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CONGRESSIONAL RECORD
PROCEEDINGS AND DEBATES OF THE 98TH CONGRESS

HOUSE

BILL	DATE	PAGE(S)
H.R.4145	MAY 21 '84 (67)	H4182-89

ACTION:

Suspensions—Votes Postponed: House completed all debate on motions to suspend the rules and pass the following bills, on which votes were postponed until Tuesday, May 22:

State Justice Institute Act: H.R. 4145, amended, to aid State and local governments in strengthening and improving their judicial systems through the creation of a State Justice Institute; and

STATE JUSTICE INSTITUTE ACT OF 1983

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4145) to aid State and local governments in strengthening and improving their judicial systems through the creation of a State Justice Institute, as amended.

The Clerk read as follows:

H.R. 4145

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

SHORT TITLE

SECTION 1. This Act may be cited as the "State Justice Institute Act of 1984".

DEFINITIONS

SEC. 2. As used in this Act, the term—

(1) "Board" means the Board of Directors of the State Justice Institute;

(2) "Director" means the Executive Director of the State Justice Institute;

(3) "Governor" means the Chief Executive Officer of a State;

(4) "Institute" means the State Justice Institute established under section 3 of this Act;

(5) "recipient" means any grantee, contractor, or recipient of financial assistance under this Act;

(6) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States; and

(7) "Supreme Court" means the highest appellate court within a State or a constitutionally or legislatively established judicial council acting in place of that court for purposes of this Act.

ESTABLISHMENT OF INSTITUTE; DUTIES

SEC. 3. (a)(1) There is hereby established a private nonprofit corporation which shall be known as the State Justice Institute. The purpose of the Institute shall be to further the development and adoption of improved judicial administration in State courts in the United States.

(2) The Institute may be incorporated in any State, pursuant to section 4(a)(5) of this Act. To the extent consistent with the provisions of this Act, the Institute may exercise the powers conferred upon a nonprofit corporation by the laws of the State in which it is incorporated.

(b) The Institute shall, in accordance with this Act—

(1) direct a national program of assistance designed to assure each person ready access to a fair and effective system of justice by providing funds to—

(A) State courts;

(B) national organizations which support and are supported by State courts; and

(C) any other nonprofit organization that will support and achieve the purposes of this Act;

(2) foster coordination and cooperation with the Federal judiciary in areas of mutual concern;

(3) promote recognition of the importance of the separation of powers doctrine to an independent judiciary; and

(4) encourage education for judges and support personnel of State court systems through national and State organizations, including universities.

(c) The Institute shall not duplicate functions adequately performed by existing nonprofit organizations and shall promote, on the part of agencies of State judicial administration, responsibility for success and effectiveness of State court improvement programs supported by Federal funding.

(d) The Institute shall maintain its principal offices in the State in which it is incorporated and shall maintain therein a designated agent to accept service of process for the Institute. Notice to or service upon the agent shall be deemed notice to or service upon the Institute.

(e) The Institute, and any program assisted by the Institute, shall be eligible to be treated as an organization described in section 170(c)(2)(B) of the Internal Revenue Code of 1954 and as an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 which is exempt from taxation under section 501(a) of such Code. If such treatments are conferred in accordance with the provisions of such Code, the Institute, and programs assisted by the Institute, shall be subject to all provisions of such Code relevant to the conduct or organizations exempt from taxation.

(f) The Institute shall afford notice and reasonable opportunity for comment to interested parties prior to issuing any rule, regulation, guideline, or instruction under this Act, and it shall publish any such rule, regulation, guideline, or instruction in the Federal Register at least thirty days prior to its effective date.

BOARD OF DIRECTORS

SEC. 4. (a)(1) The Institute shall be supervised by a Board of Directors, consisting of eleven voting members to be appointed by the President, by and with the advice and consent of the Senate. The Board shall have both judicial and nonjudicial members, and shall, to the extent practicable, have a membership representing a variety of backgrounds and reflecting participation and interest in the administration of justice.

(2) The Board shall consist of—

(A) six judges, to be appointed in the manner provided in paragraph (3);

(B) one State court administrator, to be appointed in the manner provided in paragraph (3); and

(C) four members from the public sector, to be appointed in the manner provided in paragraph (4), no more than two of whom shall be of the same political party.

(3) The President shall make the initial appointments referred to in subparagraphs (A) and (B) from a list of candidates submitted to the President by the Conference of Chief Justices. Such list shall include at least fourteen individuals, including judges and State court administrators, whom the Conference considers best qualified to serve on the Board. Whenever the term of any of the members of the Board described in subparagraphs (A) and (B) terminates and that member is not to be reappointed to a new term, and whenever a vacancy otherwise occurs among those members, the President shall appoint a new member from a list of at least three qualified individuals submitted to the President by the Conference of Chief Justices. The President may reject any list of individuals submitted by the Conference under this paragraph and, if such a list is so rejected, the President shall request the Conference to submit to him another list of qualified individuals. Before consulting with or submitting any list to the President under this paragraph, the Conference of Chief Justices shall obtain and consider the recommendations of all interested organizations and individuals concerned with the administration of justice and the objectives of this Act.

(4) The President shall make the intitial appointments referred to in subparagraph (C) from a list of candidates submitted to the President by the majority and minority leaders of the House of Representatives and the Senate. Such list shall include at least twelve individuals. Whenever the term of any of the members of the Board described in subparagraph (C) terminates and that member is not to be reappointed to a new term, and whenever a vacancy otherwise occurs among those members, the President shall appoint a new member from a list of at least three individuals submitted to the President by the majority and minority leader of the House of Representatives, and the majority and minority leader of the Senate, who represent the political party of the member to be apointed to the Board. The President may reject any list of individuals submitted under this paragraph and, if such a list is so rejected, the President shall request the Members of Congress who submitted the first list to submit to him another list of qualified individuals.

(5) The President shall make the initial appointments of members of the Board under this subsection within ninety days after the date of the enactment of this Act. In the case of any other appointment of a member, the President shall make the appointment not later than ninety days after the previous term expires or the vacancy occurs, as the case may be. The lists of candidates referred to in paragraphs (3) and (4) shall be submitted in a timely manner so that the appointments can be made within the time periods specified in this paragraph.

(6) The initial members of the Board of Directors shall be the incorporators of the Institute and shall determine the State in which the Institute is to be incorporated.

(b)(1) Except as provided in paragraph (2), the term of each voting member of the Board shall be three years. Each member of the Board shall continue to serve until the successor of such member has been appointed and qualified.

(2) Five of the members first appointed by the President shall serve for a term of two years. Any member appointed to serve for an unexpired term resulting from the death, disability, retirement, or resignation of a member shall be appointed only for the remainder of such unexpired term, but shall be eligible for reappointment.

(3) The term of the initial members shall commence from the date of the first meeting of the Board, and the term of each member other than an initial member shall commence on the date of termination of the preceding term.

(c) No member shall be reappointed to more than two consecutive terms immediately following such member's initial term.

(d) Members of the Board shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties.

(e) The members of the Board shall not, by reason of such membership, be considered officers or employees of the United States.

(f) Each member of the Board shall be entitled to one vote. A simple majority of the membership shall constitute a quorum for the conduct of business. The Board shall act upon the concurrence of a simple majority of the membership present and voting.

(g) The Board shall select a chairman from among the voting members of the Board. The first chairman shall serve for a term of three years, and the Board shall thereafter annually elect a chairman from among its voting members.

(h) A member of the Board may be removed by a vote of seven members for malfeasance in office, persistent neglect of or inability to discharge the duties of the office, or for any offense involving moral turpitude, but for no other cause.

(i) Regular meetings of the Board shall be held quarterly. Special meetings shall be held from time to time upon the call of the chairman, acting at this discretion to pursuant to the petition of any seven members.

(j) All meetings of the Board, any executive committee of the Board, and any council established in connection with this Act, shall be open and subject to the requirements and provisions of section 552b of title 5, United States Code, relating to open meetings.

(k) In its direction and supervision of the activities of the Institute, the Board shall—

(1) establish such policies and develop such programs for the Institute as will further the achievement of its purpose and the performance of its functions;

(2) establish policy and funding priorities and issue rules, regulations, guidelines, and instructions pursuant to such priorities;

(3) appoint and fix the duties of the Executive Director of the Institute, who shall serve at the pleasure of the Board and shall be a nonvoting ex officio member of the Board;

(4) present, to government departments, agencies, and instrumentalities the programs or activities of which relate to the administration of justice in the State judiciaries of the United States, the recommendations of the Institute for the improvement of such programs or activities.

(5) consider and recommend to both public and private agencies aspects of the operation of the State courts of the United States considered worthy of special study; and

(6) award grants and enter into cooperative agreements or contracts pursuant to section 6(a) of this Act.

OFFICERS AND EMPLOYEES

Sec. 5. (a)(1) The Director, subject to general policies established by the Board, shall supervise the activities of persons employed by the Institute and may appoint and remove such employees as he determines necessary to carry out the purposes of the Institute. The Director shall be responsible for the executive and administrative operations of the Institute, and shall perform such duties as are deligated to such Director by the Board and the Institute.

(2) No political test or political qualification shall be used in selecting, appointing, promoting, or taking any other personnel action with respect to any officer, agent, or employee of the Institute, or in selecting or monitoring any recipient.

(b) Officers and employees of the Institute shall be compensated at rates determined by the Board, but not in excess of the rate basic pay payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(c)(1) Except as otherwise specifically provided in this Act, the Institute shall not be considered a department, agency or instrumentality of the Federal Government.

(2) This section does not limit the authority of the Office of Management and Budget to review and submit comments upon the Institute's annual budget request at the time it is transmitted to the Congress.

(d)(1) Except as provided in paragraph (2), officers and employees of the Institute shall not be considered officers or employees of the United States.

(2) Officers and employees of the Institute shall be considered officers and employees of the United States solely for the purposes of the following provisions of title 5, United States Code: subchapter I of chapter 81 (relating to compensation for work injuries); chapter 83 (relating to civil service retirement); chapter 87 (relating to life insurance); and chapter 89 (relating to health insurance). The Institute shall make contributions under the provisions referred to in this subsection at the same rates applicable to agencies of the Federal Government.

(e) The Institute and its officers and employees shall be subject to the provisions of section 552 of title 5, United States Code, relating to freedom of information.

GRANTS AND CONTRACTS

Sec. 6. (a) The Institute is authorized to award grants and enter into cooperative agreements or contracts, in a manner consistent with subsection (b), in order to—

(1) conduct research, demonstrations, or special projects pertaining to the purposes described in this Act, and provide technical assistance and training in support of tests, demonstrations, and special projects;

(2) serve as a clearinghouse and information center, where not otherwise adequately provided, for the preparation, publication, and dissemination of information with respect to State judicial systems;

(3) participate in joint projects with government agencies, including the Federal Judicial Center, with respect to the purposes of this Act;

(4) evaluate, when appropriate, the programs and projects carried out under this Act to determine their impact upon the quality of criminal, civil, and juvenile justice and the extent to which they have met or failed to meet the purposes and policies of this Act;

(5) encourage and assist in the furtherance of judicial education;

(6) encourage, assist, and serve in a consulting capacity to State and local justice system agencies in the development, maintenance, and coordination of criminal, civil, and juvenile justice programs and services; and

(7) be responsible for the certification of national programs that are intended to aid and improve State judicial systems.

(b) The Institute is empowered to award grants and enter into cooperative agreements or contracts as follows:

(1) The Institute shall give priority to grants, cooperative agreements, or contracts with—

(A) State and local courts and their agencies;

(B) national nonprofit organizations controlled by, operating in conjunction with, and serving the judicial branches of State governments; and

(C) national nonprofit organizations for the education and training of judges and support personnel of the judicial branch of State governments.

(2) The Institute may, if the objective can better be served thereby, award grants or enter into cooperative agreements or contracts with—

(A) other nonprofit organizations with expertise in judicial administration;

(B) institutions of higher education;

(C) individuals, partnerships, firms, or corporations; and

(D) private agencies with expertise in judicial administration.

(3) Upon application by an appropriate Federal, State, or local agency or institution and if the arrangements to be made by such agency or institution will provide services which could not be provided adequately through nongovernmental arrangements, the Institute may award a grant or enter into a cooperative agreement or contract with a unit of Federal, State, or local government other than a court.

(4) Each application for funding by a State or local court shall be approved, consistent with State law, by the State's Supreme Court, or its designated agency or council, which shall receive, administer, and be accountable for all funds awarded by the Institute to such State or local court.

(c) Funds available pursuant to grants, cooperative agreements, or contracts awarded under this section may be used—

(1) to assist State and local court systems in establishing appropriate procedures for the selection and removal of judges and other court personnel and in determining appropriate levels of compensation;

(2) to support education and training programs for judges and other court personnel, for the performance of their general duties and for specialized functions, and to support national and regional conferences and seminars for the dissemination of information on new developments and innovative techniques;

(3) to conduct research on alternative means for using nonjudicial personnel in court decisionmaking activities, to implement demonstration programs to test innovative approaches, and to conduct evaluations of the effectiveness of such programs;

(4) to assist State and local courts in meeting requirements of Federal law applicable to recipients of Federal funds;

(5) to support studies of the appropriateness and efficacy of court organizations and financing structures in particular States, and to enable States to implement plans for improved court organization and finance;

(6) to support State court planning and budgeting staffs and to provide technical assistance in resource allocation and service forecasting techniques;

(7) to support studies of the adequacy of court management systems in State and local courts and to implement and evaluate innovative responses to problems of record management, data processing, court personnel management, reporting and transcription of court proceedings, and juror utilization and management;

(8) to collect and compile statistical data and other information on the work of the courts and on the work of other agencies which relate to and affect the work of the courts;

(9) to conduct studies of the causes of trial and appellate court delay in resolving cases and to establish and evaluate experimental programs for reducing case processing time;

(10) to develop and test methods for measuring the performance of judges and courts and to conduct experiments in the use of

such measures to improve the functioning of such judges and courts;

(11) to support studies of court rules and procedures, discovery devices, and evidentiary standards, to identify problems with the operation of such rules, procedures, devices, and standards, to devise alternative approaches to better reconcile the requirements of due process with the needs for swift and certain justice, and to test the utility of those alternative approaches;

(12) to support studies of the outcomes of cases in selected subject matter areas to identify instances in which the substance of justice meted out by the courts diverges from public expecations of fairness, consistency, or equity, to propose alternative approaches to the resolving of cases in problem areas, and to test and evaluate those alternatives;

(13) to support programs to increase court responsiveness to the needs of citizens through citizen education, improvement of court treatment of witnesses, victims, and jurors, and development of procedures for obtaining and using measures of public satisfaction with court processes to improve court performance;

(14) to test and evaluate experimental approaches to providing increased access by citizens to justice, including processes which reduce the cost of litigating common grievances and alternative techniques and mechanisms for resolving disputes between citizens; and

(15) to carry out such other programs, consistent with the purposes of this Act, as may be considered appropriate by the Institute.

(d) The Institute shall incorporate, in any grant, cooperative agreement, or contract awarded under this section in which a State or local judicial system is the recipient, the requirement that the recipient provide a matching amount, from private or public sources, of not less than 25 per centum of the total cost of such grant, cooperative agreement, or contract, except that such requirement may be waived in exceptionally rare circumstances upon the approval of the chief justice of the Supreme Court of the State and a majority of the Board.

(e) The Institute shall monitor and evaluate, or provide for independent evaluations of, programs supported in whole or in part under this Act to insure that the provisions of this Act, the bylaws of the Institute, and the applicable rules, regulations, and guidelines promulgated under this Act, are carried out.

(f) The Institute shall provide for an independent study of the financial and technical assistance programs under this Act.

LIMITATIONS ON GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS

SEC. 7. (a) With respect to grants made and contracts or cooperative agreements entered into under this act, the Institute shall—(1) insure that no funds made available by the Institute to a recipient shall be used at any time, directly or indirectly, to influence the issuance, amendment, or revocation of any Executive order or similar promulgation by any Federal, State, or local agency, or to undertake to influence the passage or defeat of any legislation or constitutional amendment by the Congress of the United States, or by any State or local legislative body, of any State proposal by initiative petition, or of any referendum, except to the extent that a governmental agency, or legislative body or a committee or member thereof—

(A) requests personnel of the recipient to testify, draft, or review measures or to make representations to such agency, body, committee, or member; or

(B) is considering a measure directly affecting the activities under this Act of the recipient or the Institute;

(2) insure all personnel engaged in activities supported in whole or part by funds made available by the Institute under this Act refrain, while so engaged, from any partisan political activity; and

(3) insure that each recipient that files with the Institute a timely application for refunding is provided interim funding necessary to maintain its current level of activities until—

(A) the application for refunding has been approve and funds pursuant thereto received; or

(B) the application for refunding has been finally denied in accordance with section 9 of this Act.

(b) No funds made available by the Institute under this Act may be used to support or conduct training programs for the purpose of advocating particular nonjudicial public policies or encouraging nonjudicial political activities.

(c) The authority to enter into cooperative agreements, contracts, or any other obligations under this Act shall be effective only to such extent, and in such amounts, as are provided in advance in appropriation Acts.

(d) To insure that funds made available under this Act are used to supplement and improve the operation of State courts, rather than to support basic court services, funds shall not be used—

(1) to supplant State or local funds currently supporting a program or activity; or

(2) to construct court facilities or structures, except (A) to remodel existing facilities to demonstrate new architectural or technological techniques, or (B) to provide temporary facilities for new personnel or for personnel involved in a demonstration or experimental program.

RESTRICTIONS ON ACTIVITIES OF THE INSTITUTE

SEC. 8. (a) The Institute shall not—

(1) participate in litigation unless the Institute or a recipient of the Institute is a party in the litigation, and shall not participate on behalf of any client other than itself;

(2) interfere with the independent nature of any State judicial system or allow financial assistance to be used for the funding of regular judicial and administrative activities of any State judicial system other than pursuant to the terms of any grant, cooperative agreement, or contract with the Institute, consistent with the requirements of this Act; or

(3) undertake to influence the passage or defeat of any legislation by the Congress of the United States or by any State or local legislative body, except that personnel of the Institute may testify or make other appropriate communication—

(A) when formally requested to do so by a legislative body or a committee or member thereof;

(B) in connection with legislation or appropriations directly affecting the activities of the Institute; or

(C) in connection with legislation or appropriations dealing with improvements in the State judiciary, consistent with the provisions of this Act.

(b)(1) The Institute shall have no power to issue any shares of stock, or to declare or pay any dividends.

(2) No part of the income or assets of the Institute shall inure to the benefit of any director, officer, or employee of the Institute, except as reasonable compensation for services or reimbursement for expenses.

(3) Neither the Institute nor any recipient shall contribute or make available Institute funds or program personnel or equipment to any political party or association, or to the campaign of any candidate for public or party office.

(4) The Institute shall not contribute or make available Institute funds or program personnel or equipment for use in advocating or opposing any ballot measure, initiative, or referendum, except that which deals with improvement of the State judiciary, consistent with the purposes of this Act.

(c) Officers and employees of the Institute or of recipients shall not at any time intentionally identify the Institute or the recipient with any partisan or nonpartisan political activity associated with a political party or association, or with the campaign of any candidate for public or party office.

SPECIAL PROCEDURES

SEC. 9. The Institute shall prescribe procedures to insure that—

(1) financial assistance under this Act shall not be suspended unless the recipient of such financial assistance has been given reasonable notice and opportunity to show cause why such action should not be taken; and

(2) financial assistance under this Act shall not be terminated, an application for refunding shall not be denied, and a suspension of financial assistance shall not be continued for longer than thirty days, unless the recipient involved has been afforded reasonable notice and opportunity for a timely, full, and fair hearing. When requested, such hearing shall be conducted by an independent hearing examiner appointed by the Institute in accordance with procedures established in regulations promulgated by the Institute.

PRESIDENTIAL COORDINATION

SEC. 10. The President may, to the extent not inconsistent with any other law, direct that appropriate support functions of the Federal Government may be made available to the Institute in carrying out its functions under this Act.

RECORDS AND REPORTS

SEC. 11. (a) The Institute is authorized to require such reports as it considers necessary from any recipient with respect to activities carried out pursuant to this Act.

(b) The Institute is authorized to prescribe the keeping of records with respect to funds provided under any grant, cooperative agreement, or contract under this Act, and shall have access to such records at all reasonable times for the purpose of insuring compliance with such grant, cooperative agreement, or contract or the terms and conditions upon which the funds were provided.

(c) Copies of all reports pertinent to the evaluation, inspection, or monitoring of any recipient shall be submitted on a timely basis to such recipient, and shall be maintained in the principal office of the Institute for a period of at least five years after such evaluation, inspection, or monitoring. Such reports shall be available for public inspection during business hours, and copies shall be furnished, upon request, to interested parties upon payment of such reasonable fees as the Institute may establish.

(d) Non-Federal funds received by the Institute, and funds received for projects funded in part by the Institute or by any recipient from a source other than the Institute, shall be accounted for and reported as recipients and disbursements separate and distinct from Federal funds.

AUDITS

SEC. 12. (a)(1) The accounts of the Institute shall be audited annually. Such audits shall be conducted in accordance with gen-

erally accepted auditing standards by independent certified public accountants who are certified by an appropriate regulatory authority of the jurisdiction in which the audit is undertaken.

(2) Any audits under this subsection shall be conducted at the place or places where the accounts of the Institute are normally kept. The person conducting the audit shall have access to all books, accounts, financial records, reports, files, and other papers or property belonging to or in use by the Institute and necessary to facilitate the audit. The full facilities for verifying transactions with the balances and securities held by depositories, fiscal agents, and custodians shall be afforded to any such person.

(3) The report of the annual audit shall be filed with the General Accounting Office and shall be available for public inspection during business hours at the principal office of the Institute.

(b)(1) In addition to the annual audit, the financial transactions of the Institute for any fiscal year during which Federal funds are available to finance any portion of its operations may be audited by the General Accounting Office in accordance with such rules and regulations as may be prescribed by the Comptroller General of the United States.

(2) Any audit under this subsection shall be conducted at the place or places where accounts of the Institute are normally kept. The representatives of the General Accounting Office shall have access to all books, accounts, financial records, reports, files, and other papers or property belonging to or is use by the Institute and necessary to facilitate the audit. The full facilities for verifying transactions with the balances and securities held by depositories, fiscal agents, and custodians shall be afforded to such representatives. All such books, accounts, financial records, reports, files, and other papers or property of the Institute shall remain in the possession and custody of the Institute throughout the period beginning on the date such possession or custody commences and ending three years after such date, but the General Accounting Office may require the retention of such books, accounts, financial records, reports, files, and other papers or property for a longer period under section 3523(c) of title 31, United States Code.

(3) A report of each audit under this subsection shall be made by the Comptroller General to the Congress and to the Attorney General, together with such recommendations with respect thereto as the Comptroller General considers advisable.

(c)(1) The Institute shall conduct an annual fiscal audit of each recipient, or require each recipient to provide for such an audit of that recipient. The report of each such audit shall be maintained for a period of at least five years at the principal office of the Institute.

(2) The Institute shall submit to the Comptroller General of the United States copies of audits conducted of recipients under this subsection, and the Comptroller General may, in addition, inspect the books, accounts, financial records, files, and other papers or property belonging to or in use by recipients which relate to the disposition or use of funds received from the Institute. Such audit reports shall be available for public inspection during business hours, at the principal office of the Institute.

AUTHORIZATION OF APPROPRIATIONS

SEC. 13. There are authorized to be appropriated to carry out the provisions of this Act not to exceed $20,000,000 for the fiscal year ending September 30, 1985, not to exceed $25,000,000 for the fiscal year ending September 30, 1986, and not exceed $25,000,000 for the fiscal year ending September 30, 1987.

EFFECTIVE DATE

SEC. 14. The provisions of this Act shall take effect on October 1, 1984.

The SPEAKER pro tempore. Is a second demanded?

Mr. MOORHEAD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. KASTENMEIER) will be recognized for 20 minutes and the gentleman from California (Mr. MOORHEAD) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. KASTENMEIER).

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

(Mr. KASTENMEIER asked and was given permission to extend his remarks.)

Mr. KASTENMEIER. Mr. Speaker, this afternoon, I bring before the House three bills all designed to improve the administration of justice in this country. The three bills are: H.R. 4145, the State Justice Institute Act of 1983; H.R. 4307, the Criminal Justice Act Revision of 1984; and H.R. 4249, the U.S. Marshals Service and Witness Security Reform Act of 1983.

Although debate occurs now on the first of the three bills—State Justice Institute—I mention all three at this time because, considered together, they provide a rational and consistent approach to improving judicial machinery, especially as it relates to the criminal justice system. The State Justice Institute proposal, by assisting State courts to improve themselves, will have a positive effect on the disposition of all cases at the State level. Any argument that there is no relationship between the State Justice Institute and the need to fight crime can easily be put to rest. In a letter (July 29, 1981) to Chairman PETER W. RODINO, Assistant Attorney General Robert A. McConnell stated:

> The administration has identified violent crime as an area of priority concern. . . . The State Justice Institute proposal does have some general relationship to this priority, since many of the projects funded by the Institute would presumably contribute, directly or indirectly, to improvement of the ability of the State courts to deal with violent crime, and crime in general.

The plain fact is that the vast bulk of criminal litigation in this country is handled by State courts. As aptly observed by a justice on my own supreme court (Shirley S. Abrahamson):

> The everyday burgler, robber, rapist, or murderer has violated State law and is tried in State court. Indeed, the bulk of all litigation in this country, civil or criminal, is handled by State courts.

Two other bills to follow will also improve the criminal justice system. Criminal justice act improvements will assist criminal trial attorneys who accept court appointments to defend individuals who are indigent. The Witness Security Act improvements will improve the treatment of individuals who testify on behalf of the Government, usually in organized crime cases.

Parenthetically, I might add that this week, my subcommittee will terminate hearings and then mark up a bill to reform the Federal bail laws. Hopefully, legislation will be processed to improve the system by which courts determine under what conditions defendants shall be released on bail.

Mr. Speaker, I present to you this overview because it is obvious that our criminal justice system is a total ecology. Like a calm pond which has just had a stone thrown into it, the justice system reverberates throughout when a specific judicial reform occurs. For example, the correctional system is the recipient of statutory revisions that occur relating to the prosecution or investigation of crimes. By improving the Criminal Justice Act, we will concomitantly improve the quality of legal representation, thereby reducing the number of collateral lawsuits for incompetent counsel. Improvements to the State courts will result in lowering the burdens on the Federal courts.

The three bills that I bring before the House, and the fourth, bail reform, to be presented later, present a unified approach to problems in our justice system. Considered together, if all of these bills are enacted into law, the net result will be substantial improvements to the delivery of justice nationwide, a more effective criminal justice system, and better relations between State and Federal courts. With this background in mind, let me now turn to discussion of the State Justice Institute Act of 1983 (H.R. 4145).

Mr. Speaker, I bring before the full House a pice of legislation that has received broad-based and bipartisan support from individuals and organizations interested in improving the administration of justice in both the State and Federal judicial systems: the "State Justice Institute Act of 1983."

I am gratified that this important piece of legislation has been cosponsored by a diverse group of 42 Members of the House of Representatives, including 18 Members of the House Judiciary Committee. I specifically would like to thank the ranking minority member of my subcommittee (Mr. MOORHEAD), my chairman (Mr. RODINO) and the ranking minority member of the full committee (Mr. FISH). Also on the bill are Mr. MAZZOLI, Mr. KINDNESS, Mr. FRANK, Mrs. SCHROEDER, Mr. SYNAR, Mr. HYDE, Mr. SAWYER, Mr. GLICKMAN, Mr. MORRISON, Mr. BERMAN (all members of my subcommittee).

Equally important is the fact that H.R. 4145 is strongly supported by the chief justices of each and every State, including the District of Columbia and Guam; the voicepiece of the State ju-

diciaries (the Conference of Chief Justices); the Conference of State Court Administrators; the American Bar Association; the Judicial Conference of the United States; the National State Directors of Law Enforcement Training; the National Association of Women Judges; the National Center for State Courts; the Institute for Court Management; the National Judicial College; and other notable organizations and individuals (including former ABA President Morris Harrel, and Chief Justice Warren E. Burger). The bill has passed the Senate unanimously during the past two Congresses and this Congress bill (S. 645) is cosponsored by Senators THURMOND, DOLE, and HEFLIN, and is presently pending on the Senate floor.

H.R. 4145 authorizes the creation of a State Justice Institute to administer a national program for the improvement of State court systems. In keeping with the doctrines of federalism and separation of powers between the three coordinate branches of government, the Institute would be an independent federally chartered entity accountable to Congress for its general authority but under the direction of State judicial officers as to specific programs, priorities, and operating policies.

The goal of the legislation is to assist States in developing and maintaining judicial systems that are accessible, efficient, and just. The Institue will do this: First, by bringing minimal national and financial resources to bear on problems that affect State courts nationally, but are beyond the resources of individual States; and second, by providing a mechanism through which the Congress can appropriately consider the role of State courts when legislating on issues impacting on both the Federal and State judicial systems.

The legislation is premised on the belief that improvement in the quality of justice administered by the States is not only a goal of fundamental importance in itself but will contribute significantly to important Federal objectives, including reduced rate of growth in the caseload of the Federal judicial system and less crime in our society.

In pursuit of these goals, the legislation authorizes the expenditure of $20 million in fiscal year 1985, $25 million in fiscal year 1986, and $25 million in fiscal year 1987. The latter two figures—set by Senator GRASSLEY's floor amendment in the Senate and acceptable to me and the Committee on the Judiciary—reflect a desire to level off funding at a modest amount rather than to constantly increase the funds authorized. As to the need for the legislation, it is appropriate to paraphrase the remarks of a spokesman for the State court systems (Robert Utter, justice, Supreme Court of Washington) who appeared before my subcommittee. Despite the growth of the Federal court system, State courts remain the courts that touch our citizens most intimately and most frequently, be it in the civil or criminal context. It is from their experiences in State courts as litigants, jurors, witnesses, or spectators that the vast majority of our citizens make their judgments as to the strengths, weaknesses, and fairness of our judicial system. To the average citizen, it matters little whether the court is Federal or State. His concern is with the fairness and effectiveness of the judicial process.

Justice William Brennan has echoed this view by stating that "the very lifeblood of courts is popular confidence that they mete out evenhanded justice * * *" It has been the very deep concern of State chief justices for the improvement of their own systems that has led the Conference of State Chief Justices to propose the creation of a State Justice Institute. It is this same concern that has prompted the Chief Justice of the United States (Hon. Warren E. Burger) to write in support of creation of a State Justice Institute: "* * * we cannot rest upon our laurels and do nothing in preparation for the future. More, rather than less, needs to be done—especially in the area of improving the State court systems which generally have been undersupported."

I join with the Chief Justice, the chief justices of every State and territory, and my fellow supporters here in the House, in asking for an affirmative vote on creation of a State Justice Institute.

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

1320

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

Mr. Speaker, I would like to commend the chairman and members of the Subcommittee on Courts, Civil Liberties, and the Administration of Justice for their work on H.R. 4145, the State Justice Institute Act.

In assessing the need for this legislation, I think it is important to keep in mind that our system of justice is indivisible, in that State courts share with Federal courts the responsibility for enforcing the rights and duties of the Constitution and laws of the United States. In fact, over 96 percent of all the cases tried in the United States are handled by the State courts. Many of these cases are the result of Federal policies and decisions. I think it is clear that the Federal Government has a legitimate interest in strengthening and improving the State courts.

During the debate on legislation to abolish diversity, opponents often argued that it was necessary to preserve diversity, because the State courts were inadequate forums for such cases. Regardless of whether or not one accepts the validity of that argument, the State Justice Institute, by providing financial and technical assistance to the State courts, has the potential for making it feasible to return diversity cases to them. This would result in a significant reduction in the workload of the Federal courts and a substantial reduction in the expenditure required for their operation.

As the Chief Justice of the United States has noted: "We must avoid any situation in which Federal courts are pressured to become a refuge for citizens who seek a Federal forum, not because their claim is of a truly Federal nature, but because State courts are inadequate. Should our people ever lose confidence in their State courts, not only will our Federal courts become more and more overburdened, but a pervasive lack of confidence in all courts will develop."

Last Congress, the Department of Justice testified before the Courts Subcommittee that they supported the concept of a State Justice Institute, but were opposed to the legislation for budgetary reasons. However, at the end of the last Congress, the Department of Justice indicated that they would support the State Justice Institute proposal as part of a bankruptcy reform package. This Congress, the Courts Subcommittee, on June 5, 1983, requested a report from the Department of Justice on H.R. 4145. Moreover, the Department was invited to testify on the legislation but declined to do so indicating that they had no position. It was not until this morning that we learned that the Department is opposed to the bill on the basis that it "addresses problems that are more appropriately addressed by the States and which are not the responsibility of the Federal Government."

It is important to note that legislation similar to H.R. 4145 has passed the Senate in the last two Congresses, without opposition. Moreover, 43 Members of the House have cosponsored H.R. 4145 which is carefully structured to facilitate improvement in and access to the State courts. This is clearly in the national interest and, accordingly, I urge my colleagues' support for the legislation.

Mr Speaker, I yield 3 minutes to the gentleman from Minnesota (Mr. FRENZEL).

(Mr. FRENZEL asked and was given permission to revise and extend his remarks.)

Mr. FRENZEL. Mr. Speaker, I would first like to ask the distinguished gentleman from California about the costs of the third bill on the list, which is the U.S. Marshal's Service and Witness Security Reform Act.

I note that there is no CBO cost estimate, or none was available last week. Is there an estimate available at this time?

Mr. MOORHEAD. If the gentleman will yield, there is in part on the U.S. Marshal's Service and Witness Security Reform Act, which I have not discussed as yet, but which was vaguely discussed by the chairman, the cost would be $2 million of the victims' pro-

tection. As far as the cost for the child custody provisions, which would require some assistance in providing visitations for the innocent family member, whether it be the wife, or it could be the husband who did not have custody, the cost has not been projected, but it should not be anything too great.

□ 1330

The legislation would require that the Marshal's Service get the child together with the natural parent on occasion because of the separation that was really brought about by the Federal Government. It is only fair play that a parent have the right to visit the child and the Federal Government should not be able to deny that right.

Mr. FRENZEL. Mr. Speaker, I thank the gentleman.

May I inquire further, has the Congress ever passed a victims' compensation payment before?

Mr. MOORHEAD. I know of none. In fact, in this particular case I very strongly support an amendment which would have taken the victims' compensation protion out of this bill because I felt that we should approach it in a comprehensive way rather than in a piecemeal way. But the majority of the committee voted against my position, feeling that because the Federal Government places the person who may have committed crimes before in the Witness Protection Act they owe a greater responsibility to the community and to people who might be the victims of their behavior.

Mr. FRENZEL. Mr. Speaker, I thank the gentleman, and I commend him for his position.

Mr. Speaker, I am not a lawyer. I, therefore, speak to these bills from a base of fundamental ignorance, and yet when I look at them, it seems to me that this is a rather important trio of bills to be considered under the suspension process. I had hoped that we had long ago decided we would consider neither expensive nor basic policy bills under suspension.

I notice in the first bill, H.R. 4145, that that bill, at least in some of the discussion, seems to want to pick up where LEAA, which this Congress repealed, left off.

The SPEAKER pro tempore. The time of the gentleman from Minnesota (Mr. FRENZEL) has expired.

Mr. MOORHEAD. Mr. Speaker, I yield 2 additional minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, the basis for passing that bill seems to be that the Conference of Chief Justices wanted it, and I am not surpised, of course, that the States would want some money from the Federal Government. I am not so sure that the Federal taxpayers, however, should be making these kinds of expenditures for another court system.

I regret, as the gentleman from California does, that the Department of Justice did not testify and certainly blew its position early in the game, making it very difficult for the rest of us to ride on whatever criticism it later produces. I do notice that is a $58 million expenditure for the taxpayers over the next 3 years, and it is one that in my judgment is at least questionable. Somebody ought to question it, and I do question it here.

The second bill, H.R. 4307, the Justice Act revision, seems to raise the compensation of attorneys. I suppose everybody needs a raise, and it is good to have people who can make a reasonable defense. Nevertheless, I think that is one that ought to come to the consideration of the House, and it ought to be able to stand the scrutiny of debate and amendment. I am disappointed that that bill, which is in excess of $60 million over the next 3 years, is also going to be handled under this bobtail procedure.

The final bill I have already discussed with the gentleman from California. The victims' compensation feature is a terribly important one. This Congress has never seen fit pass one. Now it is being thrown along with a different kind of vehicle to carry it in a very shortened and partial form. In my judgment, the Congress should make a decision on victims' compensation all in one lump, and my guess is that it could not pass in that way.

I am sorry that there is no estimate for the other features of the bill. I suspect that the cost is quite high.

Mr. Speaker, I realize that those of us who do not serve on the committee nor have legal expertise are somewhat at a disadvantage, and I feel constrained to vote against all three of the bills.

Mr. MOORHEAD. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. KINDNESS).

Mr. KINDNESS. Mr. Speaker, I thank the gentleman for yielding this time to me.

I would like to contribute what I can to the discussion of the three bills together since they do have a relationship which has been brought out in the discussion up to this point, and perhaps we can in so doing most intelligently deal with all three bills.

I think it is, of course, interesting to put into context what the Department of Justice has done in this situation. As an institution, I think we have suffered a bit at the hands of the Department of Justice once again, but I think we will survive. The Department of Justice seeks to confuse matters every now and then on bills like these, and I think it is regrettable. But perhaps they are a little bit rudderless at the moment, and perhaps that accounts for some or all of their problems, although they seem to be of a continuing nature.

First, let us go to the State Justice Institute bill, which is the first of the three bills. I think the position of the Department of Justice in the past on the State Justice Institute has been that they supported the concept, as has been pointed out here, but they opposed the legislation primarily for budgetary reasons. This is a matter of saying that, well, it was not clear in the first instance whether it was the Department of Justice or the Office of Management and Budget that had the stronger voice in the administration in regard to this matter, I suppose.

What it really turns out to be, though, is that the idea is a good idea. Policy is determined by the vote of the legislative branch of our Government, and the President either concurs or does not in those decisions. I think it is completely outside of the Department of Justice to have much to say about the matter at this late date. So I kind of put their views on this particular bill completely aside and say that we should pass this bill because it is needed and it is appropriate. It is indeed something that ought to be pursued, and the prompt action by this House, along with the other body, which is moving in the same direction, would lead us in a very constructive direction. It is very much needed.

How often do we hear people complain about the trend of justice, particularly criminal justice, in the States of our United States? Quite frequently. People will complain sometimes about their perception of what is happening in the Federal courts, but most frequently what they are really saying is, "I wonder if I can have confidence in the way things are being handled in the State courts throughout this country. We are getting a trend of decisions I don't like," or what have you.

The State Justice Institute is one tool that can be used to help improve upon the administration of justice in criminal matters in the State courts, and I think it is very important that that stimulus be given from the Federal level.

As for the other two bills, the Criminal Justice Act revision is a bill where an adjustment is being made, and there has been no adjustment since 1970. I think it is very important that there be a realistic adjustment in the fees that are provided to those who are burdened with providing criminal representation to defendants in the Federal court system.

In August 1983 the Department of Justice said that such a measure was long overdue. Well, it is just 1 year longer overdue now, and I think it is appropriate for this House to act. I would certainly urge that that bill be supported, too.

As to H.R. 4249, the U.S. Marshals Service and Witness Security Reform Act, which has gotten, I suppose, the most discussion here, it is one area in the view of some of us—and perhaps it would be the majority of us when we have discussion in debate—where victims ought to be compensated. Victims clearly ought to be compensated for injuries incurred as a result of a Federal program.

□ 1340

I do not happen to believe that the Federal Government ought to get into the business of compensating victims of crime on a wholesale basis. I do feel that those victims of crime who find themselves in that position with no one they can go against, only because the Federal Government is operating a program of witness protection, giving secret identities to people and putting them in a new community and a new location and so on, where they are pretty much free to do what they will, and that includes wrong as well as right, and some people are likely to be injured thereby. That is the kind of circumstance in which the victim really ought to have some compensation when injured as a result of the operation of that program.

The alternative to that, of course, is to do away with the witness protection program and some of us would really rather see that. The business of protecting Federal witnesses who will testify against organized crime figures ordinarily is what we are taking about. Give them a new identity, a new location to live and put them away someplace until they testify and thereafter have a secure life. If you are going to have that kind of program, it seems to me that you have also got to protect those people who are innocent bystanders and are injured or damaged by it.

The liability is limited to a fund of $2 million.

We are not creating a food stamp program here. I think it is regrettable that the Department of Justice does not see fit to support all three of these bills, but in the absence of their support, I would urge that the House exercise its judgment in an affirmative fashion. All three bills deserve our support.

● Mr. FISH. Mr. Speaker, in endorsing H.R. 4145, the State Justice Institute Act, I would like to point out that Federal funding for State courts has been provided through LEAA since 1968. As Prof. Dan Meador, the former head of the Office for Improvements in the Administration of Justice pointed out in prior testimony before the Courts Subcommittee:

> The first—and perhaps the most important thing—to be said about this proposal is that it does not represent any new or radical departure from already established Federal—State relationships. The State Justice Institute—far from incorporating any new concepts or creating any new Federal monetary program—would simply represent an improved, sounder, and more efficient means of providing fiscal support to the efforts of the State judiciaries. . .

The State Justice Institute Act was drafted by the Conference of Chief Justices and Conference of State Court Administrators in an effort to address the problems that were encountered under LEAA such as separation of powers issues. I am confident that the current proposal will be successful in avoiding these problems. Moreover, the State Justice Institute Act will provide a valuable mechanism to aid Congress in their consideration of legislation that impacts on State court jurisdiction.

I would like to commend the Conference of Chief Justices as well as the members of the Subcommittee on Courts, Civil Liberties, and the Administration of Justice for their work on H.R. 4145 and especially note the yeoman efforts of Lawrence Cook, chief judge of the State of New York, on behalf of the legislation. H.R. 4145 is a solid proposal and I urge its adoption.●

● Mr. McGRATH. Mr. Speaker, I rise today in support of H.R. 4145, the State of Justice Institute Act. This legislation represents the most valuable effort made by this body to aid State and local governments in strengthening and improving their judicial systems.

The responsibility of protecting the rights of all citizens under the Constitution is shared by State and Federal courts. Creation of the State Justice Institute will assist State courts in meeting their increasing obligations under both State and Federal law by providing funds necessary for technical assistance, education research and training. This will encourage the modernization of State court systems with respect to efficient management of caseloads, budgeting, and development of reliable statistical data. Establishment of State Justice Institute will place responsibility for improvement of State court systems directly on the judicial officials charged with this responsibility under their own constitutions and laws, thus respecting the principles of separation of powers and federalism.

I would like to point out that the measure before us today not only provides funds for valuable education and training, it also prohibits any duplication of existing programs or activities. As we strive to more closely monitor the spending of Federal tax dollars, thus provision is an assurance that funds we allocate today will only be used for much needed court improvement programs.

It is important for us to remove the competition between State judiciaries and State executive agencies for Federal assistance. A national program of assistance specifically for the improvement of State courts will create a beneficial environment for the administration of State court systems. In addition, the State Justice Institute will fill a current void by representing State courts in future national policy decisions that will affect the Nation's total justice system.

I urge my colleagues to join me in improving the State court systems by supporting H.R. 4145.●

● Mr. CORRADA. Mr. Speaker, I rise in strong support of the State Justice Institute Act of 1983 which would establish a State Justice Institute to administer a national program directed to the improvement of justice delivery systems at the State level.

The State Justice Institute would be formed as an independent federally chartered nonprofit corporation authorized to award grants for education, training, and research programs aimed at developing more responsive State judicial systems. The institute would also serve as a clearinghouse of justice-related information to help improve the administration of justice in State courts.

This legislation brings forth a long overdue and sorely needed national initiative to aid States cope with the overwhelming criminal activity the Nation suffers. There is an urgent need for better trained judicial personnel, a greater sharing of justice-related information by State courts and the development of new aggressive concepts in the administration of justice as proposed by this measure. We cannot procrastinate the implementation of this joint effort crafted to secure more efficient, accessible and just judicial systems all across the Nation. The State Justice Institute, even though it would have limited resources, would give the necessary direction and guidance to make this national intitiatve a successful endeavor.

I urge my colleagues to vote for the passage of this highly important legislation which would lend a big hand in our quest to insure that justice is served in every court of our Nation.●

● Mr. RODINO. Mr. Speaker, I rise in support of all three bills on the suspension calendar today from the Committee on the Judiciary. H.R. 4145 authorizes the creation of a State Justice Institute; H.R. 4307 is a bill to rationalize and update the Criminal Justice Act; and H.R. 4249 is a bill to reform the witness protection program and the U.S. Marshal's Service.

Each of these bills was carefully crafted by the committee with bipartisan support. Each of these measures was cosponsored by a majority of the members of both parties on the Subcommittee on Courts, Civil Liberties, and the Administration of Justice. Each of these measures addresses significant problems in our criminal justice system. First, the State Justice Institute recognizes that over 95 percent of all criminal cases are processed in State courts and that improvements to these institutions is central to an improvement in the criminal justice system, both criminal and civil. Second, the Criminal Justice Act reform measure adjusts the rates to be paid to assigned counsel in criminal cases to adjust for inflation. The net result of this change will be an improvement in the quality of justice in the Federal courts and less appeals for incompetent counsel. Finally, the bill reforming the witness protection program acknowledges the importance of this program to the prosecution of organized crime cases while at the same time responding to the legitimate con-

cerns of crime victims and minor children of unrelocated parents.

I am disappointed to learn that the Office of Management and Budget has, at the last minute, decided to oppose these bills. While these bills were before the committee, we received no adverse comments from the administration. They have been supported by many of our Republican colleagues on the committee.

I believe that the bills which we are debating today are well drafted and each fulfills its purpose. I urge my colleagues to support them, notwithstanding the last-minute opposition from the administration, which I do not believe to be well founded.●

Mr. MOORHEAD. Mr. Speaker, I yield back the balance of my time.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. KASTENMEIER) that the House suspend the rules and pass the bill, H.R. 4145, as amended.

The question was taken.

Mr. FRENZEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.