced a similar bill. This is a step on the road of reforming the legal system to provide reason and rationality where the legal system, the tort system has been out of control.

Three years ago, for general aviation, the private airplane business, the small plane business, we passed a law which provided a framework of responsibility which put that part of the tort system back under control. People poohpoohed the idea. They said, ''It won't help; it won't work to pass such a law.'' But we are now again building such airplanes in the United States. There are 9,000 new jobs in that industry alone because we made that decision, and the quality of the airplanes is better than it has ever been before. We have not deprived anyone of the capacity to receive compensatory damages as a result of inferior products or defects in products, and we want to extend the tort reform effort which began with general aviation a step further.

The second step we took last year, in 1996, when we enacted securities law tort reform. And that law went into effect this last year. So it is now time for us, having done the general aviation portion of legal reform and tort reform and having moved from that to the securities law, to move to manufacturing generally in the product liability area. It is not an attempt to curtail compensatory damages. People who are injured should be compensated for their injuries. But it is an attempt to bring sanity and reason to an out-of-control tort system which is hurting the quality of our products, stifling innovation and making it very difficult for some industries to survive here. I need not tell most folks that they have already made these kinds of adjustments in the European Economic Community and, of course, by our competition in the Pacific Rim.

This is another step forward in tort reform, and I commend those who have agreed to help us in this respect. I look forward to working with Senators on the other side of the aisle. The President of the United States has repeatedly reiterated his desire to sign a good bill in this respect and we will be fashioning a bill this year. The bill which we have signed is the conference report from last year's effort which passed both Houses of the Congress, and it will provide a place holder as we assemble good legislation this year which we can send to the President and urge him to sign.

Mr. President, I thank you for the opportunity to introduce these two measures, S. 4 and S. 5.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 5

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Product Liability Reform Act of 1997''.

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Findings and purposes.

TITLE I—PRODUCT LIABILITY REFORM

Sec. 101. Definitions.
Sec. 102. Applicability; preemption.
Sec. 103. Liability rules applicable to product sellers, renters, and lessors.
Sec. 104. Defense based on claimant's use of intoxicating alcohol or drugs.
Sec. 105. Misuse or alteration.
Sec. 106. Uniform time limitations on liability.
Sec. 107. Alternative dispute resolution procedures.
Sec. 108. Uniform standards for award of punitive damages.
Sec. 109. Liability for certain claims relating to death.
Sec. 110. Several liability for noneconomic loss.
Sec. 111. Workers' compensation subrogation.

TITLE II—BIOMATERIALS ACCESS ASSURANCE

Sec. 201. Short title.
Sec. 202. Findings.
Sec. 203. Definitions.
Sec. 204. General requirements; applicability; preemption.
Sec. 205. Liability of biomaterials suppliers.
Sec. 206. Procedures for dismissal of civil actions against biomaterials suppliers.

TITLE III—LIMITATIONS ON APPLICABILITY; EFFECTIVE DATE

Sec. 301. Effect of court of appeals decisions.
Sec. 302. Federal cause of action precluded.
Sec. 303. Effective date.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) our Nation is overly litigious, the civil justice system is overcrowded, sluggish, and excessively costly and the costs of lawsuits, both direct and indirect, are inflicting serious and unnecessary injury on the national economy;

(2) excessive, unpredictable, and often arbitrary damage awards and unfair allocations of liability have a direct and undesirable effect on interstate commerce by increasing the cost and decreasing the availability of goods and services;

(3) the rules of law governing product liability actions, damage awards, and allocations of liability have evolved inconsistently within and among the States, resulting in a complex, contradictory, and uncertain regime that is inequitable to both plaintiffs and defendants and unduly burdens interstate commerce;

(4) as a result of excessive, unpredictable, and often arbitrary damage awards and unfair allocations of liability, consumers have been adversely affected through the withdrawal of products, producers, services, and service providers from the marketplace, and from excessive liability costs passed on to them through higher prices;

(5) excessive, unpredictable, and often arbitrary damage awards and unfair allocations of liability jeopardize the financial well-being of many individuals as well as entire industries, particularly the Nation's small businesses and adversely affects government and taxpayers;

(6) the excessive costs of the civil justice system undermine the ability of American companies to compete internationally, and serve to decrease the number of jobs and the amount of productive capital in the national economy;

(7) the unpredictability of damage awards is inequitable to both plaintiffs and defendants and has added considerably to the high cost of liability insurance, making it difficult for producers, consumers, volunteers, and nonprofit organizations to protect themselves from liability with any degree of confidence and at a reasonable cost;

(8) because of the national scope of the problems created by the defects in the civil justice system, it is not possible for the States to enact laws that fully and effectively respond to those problems;

(9) it is the constitutional role of the national government to remove barriers to interstate commerce and to protect due process rights; and

(10) there is a need to restore rationality, certainty, and fairness to the civil justice system in order to protect against excessive, arbitrary, and uncertain damage awards and to reduce the volume, costs, and delay of litigation.

(b) PURPOSES.—Based upon the powers contained in Article I, Section 8, Clause 3 and the Fourteenth Amendment of the United States Constitution, the purposes of this Act are to promote the free flow of goods and services and to lessen burdens on interstate commerce and to uphold constitutionally protected due process rights by—

(1) establishing certain uniform legal principles of product liability which provide a fair balance among the interests of product users, manufacturers, and product sellers;

(2) placing reasonable limits on damages over and above the actual damages suffered by a claimant;

(3) ensuring the fair allocation of liability in civil actions;

(4) reducing the unacceptable costs and delays of our civil justice system caused by excessive litigation which harm both plaintiffs and defendants; and

(5) establishing greater fairness, rationality, and predictability in the civil justice system.

TITLE I—PRODUCT LIABILITY REFORM

SEC. 101. DEFINITIONS.

For purposes of this title—

(1) ACTUAL MALICE.—The term ''actual malice'' means specific intent to cause serious physical injury, illness, disease, death, or damage to property.

(2) CLAIMANT.—The term ''claimant'' means any person who brings an action covered by this title and any person on whose

behalf such an action is brought. If such an action is brought through or on behalf of an estate, the term includes the claimant's decedent. If such an action is brought through or on behalf of a minor or incompetent, the term includes the claimant's legal guardian.

(3) CLAIMANT'S BENEFITS.—The term ''claimant's benefits'' means the amount paid to an employee as workers' compensation benefits.

(4) CLEAR AND CONVINCING EVIDENCE.—The term ''clear and convincing evidence'' is that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established. The level of proof required to satisfy such standard is more than that required under preponderance of the evidence, but less than that required for proof beyond a reasonable doubt.

(5) COMMERCIAL LOSS.—The term ''commercial loss'' means any loss or damage solely to a product itself, loss relating to a dispute over its value, or consequential economic loss, the recovery of which is governed by the Uniform Commercial Code or analogous State commercial or contract law.

(6) COMPENSATORY DAMAGES.—The term ''compensatory damages'' means damages awarded for economic and non-economic loss.

(7) DURABLE GOOD.—The term ''durable good'' means any product, or any component of any such product, which has a normal life expectancy of 3 or more years, or is of a character subject to allowance for depreciation under the Internal Revenue Code of 1986 and which is—

(A) used in a trade or business;

(B) held for the production of income; or

(C) sold or donated to a governmental or private entity for the production of goods, training, demonstration, or any other similar purpose.

(8) ECONOMIC LOSS.—The term ''economic loss'' means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for such loss is allowed under applicable State law.

(9) HARM.—The term ''harm'' means any physical injury, illness, disease, or death or damage to property caused by a product. The term does not include commercial loss.

(10) INSURER.—The term ''insurer'' means the employer of a claimant if the employer is self-insured or if the employer is not self-insured, the workers' compensation insurer of the employer.

(11) MANUFACTURER.—The term ''manufacturer'' means—

(A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product) and who (i) designs or formulates the product (or component part of the product), or (ii) has engaged another person to design or formulate the product (or component part of the product);

(B) a product seller, but only with respect to those aspects of a product (or component part of a product) which are created or affected when, before placing the product in the stream of commerce, the product seller produces, creates, makes or constructs and designs, or formulates, or has engaged another person to design or formulate, an aspect of the product (or component part of the product) made by another person; or

(C) any product seller not described in subparagraph (B) which holds itself out as a manufacturer to the user of the product.

(12) NONECONOMIC LOSS.—The term ''noneconomic loss'' means subjective, nonmonetary loss resulting from harm, including pain, suffering, inconvenience, mental suffering, emotional distress, loss of society and companionship, loss of consortium, injury to reputation, and humiliation.

(13) PERSON.—The term ''person'' means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity).

(14) PRODUCT.—

(A) IN GENERAL.—The term ''product'' means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state which—

(i) is capable of delivery itself or as an assembled whole, in a mixed or combined state, or as a component part or ingredient;

(ii) is produced for introduction into trade or commerce;

(iii) has intrinsic economic value; and

(iv) is intended for sale or lease to persons for commercial or personal use.

(B) EXCLUSION.—The term does not include—

(i) tissue, organs, blood, and blood products used for therapeutic or medical purposes, except to the extent that such tissue, organs, blood, and blood products (or the provision thereof) are subject, under applicable State law, to a standard of liability other than negligence; or

(ii) electricity, water delivered by a utility, natural gas, or steam except to the extent that electricity, water delivered by a utility, natural gas, or steam, is subject, under applicable State law, to a standard of liability other than negligence.

(15) PRODUCT LIABILITY ACTION.—The term ''product liability action'' means a civil action brought on any theory for harm caused by a product.

(16) PRODUCT SELLER.—

(A) IN GENERAL.—The term ''product seller'' means a person who in the course of a business conducted for that purpose—

(i) sells, distributes, rents, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce; or

(ii) installs, repairs, refurbishes, reconditions, or maintains the harm-causing aspect of the product.

(B) EXCLUSION.—The term ''product seller'' does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who—

(I) acts in only a financial capacity with respect to the sale of a product; or

(II) leases a product under a lease arrangement in which the lessor does not initially select the leased product and does not during the lease term ordinarily control the daily operations and maintenance of the product.

(17) PUNITIVE DAMAGES.—The term ''punitive damages'' means damages awarded against any person or entity to punish or deter such person or entity, or others, from engaging in similar behavior in the future.

(18) STATE.—The term ''State'' means any State of the United States, the District of Columbia, Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States or any political subdivision of any of the foregoing.

SEC. 102. APPLICABILITY; PREEMPTION.

(a) PREEMPTION.—

(1) IN GENERAL.—This Act governs any product liability action brought in any State or Federal court on any theory for harm caused by a product.

(2) ACTIONS EXCLUDED.—A civil action brought for commercial loss shall be governed only by applicable commercial or contract law.

(b) RELATIONSHIP TO STATE LAW.—This title supersedes State law only to the extent that State law applies to an issue covered by this title. Any issue that is not governed by this title, including any standard of liability applicable to a manufacturer, shall be governed by otherwise applicable State or Federal law.

(c) EFFECT ON OTHER LAW.—Nothing in this Act shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any law;

(2) supersede or alter any Federal law;

(3) waive or affect any defense of sovereign immunity asserted by the United States;

(4) affect the applicability of any provision of chapter 97 of title 28, United States Code;

(5) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation;

(6) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum; or

(7) supersede or modify any statutory or common law, including any law providing for an action to abate a nuisance, that authorizes a person to institute an action for civil damages or civil penalties, cleanup costs, injunctions, restitution, cost recovery, punitive damages, or any other form of relief for remediation of the environment (as defined in section 101(8) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(8)).

SEC. 103. LIABILITY RULES APPLICABLE TO PRODUCT SELLERS, RENTERS, AND LESSORS.

(a) GENERAL RULE.—

(1) IN GENERAL.—In any product liability action, a product seller other than a manufacturer shall be liable to a claimant only if the claimant establishes—

(A) that—

(i) the product that allegedly caused the harm that is the subject of the complaint was sold, rented, or leased by the product seller;

(ii) the product seller failed to exercise reasonable care with respect to the product; and

(iii) the failure to exercise reasonable care was a proximate cause of harm to the claimant;

(B) that—

(i) the product seller made an express warranty applicable to the product that allegedly caused the harm that is the subject of the complaint, independent of any express warranty made by a manufacturer as to the same product;

(ii) the product failed to conform to the warranty; and

(iii) the failure of the product to conform to the warranty caused harm to the claimant; or

(C) that—

(i) the product seller engaged in intentional wrongdoing, as determined under applicable State law; and

(ii) such intentional wrongdoing was a proximate cause of the harm that is the subject of the complaint.

(2) REASONABLE OPPORTUNITY FOR INSPECTION.—For purposes of paragraph (1)(A)(ii), a product seller shall not be considered to have failed to exercise reasonable care with respect to a product based upon an alleged failure to inspect the product—

(A) if the failure occurred because there was no reasonable opportunity to inspect the product; or

(B) if the inspection, in the exercise of reasonable care, would not have revealed the aspect of the product which allegedly caused the claimant's harm.

(b) SPECIAL RULE.—

(1) IN GENERAL.—A product seller shall be deemed to be liable as a manufacturer of a product for harm caused by the product if—

(A) the manufacturer is not subject to service of process under the laws of any State in which the action may be brought; or

(B) the court determines that the claimant would be unable to enforce a judgment against the manufacturer.

(2) STATUTE OF LIMITATIONS.—For purposes of this subsection only, the statute of limitations applicable to claims asserting liability of a product seller as a manufacturer shall be tolled from the date of the filing of a complaint against the manufacturer to the date that judgment is entered against the manufacturer.

(c) RENTED OR LEASED PRODUCTS.—

(1) Notwithstanding any other provision of law, any person engaged in the business of renting or leasing a product (other than a person excluded from the definition of product seller under section 101(16)(B)) shall be subject to liability in a product liability action under subsection (a), but any person engaged in the business of renting or leasing a product shall not be liable to a claimant for the tortious act of another solely by reason of ownership of such product.

(2) For purposes of paragraph (1), and for determining the applicability of this title to any person subject to paragraph (1), the term ''product liability action'' means a civil action brought on any theory for harm caused by a product or product use.

(d) ACTIONS FOR NEGLIGENT ENTRUSTMENT.—A civil action for negligent entrustment shall not be subject to the provisions of this section, but shall be subject to any applicable State law.

SEC. 104. DEFENSE BASED ON CLAIMANT'S USE OF INTOXICATING ALCOHOL OR DRUGS.

(a) GENERAL RULE.—In any product liability action, it shall be a complete defense to such action if—

(1) the claimant was intoxicated or was under the influence of intoxicating alcohol or any drug when the accident or other event which resulted in such claimant's harm occurred; and

(2) the claimant, as a result of the influence of the alcohol or drug, was more than 50 percent responsible for such accident or other event.

(b) CONSTRUCTION.—For purposes of subsection (a)—

(1) the determination of whether a person was intoxicated or was under the influence of intoxicating alcohol or any drug shall be made pursuant to applicable State law; and

(2) the term ''drug'' means any controlled substance as defined in the Controlled Substances Act (21 U.S.C. 802(6)) that was not legally prescribed for use by the claimant or that was taken by the claimant other than in accordance with the terms of a lawfully issued prescription.

SEC. 105. MISUSE OR ALTERATION.

(a) GENERAL RULE.—

(1) IN GENERAL.—In a product liability action, the damages for which a defendant is otherwise liable under Federal or State law shall be reduced by the percentage of responsibility for the claimant's harm attributable to misuse or alteration of a product by any person if the defendant establishes that such percentage of the claimant's harm was proximately caused by a use or alteration of a product—

(A) in violation of, or contrary to, a defendant's express warnings or instructions if the warnings or instructions are adequate as determined pursuant to applicable State law; or

(B) involving a risk of harm which was known or should have been known by the ordinary person who uses or consumes the product with the knowledge common to the class of persons who used or would be reasonably anticipated to use the product.

(2) USE INTENDED BY A MANUFACTURER IS NOT MISUSE OR ALTERATION.—For the purposes of this Act, a use of a product that is intended by the manufacturer of the product does not constitute a misuse or alteration of the product.

(b) WORKPLACE INJURY.—Notwithstanding subsection (a), and except as otherwise provided in section 111, the damages for which a defendant is otherwise liable under State law shall not be reduced by the percentage of responsibility for the claimant's harm attributable to misuse or alteration of the product by the claimant's employer or any coemployee who is immune from suit by the claimant pursuant to the State law applicable to workplace injuries.

SEC. 106. UNIFORM TIME LIMITATIONS ON LIABILITY.

(a) STATUTE OF LIMITATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2) and subsection (b), a product liability action may be filed not later than 2 years after the date on which the claimant discovered or, in the exercise of reasonable care, should have discovered—

(A) the harm that is the subject of the action; and

(B) the cause of the harm.

(2) EXCEPTION.—A person with a legal disability (as determined under applicable law) may file a product liability action not later than 2 years after the date on which the person ceases to have the legal disability.

(b) STATUTE OF REPOSE.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), no product liability action that is subject to this Act concerning a product, that is a durable good, alleged to have caused harm (other than toxic harm) may be filed after the 15-year period beginning at the time of delivery of the product to the first purchaser or lessee.

(2) STATE LAW.—Notwithstanding paragraph (1), if pursuant to an applicable State law, an action described in such paragraph is required to be filed during a period that is shorter than the 15-year period specified in such paragraph, the State law shall apply with respect to such period.

(3) EXCEPTIONS.—

(A) A motor vehicle, vessel, aircraft, or train, that is used primarily to transport passengers for hire, shall not be subject to this subsection.

(B) Paragraph (1) does not bar a product liability action against a defendant who made an express warranty in writing as to the safety or life expectancy of the specific product involved which was longer than 15 years, but it will apply at the expiration of that warranty.

(C) Paragraph (1) does not affect the limitations period established by the General Aviation Revitalization Act of 1994 (49 U.S.C. 40101 note).

(c) TRANSITIONAL PROVISION RELATING TO EXTENSION OF PERIOD FOR BRINGING CERTAIN ACTIONS.—If any provision of subsection (a) or (b) shortens the period during which a product liability action could be otherwise brought pursuant to another provision of law, the claimant may, notwithstanding subsections (a) and (b), bring the product liability action not later than 1 year after the date of enactment of this Act.

SEC. 107. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.

(a) SERVICE OF OFFER.—A claimant or a defendant in a product liability action may, not later than 60 days after the service of—

(1) the initial complaint; or

(2) the applicable deadline for a responsive pleading;

whichever is later, serve upon an adverse party an offer to proceed pursuant to any voluntary, nonbinding alternative dispute resolution procedure established or recognized under the law of the State in which the product liability action is brought or under the rules of the court in which such action is maintained.

(b) WRITTEN NOTICE OF ACCEPTANCE OR REJECTION.—Except as provided in subsection (c), not later than 10 days after the service of an offer to proceed under subsection (a), an offeree shall file a written notice of acceptance or rejection of the offer.

(c) EXTENSION.—The court may, upon motion by an offeree made prior to the expiration of the 10-day period specified in subsection (b), extend the period for filling a written notice under such subsection for a period of not more than 60 days after the date of expiration of the period specified in subsection (b). Discovery may be permitted during such period.

SEC. 108. UNIFORM STANDARDS FOR AWARD OF PUNITIVE DAMAGES.

(a) GENERAL RULE.—Punitive damages may, to the extent permitted by applicable State law, be awarded against a defendant if the claimant establishes by clear and convincing evidence that conduct carried out by the defendant with a conscious, flagrant indifference to the rights or safety of others was the proximate cause of the harm that is the subject of the action in any product liability action.

(b) LIMITATION ON AMOUNT.—

(1) IN GENERAL.—The amount of punitive damages that may be awarded in an action described in subsection (a) may not exceed the greater of—

(A) 2 times the sum of the amount awarded to the claimant for economic loss and noneconomic loss; or

(B) $250,000.

(2) SPECIAL RULE.—Notwithstanding paragraph (1), in any action described in subsection (a) against an individual whose net worth does not exceed $500,000 or against an owner of an unincorporated business, or any partnership, corporation, association, unit of local government, or organization which has fewer that 25 full-time employees, the punitive damages shall not exceed the lesser of—

(A) 2 times the sum of the amount awarded to the claimant for economic loss and noneconomic loss; or

(B) $250,000.

For the purpose of determining the applicability of this paragraph to a corporation, the number of employees of a subsidiary or wholly-owned corporation shall include all employees of a parent or sister corporation.

(3) EXCEPTION FOR INSUFFICIENT AWARD IN CASES OF EGREGIOUS CONDUCT.—

(A) DETERMINATION BY COURT.—If the court makes a determination, after considering each of the factors in subparagraph (B), that the application of paragraph (1) would result in an award of punitive damages that is insufficient to punish the egregious conduct of the defendant against whom the punitive damages are to be awarded or to deter such conduct in the future, the court shall determine the additional amount of punitive damages (referred to in this paragraph as the ''additional amount'') in excess of the amount determined in accordance with paragraph (1) to be awarded against the defendant in a separate proceeding in accordance with this paragraph.

(B) FACTORS FOR CONSIDERATION.—In any proceeding under paragraph (A), the court shall consider—

(i) the extent to which the defendant acted with actual malice;

(ii) the likelihood that serious harm would arise from the conduct of the defendant;

(iii) the degree of the awareness of the defendant of that likelihood;

(iv) the profitability of the misconduct to the defendant;

(v) the duration of the misconduct and any concurrent or subsequent concealment of the conduct by the defendant;

(vi) the attitude and conduct of the defendant upon the discovery of the misconduct and whether the misconduct has terminated;

(vii) the financial condition of the defendant; and

(viii) the cumulative deterrent effect of other losses, damages, and punishment suffered by the defendant as a result of the misconduct, reducing the amount of punitive damages on the basis of the economic impact and severity of all measures to which the defendant has been or may be subjected, including—

(I) compensatory and punitive damage awards to similarly situated claimants;

(II) the adverse economic effect of stigma or loss of reputation;

(III) civil fines and criminal and administrative penalties; and

(IV) stop sale, cease and desist, and other remedial or enforcement orders.

(C) REQUIREMENTS FOR AWARDING ADDITIONAL AMOUNT.—If the court awards an additional amount pursuant to this subsection, the court shall state its reasons for setting the amount of the additional amount in findings of fact and conclusions of law.

(D) PREEMPTION.—This section does not create a cause of action for punitive damages and does not preempt or supersede any State or Federal law to the extent that such law would further limit the award of punitive damages. Nothing in this subsection shall modify or reduce the ability of courts to order remittiturs.

(4) APPLICATION BY COURT.—This subsection shall be applied by the court and application of this subsection shall not be disclosed to the jury. Nothing in this subsection shall authorize the court to enter an award of punitive damages in excess of the jury's initial award of punitive damages.

(c) BIFURCATION AT REQUEST OF ANY PARTY.—

(1) IN GENERAL.—At the request of any party the trier of fact in any action that is subject to this section shall consider in a separate proceeding, held subsequent to the determination of the amount of compensatory damages, whether punitive damages are to be awarded for the harm that is the subject of the action and the amount of the award.

(2) INADMISSIBILITY OF EVIDENCE RELATIVE ONLY TO A CLAIM OF PUNITIVE DAMAGES IN A PROCEEDING CONCERNING COMPENSATORY DAMAGES.—If any party requests a separate proceeding under paragraph (1), in a proceeding to determine whether the claimant may be awarded compensatory damages, any evidence, argument, or contention that is relevant only to the claim of punitive damages, as determined by applicable State law, shall be inadmissible.

SEC. 109. LIABILITY FOR CERTAIN CLAIMS RELATING TO DEATH.

In any civil action in which the alleged harm to the claimant is death and, as of the effective date of this Act, the applicable State law provides, or has been construed to provide, for damages only punitive in nature, a defendant may be liable for any such damages without regard to section 108, but only during such time as the State law so provides. This section shall cease to be effective September 1, 1997.

SEC. 110. SEVERAL LIABILITY FOR NONECONOMIC LOSS.

(a) GENERAL RULE.—In a product liability action, the liability of each defendant for noneconomic loss shall be several only and shall not be joint.

(b) AMOUNT OF LIABILITY.—

(1) IN GENERAL.—Each defendant shall be liable only for the amount of noneconomic loss allocated to the defendant in direct proportion to the percentage of responsibility of the defendant (determined in accordance with paragraph (2)) for the harm to the claimant with respect to which the defendant is liable. The court shall render a separate judgment against each defendant in an amount determined pursuant to the preceding sentence.

(2) PERCENTAGE OF RESPONSIBILITY.—For purposes of determining the amount of noneconomic loss allocated to a defendant under this section, the trier of fact shall determine the percentage of responsibility of each person responsible for the claimant's harm, whether or not such person is a party to the action.

SEC. 111. WORKERS' COMPENSATION SUBROGATION.

(a) GENERAL RULE.—

(1) RIGHT OF SUBROGATION.—

(A) IN GENERAL.—An insurer shall have a right of subrogation against a manufacturer or product seller to recover any claimant's benefits relating to harm that is the subject of a product liability action that is subject to this Act.

(B) WRITTEN NOTIFICATION.—To assert a right of subrogation under subparagraph (A), the insurer shall provide written notice to the court in which the product liability action is brought.

(C) INSURER NOT REQUIRED TO BE A PARTY.—An insurer shall not be required to be a necessary and proper party in a product liability action covered under subparagraph (A).

(2) SETTLEMENTS AND OTHER LEGAL PROCEEDINGS.—

(A) IN GENERAL.—In any proceeding relating to harm or settlement with the manufacturer or product seller by a claimant who files a product liability action that is subject to this Act, an insurer may participate to assert a right of subrogation for claimant's benefits with respect to any payment made by the manufacturer or product seller by reason of such harm, without regard to whether the payment is made—

(i) as part of a settlement;

(ii) in satisfaction of judgment;

(iii) as consideration for a covenant not to sue; or

(iv) in another manner.

(B) WRITTEN NOTIFICATION.—Except as provided in subparagraph (C), an employee shall not make any settlement with or accept any payment from the manufacturer or product seller without written notification to the insurer.

(C) EXEMPTION.—Subparagraph (B) shall not apply in any case in which the insurer has been compensated for the full amount of the claimant's benefits.

(3) HARM RESULTING FROM ACTION OF EMPLOYER OR COEMPLOYEE.—

(A) IN GENERAL.—If, with respect to a product liability action that is subject to this Act, the manufacturer or product seller attempts to persuade the trier of fact that the harm to the claimant was caused by the fault of the employer of the claimant or any coemployee of the claimant, the issue of that fault shall be submitted to the trier of fact, but only after the manufacturer or product seller has provided timely written notice to the insurer.

(B) RIGHTS OF INSURER.—

(i) IN GENERAL.—Notwithstanding any other provision of law, with respect to an issue of fault submitted to a trier of fact pursuant to subparagraph (A), an insurer shall, in the same manner as any party in the action (even if the insurer is not a named party in the action), have the right to—

(I) appear;

(II) be represented;

(III) introduce evidence;

(IV) cross-examine adverse witnesses; and

(V) present arguments to the trier of fact.

(ii) LAST ISSUE.—The issue of harm resulting from an action of an employer or coemployee shall be the last issue that is submitted to the trier of fact.

(C) REDUCTION OF DAMAGES.—If the trier of fact finds by clear and convincing evidence that the harm to the claimant that is the subject of the product liability action was caused by the fault of the employer or a coemployee of the claimant—

(i) the court shall reduce by the amount of the claimant's benefits—

(I) the damages awarded against the manufacturer or product seller; and

(II) any corresponding insurer's subrogation lien; and

(ii) the manufacturer or product seller shall have no further right by way of contribution or otherwise against the employer.

(D) CERTAIN RIGHTS OF SUBROGATION NOT AFFECTED.—Notwithstanding a finding by the trier of fact described in subparagraph (C), the insurer shall not lose any right of subrogation related to any—

(i) intentional tort committed against the claimant by a coemployee; or

(ii) act committed by a coemployee outside the scope of normal work practices.

(b) ATTORNEY'S FEES.—If, in a product liability action that is subject to this section, the court finds that harm to a claimant was not caused by the fault of the employer or a coemployee of the claimant, the manufacturer or product seller shall reimburse the insurer for reasonable attorney's fees and court costs incurred by the insurer in the action, as determined by the court.

TITLE II—BIOMATERIALS ACCESS ASSURANCE

SEC. 201. SHORT TITLE.

This title may be cited as the ''Biomaterials Access Assurance Act of 1997''.

SEC. 202. FINDINGS.

Congress finds that—

(1) each year millions of citizens of the United States depend on the availability of lifesaving or life enhancing medical devices, many of which are permanently implantable within the human body;

(2) a continued supply of raw materials and component parts is necessary for the invention, development, improvement, and maintenance of the supply of the devices;

(3) most of the medical devices are made with raw materials and component parts that—

(A) are not designed or manufactured specifically for use in medical devices; and

(B) come in contact with internal human tissue;

(4) the raw materials and component parts also are used in a variety of nonmedical products;

(5) because small quantities of the raw materials and component parts are used for medical devices, sales of raw materials and component parts for medical devices constitute an extremely small portion of the overall market for the raw materials and medical devices;

(6) under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), manufacturers of medical devices are required to demonstrate that the medical devices are safe

and effective, including demonstrating that the products are properly designed and have adequate warnings or instructions;

(7) notwithstanding the fact that raw materials and component parts suppliers do not design, produce, or test a final medical device, the suppliers have been the subject of actions alleging inadequate—

(A) design and testing of medical devices manufactured with materials or parts supplied by the suppliers; or

(B) warnings related to the use of such medical devices;

(8) even though suppliers of raw materials and component parts have very rarely been held liable in such actions, such suppliers have ceased supplying certain raw materials and component parts for use in medical devices because the costs associated with litigation in order to ensure a favorable judgment for the suppliers far exceeds the total potential sales revenues from sales by such suppliers to the medical device industry;

(9) unless alternate sources of supply can be found, the unavailability of raw materials and component parts for medical devices will lead to unavailability of lifesaving and life-enhancing medical devices;

(10) because other suppliers of the raw materials and component parts in foreign nations are refusing to sell raw materials or component parts for use in manufacturing certain medical devices in the United States, the prospects for development of new sources of supply for the full range of threatened raw materials and component parts for medical devices are remote;

(11) it is unlikely that the small market for such raw materials and component parts in the United States could support the large investment needed to develop new suppliers of such raw materials and component parts;

(12) attempts to develop such new suppliers would raise the cost of medical devices;

(13) courts that have considered the duties of the suppliers of the raw materials and component parts have generally found that the suppliers do not have a duty—

(A) to evaluate the safety and efficacy of the use of a raw material or component part in a medical device; and

(B) to warn consumers concerning the safety and effectiveness of a medical device;

(14) attempts to impose the duties referred to in subparagraphs (A) and (B) of paragraph (13) on suppliers of the raw materials and component parts would cause more harm than good by driving the suppliers to cease supplying manufacturers of medical devices; and

(15) in order to safeguard the availability of a wide variety of lifesaving and life-enhancing medical devices, immediate action is needed—

(A) to clarify the permissible bases of liability for suppliers of raw materials and component parts for medical devices; and

(B) to provide expeditious procedures to dispose of unwarranted suits against the suppliers in such manner as to minimize litigation costs.

SEC. 203. DEFINITIONS.

As used in this title:

(1) BIOMATERIALS SUPPLIER.—

(A) IN GENERAL.—The term ''biomaterials supplier'' means an entity that directly or indirectly supplies a component part or raw material for use in the manufacture of an implant.

(B) PERSONS INCLUDED.—Such term includes any person who—

(i) has submitted master files to the Secretary for purposes of premarket approval of a medical device; or

(ii) licenses a biomaterials supplier to produce component parts or raw materials.

(2) CLAIMANT.—

(A) IN GENERAL.—The term ''claimant'' means any person who brings a civil action, or on whose behalf a civil action is brought, arising from harm allegedly caused directly or indirectly by an implant, including a person other than the individual into whose body, or in contact with whose blood or tissue, the implant is placed, who claims to have suffered harm as a result of the implant.

(B) ACTION BROUGHT ON BEHALF OF AN ESTATE.—With respect to an action brought on behalf of or through the estate of an individual into whose body, or in contact with whose blood or tissue the implant is placed, such term includes the decedent that is the subject of the action.

(C) ACTION BROUGHT ON BEHALF OF A MINOR OR INCOMPETENT.—With respect to an action brought on behalf of or through a minor or incompetent, such term includes the parent or guardian of the minor or incompetent.

(D) EXCLUSIONS.—Such term does not include—

(i) a provider of professional health care services, in any case in which—

(I) the sale or use of an implant is incidental to the transaction; and

(II) the essence of the transaction is the furnishing of judgment, skill, or services; or

(ii) a person acting in the capacity of a manufacturer, seller, or biomaterials supplier.

(3) COMPONENT PART.—

(A) IN GENERAL.—The term ''component part'' means a manufactured piece of an implant.

(B) CERTAIN COMPONENTS.—Such term includes a manufactured piece of an implant that—

(i) has significant non-implant applications; and

(ii) alone, has no implant value or purpose, but when combined with other component parts and materials, constitutes an implant.

(4) HARM.—

(A) IN GENERAL.—The term ''harm'' means—

(i) any injury to or damage suffered by an individual;

(ii) any illness, disease, or death of that individual resulting from that injury or damage; and

(iii) any loss to that individual or any other individual resulting from that injury or damage.

(B) EXCLUSION.—The term does not include any commercial loss or loss of or damage to an implant.

(5) IMPLANT.—The term ''implant'' means—

(A) a medical device that is intended by the manufacturer of the device—

(i) to be placed into a surgically or naturally formed or existing cavity of the body for a period of at least 30 days; or

(ii) to remain in contact with bodily fluids or internal human tissue through a surgically produced opening for a period of less than 30 days; and

(B) suture materials used in implant procedures.

(6) MANUFACTURER.—The term ''manufacturer'' means any person who, with respect to an implant—

(A) is engaged in the manufacture, preparation, propagation, compounding, or processing (as defined in section 510(a)(1)) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(a)(1)) of the implant; and

(B) is required—

(i) to register with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

(ii) to include the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section.

(7) MEDICAL DEVICE.—The term ''medical device'' means a device, as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)) and includes any device component of any combination product as that term is used in section 503(g) of such Act (21 U.S.C. 353(g)).

(8) RAW MATERIAL.—The term ''raw material'' means a substance or product that—

(A) has a generic use; and

(B) may be used in an application other than an implant.

(9) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(10) SELLER.—

(A) IN GENERAL.—The term ''seller'' means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, packages, labels, or otherwise places an implant in the stream of commerce.

(B) EXCLUSIONS.—The term does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services, in any case in which the sale or use of an implant is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who acts in only a financial capacity with respect to the sale of an implant.

SEC. 204. GENERAL REQUIREMENTS; APPLICABILITY; PREEMPTION.

(a) GENERAL REQUIREMENTS.—

(1) IN GENERAL.—In any civil action covered by this title, a biomaterials supplier may raise any defense set forth in section 205.

(2) PROCEDURES.—Notwithstanding any other provision of law, the Federal or State court in which a civil action covered by this title is pending shall, in connection with a motion for dismissal or judgment based on a defense described in paragraph (1), use the procedures set forth in section 206.

(b) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), notwithstanding any other provision of law, this title applies to any civil action brought by a claimant, whether in a Federal or State court, against a manufacturer, seller, or biomaterials supplier, on the basis of any legal theory, for harm allegedly caused by an implant.

(2) EXCLUSION.—A civil action brought by a purchaser of a medical device for use in providing professional services against a manufacturer, seller, or biomaterials supplier for loss or damage to an implant or for commercial loss to the purchaser—

(A) shall not be considered an action that is subject to this title; and

(B) shall be governed by applicable commercial or contract law.

(c) SCOPE OF PREEMPTION.—

(1) IN GENERAL.—This title supersedes any State law regarding recovery for harm caused by an implant and any rule of procedure applicable to a civil action to recover damages for such harm only to the extent that this title establishes a rule of law applicable to the recovery of such damages.

(2) APPLICABILITY OF OTHER LAWS.—Any issue that arises under this title and that is not governed by a rule of law applicable to the recovery of damages described in paragraph (1) shall be governed by applicable Federal or State law.

(d) STATUTORY CONSTRUCTION.—Nothing in this title may be construed—

(1) to affect any defense available to a defendant under any other provisions of Federal or State law in an action alleging harm caused by an implant; or

(2) to create a cause of action or Federal court jurisdiction pursuant to section 1331 or 1337 of title 28, United States Code, that otherwise would not exist under applicable Federal or State law.

SEC. 205. LIABILITY OF BIOMATERIALS SUPPLIERS.

(a) IN GENERAL.—

(1) EXCLUSION FROM LIABILITY.—Except as provided in paragraph (2), a biomaterials supplier shall not be liable for harm to a claimant caused by an implant.

(2) LIABILITY.—A biomaterials supplier that—

(A) is a manufacturer may be liable for harm to a claimant described in subsection (b);

(B) is a seller may be liable for harm to a claimant described in subsection (c); and

(C) furnishes raw materials or component parts that fail to meet applicable contractual requirements or specifications may be liable for a harm to a claimant described in subsection (d).

(b) LIABILITY AS MANUFACTURER.—

(1) IN GENERAL.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable for harm to a claimant caused by an implant if the biomaterials supplier is the manufacturer of the implant.

(2) GROUNDS FOR LIABILITY.—The biomaterials supplier may be considered the manufacturer of the implant that allegedly caused harm to a claimant only if the biomaterials supplier—

(A)(i) has registered with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

(ii) included the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section;

(B) is the subject of a declaration issued by the Secretary pursuant to paragraph (3) that states that the supplier, with respect to the implant that allegedly caused harm to the claimant, was required to—

(i) register with the Secretary under section 510 of such Act (21 U.S.C. 360), and the regulations issued under such section, but failed to do so; or

(ii) include the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section, but failed to do so; or

(C) is related by common ownership or control to a person meeting all the requirements described in subparagraph (A) or (B), if the court deciding a motion to dismiss in accordance with section 206(c)(3)(B)(i) finds, on the basis of affidavits submitted in accordance with section 206, that it is necessary to impose liability on the biomaterials supplier as a manufacturer because the related manufacturer meeting the requirements of subparagraph (A) or (B) lacks sufficient financial resources to satisfy any judgment that the court feels it is likely to enter should the claimant prevail.

(3) ADMINISTRATIVE PROCEDURES.—

(A) IN GENERAL.—The Secretary may issue a declaration described in paragraph (2)(B) on the motion of the Secretary or on petition by any person, after providing—

(i) notice to the affected persons; and

(ii) an opportunity for an informal hearing.

(B) DOCKETING AND FINAL DECISION.—Immediately upon receipt of a petition filed pursuant to this paragraph, the Secretary shall docket the petition. Not later than 180 days after the petition is filed, the Secretary shall issue a final decision on the petition.

(C) APPLICABILITY OF STATUTE OF LIMITATIONS.—Any applicable statute of limitations shall toll during the period during which a claimant has filed a petition with the Secretary under this paragraph.

(c) LIABILITY AS SELLER.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable as a seller for harm to a claimant caused by an implant if—

(1) the biomaterials supplier—

(A) held title to the implant that allegedly caused harm to the claimant as a result of purchasing the implant after—

(i) the manufacture of the implant; and

(ii) the entrance of the implant in the stream of commerce; and

(B) subsequently resold the implant; or

(2) the biomaterials supplier is related by common ownership or control to a person meeting all the requirements described in paragraph (1), if a court deciding a motion to dismiss in accordance with section 206(c)(3)(B)(ii) finds, on the basis of affidavits submitted in accordance with section 206, that it is necessary to impose liability on the biomaterials supplier as a seller because the related seller meeting the requirements of paragraph (1) lacks sufficient financial resources to satisfy any judgment that the court feels it is likely to enter should the claimant prevail.

(d) LIABILITY FOR VIOLATING CONTRACTUAL REQUIREMENTS OR SPECIFICATIONS.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable for harm to a claimant caused by an implant, if the claimant in an action shows, by a preponderance of the evidence, that—

(1) the raw materials or component parts delivered by the biomaterials supplier either—

(A) did not constitute the product described in the contract between the biomaterials supplier and the person who contracted for delivery of the product; or

(B) failed to meet any specifications that were—

(i) provided to the biomaterials supplier and not expressly repudiated by the biomaterials supplier prior to acceptance of delivery of the raw materials or component parts;

(ii)(I) published by the biomaterials supplier;

(II) provided to the manufacturer by the biomaterials supplier; or

(III) contained in a master file that was submitted by the biomaterials supplier to the Secretary and that is currently maintained by the biomaterials supplier for purposes of premarket approval of medical devices; or

(iii) included in the submissions for purposes of premarket approval or review by the Secretary under section 510, 513, 515, or 520 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360, 360c, 360e, or 360j), and received clearance from the Secretary if such specifications were provided by the manufacturer to the biomaterials supplier and were not expressly repudiated by the biomaterials supplier prior to the acceptance by the manufacturer of delivery of the raw materials or component parts; and

(2) such conduct was an actual and proximate cause of the harm to the claimant.

SEC. 206. PROCEDURES FOR DISMISSAL OF CIVIL ACTIONS AGAINST BIOMATERIALS SUPPLIERS.

(a) MOTION TO DISMISS.—In any action that is subject to this title, a biomaterials supplier who is a defendant in such action may, at any time during which a motion to dismiss may be filed under an applicable law, move to dismiss the action against it on the grounds that—

(1) the defendant is a biomaterials supplier; and

(2)(A) the defendant should not, for the purposes of—

(i) section 205(b), be considered to be a manufacturer of the implant that is subject to such section; or

(ii) section 205(c), be considered to be a seller of the implant that allegedly caused harm to the claimant; or

(B)(i) the claimant has failed to establish, pursuant to section 205(d), that the supplier furnished raw materials or component parts in violation of contractual requirements or specifications; or

(ii) the claimant has failed to comply with the procedural requirements of subsection (b).

(b) MANUFACTURER OF IMPLANT SHALL BE NAMED A PARTY.—The claimant shall be required to name the manufacturer of the implant as a party to the action, unless—

(1) the manufacturer is subject to service of process solely in a jurisdiction in which the biomaterials supplier is not domiciled or subject to a service of process; or

(2) an action against the manufacturer is barred by applicable law.

(c) PROCEEDING ON MOTION TO DISMISS.—The following rules shall apply to any proceeding on a motion to dismiss filed under this section:

(1) AFFIDAVITS RELATING TO LISTING AND DECLARATIONS.—

(A) IN GENERAL.—The defendant in the action may submit an affidavit demonstrating that defendant has not included the implant on a list, if any, filed with the Secretary pursuant to section 510(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(j)).

(B) RESPONSE TO MOTION TO DISMISS.—In response to the motion to dismiss, the claimant may submit an affidavit demonstrating that—

(i) the Secretary has, with respect to the defendant and the implant that allegedly caused harm to the claimant, issued a declaration pursuant to section 205(b)(2)(B); or

(ii) the defendant who filed the motion to dismiss is a seller of the implant who is liable under section 205(c).

(2) EFFECT OF MOTION TO DISMISS ON DISCOVERY.—

(A) IN GENERAL.—If a defendant files a motion to dismiss under paragraph (1) or (2) of subsection (a), no discovery shall be permitted in connection to the action that is the subject of the motion, other than discovery necessary to determine a motion to dismiss for lack of jurisdiction, until such time as the court rules on the motion to dismiss in accordance with the affidavits submitted by the parties in accordance with this section.

(B) DISCOVERY.—If a defendant files a motion to dismiss under subsection (a)(2)(B)(i) on the grounds that the biomaterials supplier did not furnish raw materials or component parts in violation of contractual requirements or specifications, the court may permit discovery, as ordered by the court. The discovery conducted pursuant to this subparagraph shall be limited to issues that are directly relevant to—

(i) the pending motion to dismiss; or

(ii) the jurisdiction of the court.

(3) AFFIDAVITS RELATING STATUS OF DEFENDANT.—

(A) IN GENERAL.—Except as provided in clauses (i) and (ii) of subparagraph (B), the court shall consider a defendant to be a biomaterials supplier who is not subject to an action for harm to a claimant caused by an implant, other than an action relating to liability for a violation of contractual requirements or specifications described in subsection (d).

(B) RESPONSES TO MOTION TO DISMISS.—The court shall grant a motion to dismiss any action that asserts liability of the defendant under subsection (b) or (c) of section 205 on the grounds that the defendant is not a manufacturer subject to such section 205(b) or seller subject to section 205(c), unless the claimant submits a valid affidavit that demonstrates that—

(i) with respect to a motion to dismiss contending the defendant is not a manufacturer, the defendant meets the applicable requirements for liability as a manufacturer under section 205(b); or

(ii) with respect to a motion to dismiss contending that the defendant is not a seller, the defendant meets the applicable requirements for liability as a seller under section 205(c).

(4) BASIS OF RULING ON MOTION TO DISMISS.—

(A) IN GENERAL.—The court shall rule on a motion to dismiss filed under subsection (a) solely on the basis of the pleadings of the parties made pursuant to this section and any affidavits submitted by the parties pursuant to this section.

(B) MOTION FOR SUMMARY JUDGMENT.—Notwithstanding any other provision of law, if the court determines that the pleadings and affidavits made by parties pursuant to this section raise genuine issues as concerning material facts with respect to a motion concerning contractual requirements and specifications, the court may deem the motion to dismiss to be a motion for summary judgment made pursuant to subsection (d).

(d) SUMMARY JUDGMENT.—

(1) IN GENERAL.—

(A) BASIS FOR ENTRY OF JUDGMENT.—A biomaterials supplier shall be entitled to entry of judgment without trial if the court finds there is no genuine issue as concerning any material fact for each applicable element set forth in paragraphs (1) and (2) of section 205(d).

(B) ISSUES OF MATERIAL FACT.—With respect to a finding made under subparagraph (A), the court shall consider a genuine issue of material fact to exist only if the evidence submitted by claimant would be sufficient to allow a reasonable jury to reach a verdict for the claimant if the jury found the evidence to be credible.

(2) DISCOVERY MADE PRIOR TO A RULING ON A MOTION FOR SUMMARY JUDGMENT.—If, under applicable rules, the court permits discovery prior to a ruling on a motion for summary judgment made pursuant to this subsection, such discovery shall be limited solely to establishing whether a genuine issue of material fact exists as to the applicable elements set forth in paragraphs (1) and (2) of section 205(d).

(3) DISCOVERY WITH RESPECT TO A BIOMATERIALS SUPPLIER.—A biomaterials supplier shall be subject to discovery in connection with a motion seeking dismissal or summary judgment on the basis of the inapplicability of section 205(d) or the failure to establish the applicable elements of section 205(d) solely to the extent permitted by the applicable Federal or State rules for discovery against nonparties.

(e) STAY PENDING PETITION FOR DECLARATION.—If a claimant has filed a petition for a declaration pursuant to section 205(b)(3)(A) with respect to a defendant, and the Secretary has not issued a final decision on the petition, the court shall stay all proceedings with respect to that defendant until such time as the Secretary has issued a final decision on the petition.

(f) MANUFACTURER CONDUCT OF PROCEEDING.—The manufacturer of an implant that is the subject of an action covered under this title shall be permitted to file and conduct a proceeding on any motion for summary judgment or dismissal filed by a biomaterials supplier who is a defendant under this section if the manufacturer and any other defendant in such action enter into a valid and applicable contractual agreement under which the manufacturer agrees to bear the cost of such proceeding or to conduct such proceeding.

(g) ATTORNEY FEES.—The court shall require the claimant to compensate the biomaterials supplier (or a manufacturer appearing in lieu of a supplier pursuant to subsection (f)) for attorney fees and costs, if—

(1) the claimant named or joined the biomaterials supplier; and

(2) the court found the claim against the biomaterials supplier to be without merit and frivolous.

TITLE III—LIMITATIONS ON APPLICABILITY; EFFECTIVE DATE

SEC. 301. EFFECT OF COURT OF APPEALS DECISIONS.

A decision by a Federal circuit court of appeals interpreting a provision of this Act (except to the extent that the decision is overruled or otherwise modified by the Supreme Court) shall be considered a controlling precedent with respect to any subsequent decision made concerning the interpretation of such provision by any Federal or State court within the geographical boundaries of the area under the jurisdiction of the circuit court of appeals.

SEC. 302. FEDERAL CAUSE OF ACTION PRECLUDED.

The district courts of the United States shall not have jurisdiction pursuant to this Act based on section 1331 or 1337 of title 28, United States Code.

SEC. 303. EFFECTIVE DATE.

This Act shall apply with respect to any action commenced on or after the date of the enactment of this Act without regard to whether the harm that is the subject of the action or the conduct that caused the harm occurred before such date of enactment.

Mr. McCAIN. Mr. President, the Product Liability Reform Act of 1997 overhauls an unfair and inefficient product liability system for the benefit of American consumers and entrepreneurs. The text of this bill will be familiar to all Senators who are veterans of the 104th Congress: it is the conference report that Congress approved last year. Unfortunately, President Clinton vetoed that conference report, but I want to remind my colleagues that the President said in his veto statement ''I support real common sense product liability reform.'' Well, Mr. President, we will soon again hold your words to task.

The introduction of this bill today, as one of the first 10 bills introduced in the Congress, is an indication of the importance of the legislation and the priority that we place on its consideration. The text of the Conference Report has been introduced because it is the last action Congress took on this matter.

Now members from both sides of the aisle will undertake bipartisan discussions and diverse viewpoints will be addressed. In the last Congress Senator GORTON and Senator ROCKEFELLER did an excellent job in developing a bipartisan consensus to pass this legislation. I appreciate their hard work and dedication. Their efforts will be called on again. Senator ASHCROFT has assumed the chairmanship of the subcommittee with jurisdiction over this bill and I know he will be a valuable asset as this legislation advances.

As we address this important legislation I look forward to working with the President as well. The President's veto statement outlined some of his concerns with the conference report. In my opinion, many of those concerns can be addressed easily and directly. Other issues, such as reform of punitive damages and joint and several liability, will require meaningful discussions.

I am nevertheless hopeful that those negotiations will succeed. I am encouraged that the President has strongly indicated his support for meaningful product liability reform. I recall that in the first Presidential debate with Senator Dole, in October 1996, the President said, when discussing product liability, ''we're going to eliminate frivolous lawsuits, I'll sign the bill.'' In that debate, the President reminded the public that he has supported tort reform in the past. In 1994, the President signed the General Aviation Revitalization Act which, by instituting a statute of repose, truly revitalized a withering industry and in the process created hundreds of high quality jobs.

As this legislation moves forward, I remind my colleagues that we must not let the perfect be the enemy of the good. Much is at stake. Federal liability legislation is urgently needed. The present system in the United States for resolving product liability actions is costly, slow, inequitable and unpredictable. I find it shocking that the system's transaction costs exceed the compensation paid to individuals who have sustained injury. These transaction costs are inevitably passed on to consumers through higher product prices. The inefficiency and unpredictability of the product liability system has also stifled innovation, kept beneficial products off the market, and has handicapped American firms as they compete in a global market.

Consumers who are legitimately injured suffer most from this broken system. Many consumers who are injured by defective products and are in need of compensation are unable to recover damages or must wait years to recover them. They are thrown into a product liability litigation system where identical cases can produce shockingly different results. Sadly, severely injured victims tend to receive far less than their actual economic losses, while those with minor injuries often are dramatically overcompensated. This legislation will help fix this broken system. I feel it is important to emphasize that this legislation will greatly benefit consumers and it will not bar the door to the court house or limit the compensatory damages that an injured plaintiff can receive.

The malfunctions of this system are particularly evident in the area of biomaterials where valuable life-saving products are kept from consumers. I was introduced to this issue when the Ransom family in Mesa, AZ wrote to

me about their daughter's desperate need for a specialized brain shunt. They were concerned this life-saving device may not be available for their daughter because companies were no longer willing to supply the raw materials necessary due to the high risk of being unjustifiably sued.

In the last Congress, Senator LIEBERMAN and I introduced legislation to address this problem. That legislation, the Biomaterials Access Assurance Act, became part of the product liability bill and was included in the Conference Report of the bill. In the closing weeks of the last Congress, Senator LIEBERMAN and I proposed a version of our bill that excluded breast implant litigation from its coverage. I expect the legislation advanced in this Congress will also contain that exclusion for breast implant litigation. I look forward to working closely with Senator LIEBERMAN on this matter.

I hope that bipartisan negotiations begin in earnest on The Product Liability Reform Act. It is my desire to have this legislation be the first bill reported in this Congress by the Committee on Commerce, Science, and Transportation.

Mr. ABRAHAM. Mr. President, I rise today in support of S. 5, a bill to reform product liability law. This legislation will significantly curb the epidemic of frivolous lawsuits that are diverting our Nation's resources away from productive activity and into transaction costs.

Our current legal system, under which we spend $300 billion or 4½ percent of our gross domestic product each year, is not just broken, it is falling apart. This is a system in which plaintiffs receive less than half of every dollar spent on litigation-related costs. It is a system that forces necessary goods, such as pharmaceuticals that can treat a number of debilitating diseases and conditions, off the market in this country.

The bill I cosponsor today would do much to address these problems. It institutes caps on punitive damages, thereby limiting potential windfalls for plaintiffs without in any way interfering with their ability to obtain full recovery for their injuries. It provides product manufacturers with long-overdue relief from abusers of their products. And it protects these makers, and sellers, from being made to pay for all or most noneconomic damages when they are responsible for only a small percentage of them.

Last year, President Clinton chose to veto the bipartisan products liability bill that passed the Congress. For the sake of all Americans, I hope this year will be different.

Mr. ASHCROFT. Mr. President, today is an exciting day as I introduce, along with Senators MCCAIN, COVERDELL, MCCONNELL, and ABRAHAM, S. 5, the Product Liability Fairness Act of 1977.

Justice Holmes once wisely observed that a page of history is worth a volume of logic. With respect to the effort to enact product liability law, we have hundreds of pages of history and volumes of logic to support its enactment now.

The effort of the Federal Government to address product liability goes back almost two decades when President Ford established the Federal Inter-Agency Task Force on Product Liability. Although administration changed, President Carter did not abandon the effort, but enhanced it with resulting research that supports what we do today. President Carter chartered the drafting of the Model Uniform Product Liability Act, which tentatively was offered as a vehicle for state action.

Product liability legislation has been reported out of the Senate Commerce Committee seven times. Last Congress, legislation and a conference report containing many compromises and bipartisan agreements was voted upon favorably in each House. A bipartisan majority of the Senate approved the conference report on March 21, 1996.

The bill that we introduce today is that conference report. I appreciate that today's bill reflects a bill one that was vetoed by President Clinton. But, we are not here today to simply repeat history. We are here to make history and provide Americans with fair product liability legislation.

We are introducing the same bill as a ''place marker'' for discussions and a fair resolution of issues. The President's veto message suggested that he well may have been misinformed about the nature of the legislation passed by bipartisan majorities last year. Let us have discussions to clarify those matters so that the legislation is unequivocal in its meaning and purpose.

We are resolved to work with the White House to obtain the President's support. I take the President at his word when he said in the Presidential debate on October 6, 1996, ''I signed a tort reform bill that dealt with civil aviation a couple of years ago. I proved that I will sign a reasonable tort reform.''

It is interesting that the President referred to the General Aviation Revitalization Act of 1994, which he did sign on August 17, 1994. The aviation liability reform bill enacted a statute of repose for general aviation aircraft. In 1994, proponents of the bill said that it would produce jobs. It has. To date, over 9,000 new jobs, good jobs, have been created. Single engine aircraft are being manufactured in America again, and an endangered industry has been revitalized. President Clinton was right to support that bill.

What did opponents say in 1994 aviation bill? They said that no new jobs would be produced. And, they said that if planes were produced, they would be unsafe and, in hyperbole, suggested that they might be made of balsa wood. What actually happened? I already mentioned that 9,000 new jobs have been created. You should also know that the aircraft being made by American workers are the safest single engine aircraft produced in the history of this country.

Let us bring the results of the General Aviation Revitalization Act of 1994 to the broad segments of our country and industries.

We introduce this bill to stimulate job growth. We introduce this bill to remove the chilling effects that prevent the introduction of good and useful products. We introduce this bill to encourage new product development. On the other hand, it is our goal to assure that anyone that makes dangerous and defective products is appropriately sanctioned by our tort law.

From the perspective of many, this bill is a very modest one. From their perspective, there is a need to have liability reform in other crucial areas, such as: general punitive reform, medical liability reform, and volunteers' liability reform.

The principles contained in this bill are a good starting point to make the product liability laws in this nation fair for consumers who purchase defective products while placing the burden on those responsible for placing these products in the stream of commerce. It also ensures that those who misuse products, or use them while under the influence of drugs or alcohol, do not collect a windfall which becomes a burden for American consumers in the form of increased costs for products—useful products that are no longer available in the market, and the loss of jobs and greater opportunities.

This bill in no way limits compensatory damages. This bill would not affect the ability of plaintiffs to sue manufacturers or sellers of medical implants. It would, however, allow raw material suppliers to be dismissed from lawsuits if the generic raw material used in the medical device met contract specifications, and if the biomaterial supplier is not classified as either a manufacturer or seller of the implant.

Strong product liability reform is good for America. It ensures that consumers, injured by a product, will be fairly compensated. It will enhance American innovation, which is the best in the world, by treating responsible entrepreneurs fairly while treating the bad actors harshly and to the full extent of the law.

As chairman of the Consumer Affairs Subcommittee I am committed and look forward to working with this administration toward ending the 20-year study and painstaking endeavor to provide our Nation with sound and fair Federal product liability law. It took the European community about 6 years to accomplish this goal and create the European product liability directive. Japan enacted its first product liability reform law almost 2 years ago.

Our Nation, this Congress, and this administration should pull together and meet the challenge of our foreign competitors and enact fair and balanced product liability law. In that

spirit and for that purpose, we introduce S. 5.

By Mr. SANTORUM (for himself and Mr. SMITH):

S. 6. A bill to amend title 18, United States Code, to ban partial-birth abortions; to the Committee on the Judiciary.

THE PARTIAL-BIRTH BAN ACT OF 1997

Mr. SANTORUM. Mr. President, the agenda for the 105th Congress reflects a continuance of the very significant debate that occurred in the 104th Congress on the issue of partial birth abortion.

Four months ago, we debated and considered a presidential veto override on a bill to ban the partial birth abortion procedure. On a final vote, we came very close to banning this very gruesome procedure, and the number of colleagues who supported the override set the stage for consideration again this year.

A wide spectrum of individuals have coalesced around the effort to ban partial birth abortions. These varied individuals and groups have raised their voices in support of a ban both because of the brutality of partial birth abortions and because they recognize that this debate is not about Roe vs. Wade, the 1973 Supreme Court decision legalizing abortion. It is not about when a fetus becomes a baby. And it is certainly not about women's health. It is about infanticide, it is about killing a child as he or she is being born, an issue that neither Roe vs. Wade nor the subsequent Doe vs. Bolton decision addressed.

During the Senate debate last year, various traditionally pro-choice legislators voted in support of legislation to ban this particular procedure. Among them was a colleague who stated on the floor of the Senate, ''In my legal judgement, the issue is not over a woman's right to choose within the constitutional context of Roe versus Wade. * * * The line of the law is drawn, in my legal judgement, when the child is partially out of the womb of the mother. It is no longer abortion; it is infanticide.'' He was joined in these sentiments by other like minded Senators.

This perspective is significant in that it suggests the scope of the tragedy that this procedure represents. And for those who may still be unclear what a partial birth abortion procedure is, it is this: a fully formed baby—in most cases a viable fetus of 23–26 weeks—is pulled from its mother until all but the head is delivered. Then, scissors are plunged into the base of the skull, a tube is inserted and the child's brains are suctioned out so that the head of the now-dead infant collapses and is delivered.

Partial birth abortion is tragic for the infant who loses his or her life in this brutal procedure. It is also a personal tragedy for the families who choose the procedure, as it is for those who perform it—even if they aren't aware of it. But partial birth abortion is also a profound social tragedy. It rips through the moral cohesion of our public life. It cuts into our most deeply held beliefs about the importance of protecting and cherishing vulnerable human life. It fractures our sense that the laws of our country should reflect long-held, commonly accepted moral norms.

Yet this kind of tragedy—even as it calls forth and exposes our outrage—can be an unexpected catalyst for consensus, for new coalitions and configurations in our public life. The partial birth abortion debate moves us beyond the traditional lines of confrontation to hollow out a place in the public square where disparate individuals and groups can come together and draw a line that they know should not be crossed.

The stark tragedy of partial birth abortion can be the beginning of a significant public discussion where we define—or re-define—our first principles. Why is such a discussion important? Precisely because it throws into relief the fundamental truths around which a moral consensus is formed in this country. And, as John Courtney Murray reminds us in ''We Hold These Truths, Catholic Reflections on the American Proposition'', a public consensus which finds its expression in the law should be ''an ensemble of substantive truths, a structure of basic knowledge, an order of elementary affirmations* * *''.

If we do not have fundamental agreement about first principles, we simply cannot engage one another in civil debate. All we have is the confusion of different factions locked in their own moral universe. If we could agree publicly on just this one point—that partial birth abortion is not something our laws should sanction, and if we could then reveal the consensus—a consensus that I know exists—against killing an almost-born infant, we would have significantly advanced the discussion about what moral status and dignity we give to life in all its stages. Public agreement, codified by law, on this one prohibition gives us a common point of departure. It give us a common language even, because we agree, albeit in a narrow sense, on the meaning of fundamental terms such as life and death. And it is with this common point of departure and discourse—however narrow—that we gain a degree of coherence and unity in our public life and dialogue.

I truly believe that out of the horror and tragedy of partial birth abortions, we can find points of agreement across ideological, political and religious lines which enable us to work toward a life-sustaining culture. So, as hundreds of thousands of faithful and steadfast citizens come together to participate in this year's March for Life, let us remember that such a culture, the culture for which we hope and pray daily, might very well be achieved one argument at a time.

Mr. President, I am proud to have the opportunity to sponsor this legislation and to continue the very significant achievements of my colleague, Senator BOB SMITH. I look forward to continuing that effort in cooperation with Representative CHARLES CANADY, and I thank my colleagues for making this initiative a priority in our legislative agenda.

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

S. 6

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 ''Partial-Birth Abortion Ban Act of 1997''.

SEC. 2. PROHIBITION ON PARTIAL-BIRTH ABORTIONS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 73 the following:

''CHAPTER 74—PARTIAL BIRTH ABORTIONS

''Sec.

''1531. Partial-birth abortions prohibited.

''§ 1531. Partial-birth abortions prohibited

''(a) Whoever, in or affecting interstate or foreign commerce, knowingly performs a partial-birth abortion and thereby kills a human fetus or infant shall be fined under this title or imprisoned not more than two years, or both.

''(b) Subsection (a) does not apply to a partial-birth abortion that is necessary to save the life of a mother because her life is endangered by a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, if no other medical procedure would suffice for that purpose.

''(c) As used in this section—

''(1) the term 'partial-birth abortion' means an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the infant and completing the delivery; and

''(2) the terms 'fetus' and 'infant' are interchangeable.

''(d)(1) Unless the pregnancy resulted from the plaintiff's criminal conduct or the plaintiff consented to the abortion, the father, and if the mother has not attained the age of 18 years at the time of the abortion, the maternal grandparents of the fetus or infant, may in a civil action obtain appropriate relief.

''(2) Such relief shall include—

''(A) money damages for all injuries, psychological and physical, occasioned by the violation of this section; and

''(B) statutory damages equal to three times the cost of the partial-birth abortion; even if the mother consented to the performance of an abortion.

''(e) A woman upon whom a partial-birth abortion is performed may not be prosecuted under this section for a conspiracy to violate this section, or an offense under section 2, 3, or 4 of this title based on a violation of this section.''.

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 73 the following new item:

''75. Partial-birth abortions ..... 1531''.

Mr. ABRAHAM. Mr. President, I rise today to cosponsor S. 6. In doing so I add my voice to the chorus calling for