SENATE—*Thursday, June 17, 1993*

(Legislative day of Tuesday, June 15, 1993)

The Senate met at 9:15 a.m., on the expiration of the recess, and was called to order by the Honorable HERB KOHL, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

If my people, which are called by my name, shall humble themselves, and pray, and seek my face, and turn from their wicked ways; then will I hear from heaven, and will forgive their sin, and will heal their land.—II Chronicles 7:14.

God of Abraham, Isaac, and Israel, this word addressed to the people of God who are called by His name, promises forgiveness of sin and healing of the land. Gracious, patient Father in Heaven, our land desperately needs healing. The statistics cry out for our attention: In the past 30 years, violent crime has increased 500 percent; illegitimate births, 400 percent; divorce, 400 percent; children in single-parent homes, 300 percent; child abuse, 340 percent since 1976 when reporting began; teenage suicide, 200 percent. Meanwhile, SAT scores are down 80 points. (Source: Dr. William J. Bennett, former drug czar, Index of Leading Cultural Indicators, re: 30 years between 1963 and 1993.)

We are on the threshold of cultural suicide. Society cries out for healing. The problems are not responsive to legislation; they demand spiritual and moral renewal, key to which is the people of God. You promise forgiveness and healing if Your people will humble themselves and pray and seek Your face and turn from their wicked ways. Give us ears to hear and the will to obey.

To the glory of God and the salvation of our Nation. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 17, 1993.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HERB KOHL, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KOHL thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

CONGRESSIONAL SPENDING LIMIT AND ELECTION REFORM ACT OF 1993

The ACTING PRESIDENT pro tempore. The Senate will resume consideration of S. 3, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 3) entitled the Congressional Spending Limit and Election Reform Act of 1993.

The Senate resumed consideration of the bill.

Pending:

(1) Mitchell/Ford/Boren amendment No. 366, in the nature of a substitute.

(2) Pell amendment No. 463 (to amendment No. 366), to provide free broadcast time for Senate candidates and the dissemination of political information.

AMENDMENT NO. 463

The ACTING PRESIDENT pro tempore. The time until 9:30 a.m. shall be for debate on amendment 463, to be equally divided and controlled in the usual form.

Mr. PELL addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island is recognized.

Mr. PELL. My understanding is that my amendment is now under consideration.

The ACTING PRESIDENT pro tempore. That is correct.

Mr. PELL. Mr. President, I just want to make a few essential points in summary with respect to this amendment.

First of all, the amendment would reinstate one of the incentives removed by the Durenberger-Exon amendment; namely, a grant of television time to eligible candidates.

Second, it would do so without any direct subsidy to candidates from the Public Treasury.

Third, it would require television broadcasters to grant time as a condition of receiving their license to use the public broadcast frequencies.

In other words, they are given a monopoly, the right to use the airwaves. There should be some recompense to the public for that purpose.

Fourth, it would be contingent upon authorization of tax deductibility for the value of time made available pursuant to the amendment.

And fifth, the amendment would become effective only at such time as followup legislation is enacted to provide such deductibility for broadcasters.

Mr. President, this amendment has a specific plan for allocating time fairly between the parties. The formula is very simple.

Each Senatorial campaign committee, the Democratic Senatorial Campaign Committee and the Republican Campaign Committee, could claim a maximum grant of 3 hours on any one outlet during the 60 days preceding a general or special election.

Each campaign committee would then allocate time to those candidates who can best benefit from the media exposure.

Not more than 15 minutes can be used by any one candidate in a 24-hour period, and segments must be no less than 1 minute.

At least 75 percent of the time must be used to present the candidate's own remarks, making for a more positive election.

And finally, the proposal in no way restricts the present campaign practices with respect to the purchase of broadcast time. Any candidate, whether or not a recipient of free time under this bill, is still at perfect liberty to go out and purchase as much additional media time as he or she can afford and needs.

Hopefully, however, the substantial infusion of free time provided by the bill will significantly reduce campaign expenditures for such media purchases.

Mr. President, this amendment has been crafted very carefully to blend into the fabric and design of the bill and to do so without incurring direct public funding. It is a sound amendment, and I urge its acceptance.

I point out it would only benefit those candidates who have accepted the idea of limits. If they have not accepted the idea of limits they would not be able to benefit by this amendment.

How does the grant of free media time relate to the expenditure limits proposed in S. 3?

The free media time provided by the amendment would be conditioned, as I said, on a candidate's adherence to the limits. Free time would be made available to political parties, who in turn

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

would allocate it to those candidates who had agreed to be bound by the limits.

It has been asked whether acceptance of free media time under the amendment might prohibit a candidate from buying additional time?

No; a candidate who has received free time under the amendment would still be free to purchase additional media time. In fact, this provides a safety valve for candidates who might be allocated less free time than they feel they need.

Then the question sometimes might be raised, will the amendment's requirement of free time as a condition of a broadcast license survive a Constitutional challenge?

That, of course, is not up to us in the legislature to determine. It is for the Court to determine. But I would observe that the basic scheme of the amendment was one of the formal recommendations of the Campaign Finance Reform Panel named last year by the majority and minority leaders of the Senate, and I believe this distinguished group of scholars and lawyers could not have avoided considering the question of constitutionality.

Also, I note that the distinguished Senator from Delaware, Mr. ROTH, has given an able defense of the constitutionality of the scheme on several occasions.

I call attention in particular to citation of the Supreme Court's landmark decision in the case of Red Lion Broadcasting Co. versus FCC, in which the Court ruled that broadcasters could be required to grant access to their channels of communication as provided by the fairness doctrine and the equal opportunity doctrine.

When it comes to the financing of this legislation, one has to bear in mind that in other cases the Government does not have the same return. You find that to get the airwaves there really is a monopoly, and it is one for which there should be some recompense for receiving it, the same as the railroads and the trucks also give some benefit to the automobiles.

I see the distinguished manager of the bill is in the Chamber, and I yield.

Mr. BOREN. Mr. President, I will speak in just a minute. We will just put in a quorum.

Mr. PELL. Sure.

Mr. BOREN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BOREN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BOREN. Mr. President, I will just speak very briefly on the amendment of my friend from Rhode Island. It is difficult for me to take a position in opposition to an amendment offered by my colleague on any subject because I have enormous respect and affection for him. It is also difficult because in many ways I am in sympathy with what he is trying to do.

I think the idea of having television time in which the candidate himself or herself would appear on the air is very healthy and a very wholesome thing.

Mr. President, we have crafted a package, and as we saw yesterday, the great difficulty in putting together a package which can receive support on both sides of the aisle and be assured of passage, that it is a very, very difficult task to do on a subject as complex as this and on a subject which has enormous impact on the political system in this country.

It is also difficult to do it in a way that will be fair and balanced, that will put appropriate responsibilities on the broadcasters, for example, the television broadcasters, in the country, while at the same time not putting such a burden on them that it might be one that would be unfair for them to bear.

I agree with my colleague that it was appropriate as a condition for the grant of a license which is the exclusive right given by the people of the United States to broadcasters to use certain bands in the airwaves, that it is appropriate to require that certain responsibilities be met in return.

There are reciprocal obligations to the public for the public to grant this exclusive right or license to broadcasters. But in this case, we are really embarking on something new.

In the past, we have required the broadcasters provide the lowest unit rate for political campaigns, and in this bill, as it is now before us, we require that the broadcasters provide half the cost of the lowest unit rate for complying candidates.

I think we are not yet certain what the financial impact might be on broadcasters, and I think we should take this one step at a time. We should have an opportunity to have experience under the proposal that is now before us, and that is half-cost broadcast time before we move on to the requirement of free broadcast time.

I am simply worried that that might really be too heavy a burden for them to bear.

So, Mr. President, while I am reluctant to do so and while in many ways I am sympathetic to the amendment of my colleague from Rhode Island, I must rise in opposition to it.

Let us try first what we have in the bill, see how it works out in practice, and that is the half-cost broadcast time for complying candidates before we take the second step or consider taking the second step toward fully free time.

So, Mr. President, I will reluctantly have to vote in opposition to the pending amendment.

The ACTING PRESIDENT pro tempore. All time on the amendment has expired.

Mr. BOREN. Mr. President, I ask for the yeas and nays on the pending amendment.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The question is on agreeing to amendment No. 463 offered by the Senator from Rhode Island. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DOLE. Mr. President, I announce that the Senator from Wyoming [Mr. SIMPSON] is necessarily absent today due to the death of his father.

I further announce that the Senator from Pennsylvania [Mr. SPECTER] is absent due to illness.

I further announce that, if present and voting, the Senator from Wyoming [Mr. SIMPSON] would vote "nay."

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 32, nays 66, as follows:

[Rollcall Vote No. 155 Leg.]

YEAS—32

Baucus	Feinstein	Moynihan
Biden	Harkin	Nunn
Boxer	Hollings	Pell
Bradley	Johnston	Reid
Campbell	Kennedy	Riegle
Chafee	Lautenberg	Roth
Cohen	Leahy	Shelby
Danforth	Levin	Simon
DeConcini	McCain	Wellstone
Dodd	Mikulski	Wofford
Dorgan	Moseley-Braun	

NAYS—66

Akaka	Faircloth	Lott
Bennett	Feingold	Lugar
Bingaman	Ford	Mack
Bond	Glenn	Mathews
Boren	Gorton	McConnell
Breaux	Graham	Metzenbaum
Brown	Gramm	Mitchell
Bryan	Grassley	Murkowski
Bumpers	Gregg	Murray
Burns	Hatch	Nickles
Byrd	Hatfield	Packwood
Coats	Heflin	Pressler
Cochran	Helms	Pryor
Conrad	Hutchison	Robb
Coverdell	Inouye	Rockefeller
Craig	Jeffords	Sarbanes
D'Amato	Kassebaum	Sasser
Daschle	Kempthorne	Smith
Dole	Kerrey	Stevens
Domenici	Kerry	Thurmond
Durenberger	Kohl	Wallop
Exon	Lieberman	Warner

NOT VOTING—2

Simpson	Specter

So the amendment (No. 463) was rejected.

Mr. BOREN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SENATOR GRAMM'S ADDRESS TO THE AMOS TUCK SCHOOL OF BUSINESS ADMINISTRATION—AN ELOQUENT STATEMENT ON THE FREE ENTERPRISE SYSTEM

Mr. MCCAIN. Mr. President, many Members of this body may not be aware that our colleague, Senator PHIL GRAMM, delivered the commencement address at the graduation of Dartmouth's Amos Tuck School of Business Administration this past weekend.

As a trained economist and college professor, Senator GRAMM has a greater grasp of the complex and varied factors that affect our national economy than anyone I have ever known. At the same time, no one in this country is better able to put complex and difficult-to-explain concepts in plain and clear English than PHIL GRAMM.

In his commencement address, Senator GRAMM has eloquently described the fundamental principles of education and hard work that have brought success and prosperity to generation after generation of America's citizens. I recommend that all of my colleagues consider the wisdom of this enlightened and informative speech.

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

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

SENATOR PHIL GRAMM, COMMENCEMENT ADDRESS, AMOS TUCK SCHOOL OF BUSINESS ADMINISTRATION, DARTMOUTH COLLEGE, JUNE 12, 1993

AMERICA'S FUTURE IS YOUR BUSINESS

Thank you, Dean Fox.

Members of the Class of '93, Friends and Families, Distinguished Guests, Members of the Board of Overseers, Faculty, Administration and Staff:

I am honored to address the 93rd graduating class of the Amos Tuck School of Business Administration, the world's oldest and one of our nation's finest graduate schools of business. I would like to reciprocate your generosity in inviting me here by being both brief and relevant.

My first order of business must be to extend some congratulations.

For each of you receiving your MBA today, there is a story of individual achievement, a saga of goals set and achieved, of obstacles overcome. For some, the path was steeper and the climb harder. While many have contributed to bringing you here, today we celebrate your achievement and your success.

I want to urge you to enjoy this moment, to reflect on what you have done and about its meaning to you, your parents, grandparents, and all of your families. And I want to urge you to think back on what it would have meant for the first person in your family who ever set foot in America, if they could have foreseen what you have achieved today.

This is your day. Take time to treasure this milestone in your life. We're often so quick to set the next goal, to begin climbing the next rung of the ladder, that we don't pause to enjoy the fact that we have already achieved a goal and reached a new height. The lives of the most successful and the least successful have exactly the same earthly destination. It's what happens during the journey that makes all the difference.

Congratulations are also due to the parents of the Class of '93. On so important an occasion it seems fair to claim that all the raw intellectual ability, most of the drive, and all of the good characteristics that have brought your graduate to this moment of achievement were inherited from you.

In the world in which we live, there is a magic point at which our own measure of success expands to include not just what we achieve, but what our children achieve. This is an important moment for you. It is even more important when you realize that for the first time in their life, with any luck, your child is about to go off your payroll.

I also want to congratulate the teachers of the class of '93. Your new class adds to the intellectual legacy of the faculty and staff of the Tuck School. I taught economics for twelve years at Texas A&M University. I've tried to teach the same subject in Congress for the last fourteen years, and I can assure you that my students at Texas A&M were a lot smarter and more willing to learn than members of Congress.

I'm not sure I realized until long after I'd left academia how much a part I felt of my students and their achievements. I'm not sure I realized when I taught all of those graduates and undergraduates that someday I would look back and count a small part of my student's achievements as my own. I'm fond of saying of my students that I taught them everything *they* know, but not everything *I* know. The plain truth, however, is that they learned a lot from others, and I learned a great deal from them. From this day forward, the achievements of the students in the class of 1993 will be, in part, your own. I congratulate you for the many successes you will achieve through these graduates.

Before coming here today, I conducted an informal survey of my staff. Did any of them remember what was said at their graduations? I was not encouraged to find that not one of them could remember a single word. I, on the other hand, can recall at least part of what O.C. Aderhold, former President of the University of Georgia, said at my graduation. He told us that he was frequently asked what the world thought of the University of Georgia. His customary reply was that the world judged the University of Georgia by its graduates. What we were, the University of Georgia would become.

Today, you are graduating from one of the finest business schools in the country—and being an alumnus of the Tuck School will always add luster to your name. Still, I think you will find that more people will judge the Tuck School by your achievements than will judge you by your illustrious school. You are therefore in the enviable position of being able to enhance your school's reputation while building your own.

The official aim of the Tuck School is "to provide training commensurate with the larger meaning of business." I'm sure there are some even at this great college, and many in universities and in the general community throughout our country, who view the profession of business as a cold-hearted endeavor, driven by greed and the bottom line, and propelled by that stern disciplinarian known as the profit motive. I want to urge you never to feel apologetic about being engaged in business. Calvin Coolidge, who in his famous statement said that the business of America is business, might just as easily have said that the benefactor of America is business. For what is it that generates the prosperity of our communities, the inventiveness of our research laboratories, and the creativity of our cultural institutions—if not business?

There is no higher calling than the creation of jobs and prosperity. If, in your lifetime, you create 100 permanent, productive jobs you will have done more for mankind than most of the social do-gooders who ever lived.

Every penny that goes to government to be expended for productive, noble purposes or—as happens all too frequently—to be squandered on pork and perks, is generated in the private sector of the American economy. The greatest philanthropic activity in the history of the world has been undertaken by American business. The greatest agent of modernization and progress in the history of the world has been American business. And the greatest provider of opportunity and hope for men and women the world over has been American business.

America is not a great and powerful country because the most brilliant and talented people in the world have come to live here. America is a great and powerful country because it was here that the American free enterprise system provided us with more opportunity and more freedom than any other people have ever had and made it possible for ordinary people like us to do extraordinary things.

Let's face it: Despite all the social welfare projects and anti-poverty programs devised by government, there's just no substitute for a good, steady job. Food stamps are a poor substitute for productively employed heads-of-household who go to work, gain self-respect, earn a paycheck, take that paycheck to the grocery store and put groceries on the table. No government housing project can substitute for the opportunity to have a job, save up a nest egg and buy a home. And finally, there is no educational program known to mankind that can rival people employed in the private sector saving their money to send their children to Texas A&M and Dartmouth College and the Amos Tuck School of Business Administration.

So whatever you do in life, never listen to those who say that service in the public sector is somehow more "noble" than service in the private sector. Listen, instead, to the wise words of Winston Churchill. "We must beware," Churchill declared, "of trying to build a society in which nobody counts for anything except a politician or an official, a society where enterprises gains no reward and thrift no privileges."

It is customary in these commencement addresses for the speaker to share his experience and advice with the new graduates. I want to share a couple of small points with you.

The first is about learning. I hope that one of the things you have acquired is a love of learning and a thirst for knowledge. Today,

by almost any quantifiable measure, you are the educational elite of the nation. Only about 1 out of every 150 people who graduated from high school the year you did has achieved your level of education today. You will enter the workforce of our country with a strong educational background and with very sharp tools. But unless you make a commitment to life-long learning, and unless you begin that process from your first day in your new career, your tools will grow steadily duller and your level of competitiveness will gradually decline.

I have had an opportunity in my life to know and work with some great men and women, and one characteristic they all shared was an unquenchable thirst for knowledge. A desire to know more and understand more, not just about their chosen pursuit but about the world in which they live, is the hallmark of the truly great. May you never lose your relish for knowledge and your appetite for ideas.

I want to let you in on a secret that I have discovered both in my own life and through observing others. There's a natural tendency to believe that there is a linear relationship between effort and success. Who has not repeated the cliche, "The harder I try, the luckier I get?" The secret that I have observed is that the relationship between effort and success is exponential, not linear. The person who is twice as successful is not a person who worked twice as hard. Often the difference in achieving big success is a small amount of extra effort. The person who makes twice as much money, achieves twice as much in terms of serving others, and receives twice the acclaim may only work 10% more. It is the exertion of just a little more effort that determines the difference between those who are life's big winners and those who simply succeed. A little extra effort makes all the difference. If you're willing to exert a little bit more effort, William James once said, "The difference between the first and second-best things . . . is a matter of a hair, a shade, an inward quiver of some kind."

There is a tendency in every generation and in every profession to believe that the Golden Age is past, that the great discoveries have already been made, the great industries already built. And every generation is wrong.

How can someone start a major new industry in America in 1993? How can the deadweight burden of government regulation and red tape be overcome? Where will the inventiveness and the genius come from? Don't ask me. If I knew the answers, I'd be rich. But I know you will figure it out.

Thirty years from now, students will be sitting right where you are sitting. They will say that you just happened to be at the right place at the right time. But you will know that you made the place and you made the time.

I wish you Godspeed for yourselves and for America.

Mr. McCAIN. Mr. President, I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONGRESSIONAL SPENDING LIMIT AND ELECTION REFORM ACT OF 1993

The Senate continued with the consideration of the bill.

AMENDMENT NO. 465

(Purpose: To eliminate the 50 percent broadcast discount for eligible Senate candidates)

Mr. NICKLES. Mr. President, I have an amendment at the desk, and I ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES] proposes an amendment numbered 465.

Mr. NICKLES. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

In section 503(a) of the Federal Election Campaign Act of 1971, as added by section 101(a) of the amendment, strike paragraph (1) and redesignate paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

In section 503(b) of the Federal Election Campaign Act of 1971, as added by section 101(a) of the amendment, strike "For purposes of subsection (a)(3)" and insert "For purposes of subsection (a)(2)".

In section 503(d) of the Federal Election Campaign Act of 1971, as added by section 101(a) of the amendment, strike "payments under subsection (a)(3)" and insert "payments under subsection (a)(2)".

In section 503(e) of the Federal Election Campaign Act of 1971, as added by section 101(a) of the amendment, strike "Payments received by a candidate under subsection (a)(3)" and insert "Payments received by a candidate under subsection (a)(2)".

Section 131(a) of the substitute amendment is deemed to read as follows:

(a) BROADCAST RATES.—Section 315(b)(1) of the Communications Act of 1934 (47 U.S.C. 315(b)(1)) is amended—

(1) by striking "forty-five" and inserting "30"; and

(2) by striking "lowest unit charge of the station for the same class and amount of time for the same period" and inserting "lowest charge of the station for the same amount of time for the same period on the same date".

Mr. FORD. Parliamentary inquiry. Is this amendment eligible under the cloture?

I ask that the Chair rule on the germaneness of the amendment.

THE PRESIDING OFFICER (Mr. DORGAN). This amendment is eligible to be offered as a second-degree amendment.

Mr. FORD. I thank the Chair, and I thank the Senator. I do not need to look at all of them. I want to be sure we do not go through the exercise and then find it is not eligible.

Mr. NICKLES. I appreciate the Senator's concern. I might inform the Senator, we have filed this amendment as a second-degree amendment. I would like to ask unanimous consent to have it considered as a first-degree amendment, not a second-degree amendment.

Mr. FORD. I could object, I say to the Senator, but I will not.

Mr. NICKLES. Mr. President, I will inform my colleague from Kentucky, this is the amendment that I mentioned to him earlier that would eliminate the broadcast discount, or broadcast subsidy.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

THE PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KOHL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

THE PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KOHL. Mr. President, virtually every day we see stories that seek to explain the behavior of Members of Congress by looking at who contributed to their campaign. Policy arguments are dismissed because politics is assumed to dictate decisions and motives are reduced to money. This is the message the America people get almost every day, and this is the message the people of Wisconsin share with me whenever they get a chance.

Mr. President, I cannot think of a more powerful argument for campaign finance reform. The people of this country do not believe that we are doing the people's business. They think we are doing the bidding of the special interests, and there is, indeed, some basis for their concern. They look at a system in which incumbent Senators raise and spend an average of $4.4 million in their campaigns, and they see that special interest PAC's contributed more than $1 out of every $4 to these very same incumbents.

Mr. President, the American people are not naive. They do not believe that money is always given as a gift, motivated only by good citizenship. They see it often as an effort to buy access, to exert influence, and to gain power. We cannot expect people to have faith in Government when they believe that politics is polluted by power, that special interests are exempt from the rules they must live by—that Government, in short, is up for sale.

How widespread is that belief? A recent poll indicates that nearly 80 percent of the American public, 4 out of 5 Americans, believe that our Government is run for and by the special interests. Indeed, a very popular book these days, "The Pelican Brief," is based on the premise that the President of the United States was bought off by special interests. And the entire debate about the Btu tax has been colored by claims that the oil industry or other organized lobbies have bought their way out of the tax.

Two recent Presidential candidates, Ross Perot and Jerry Brown, based

their campaigns, with varying degrees of success, on their opposition to and freedom from the special interests. And I know from my own campaign in 1988 that refusing to accept any money from PAC's or special interests struck a very responsive chord.

I realize that my own good fortune made it easier for me to take that position than it would be for candidates who do not have the resources that I have, and I do not believe there is anything wrong about a candidate funding his or her own campaign. It is the cleanest money around. It carries no taint of special interest pressure or of outside influence.

I understand that some people fear that only the rich will serve in Congress if we do not limit personal contributions. Personally, I do not think that there are enough millionaires who want to serve in the Congress to constitute a threat. I think that threat is further minimized by limits on campaign spending.

I have voted to forgo whatever advantage my personal wealth creates in order to get a bill passed. I voted for an amendment to restrict my own spending in order to get a package which would eliminate PAC's limit total spending, get rid of the soft money that distorts the system, and impose some conditions on campaign advertising.

My point, Mr. President, is that I have compromised on this bill. I have voted against my self-interest in the interest of getting meaningful campaign finance reform. And I hope my colleagues can be persuaded to do the same.

Certainly, all Members of the Senate have some level of self-interest in preserving the present system. After all, it worked well enough to get them elected. But many of us are willing to sacrifice those interests for greater good.

Let us look at what we are being asked to do in this bill. First, this bill limits spending. As we try to limit what the Federal Government spends, so, too, should we limit what politicians spend.

Critics of this feature of the bill say that it disadvantages challengers, and that is simply not true. Challengers are significantly outspent in almost every campaign today. This bill strictly limits the degree to which they can be outspent. More importantly, spending limits prevent incumbents from amassing huge war chests. No longer will incumbents be able to scare potential opponents out of a race simply because they can raise and spend unlimited sums of money.

Second, this bill reduces the role of special interests. It restricts the flow of soft money, and it eliminates PAC's and eliminates them entirely. No more $10,000 gifts, no more cumulative contributions of millions of dollars to campaigns by the NRA or the AMA, by the AFL or the UAW. And that should eliminate, at least minimize, the perception that we are controlled by special interests.

A majority of the Senate and the country agree on the need to do these two things, but there have been deep divisions in the Senate and the country about the desirability of using public funds for political campaigns.

Mr. President, I am opposed to using public money for political campaigns. Some thought that only public funds could make spending limits functional given the free speech concerns raised by the Supreme Court. I believe a better approach is to punish people if they violate the spending limits rather than reward them at public expense for abiding by the limits. And that is what we did when we adopted the Durenberger-Exon amendment.

When I supported public financing in the past, I did so because it appeared to be the price we had to pay to get a bill. But this year eliminating or severely restricting public funding appears to be something we can do and still get a bill.

This bill still faces an uncertain future. Its prospects in the House are far from assured. If a version of it is adopted there, the conference will be difficult.

Mr. President, passage of this bill in this form by the Senate demonstrates that we can serve the public interest, we can put aside partisan differences, and we can clean up the system.

That, Mr. President, should give all of us who are fortunate enough to serve here, and all the people who are fortunate enough to live in this country, reason to be hopeful, as well as thankful.

I thank you.

Mr. FORD. Mr. President, I am ready to agree to the request of the distinguished Senator from Oklahoma.

ORDER OF PROCEDURE

Mr. NICKLES. Mr. President, I ask unanimous consent that the amendment that I have pending at the desk be considered as a first-degree amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, I wish to thank my friend and colleague from Kentucky. I also would like to ask unanimous consent that Senator BURNS be added as a cosponsor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, the amendment that we have now pending would eliminate the so-called broadcast discount or broadcast subsidy. I have spoken on the floor in the past about the amount of this subsidy, and it is enormous. It says that eligible candidates will receive broadcast time at one-half the rate of anybody else in America. I happen to disagree with that. I do not know why U.S. Senate candidates should receive time at one-half the rate of, say, a Governor or maybe a county commissioner, or possibly the United Way or any other charitable organization.

Why in the world should politicians get one-half the rate of everybody else in our country? Already in the legislation, already in present law, we get the lowest rate of anybody. That is present law.

Now we are looking at saying we want one-half the rate of that. We do not care how worthy the organization, or charitable organization, or whatever. We think that U.S. Senate candidates are entitled to one-half of the lowest rate for television time. I am embarrassed by that.

I really do not think that is the right manner in which to operate. This is a massive subsidy.

I read in this morning's paper that last night's compromise eliminated some of the public subsidy. This is probably the largest subsidy for politicians that we have in this bill. It is enormous. Just look at the amount of media that is purchased in some of these States. It is millions of dollars, in some cases. We are saying we want to buy two for one. We think we should be able to buy broadcast rates at one-half the rate of everybody else. I happen to disagree with that.

Of course, this just pertains to the Senate—but if we are going to do it for the Senate, we will certainly do it for the House.

If we are going to do it for a U.S. Senate candidate, and you have a State attorney general running, are you going to tell them they have to pay twice as much as a U.S. Senator? What about a State legislative officer? What about a State senator? Do they have to pay twice as much as a U.S. Senator? I do not see any equity there.

I do not know why U.S. Senate candidates should be singled out, and why they should be entitled, as classified under this bill—to receive a broadcast subsidy or broadcast rate one-half the rate of anybody else in this country.

I find that to be highly offensive, highly objectionable, and I hope that my colleagues will not concur with it.

I might mention, too, that the amount of subsidies depends on the amount of money that a person spends for broadcast time. So if you purchase $1 million worth of broadcast time, this subsidy is worth $1 million because you get to buy two for one, or you get to buy at one-half the rate of anybody else.

We tried to estimate how much it would be in various States. Giving the example of New Jersey, the amount of broadcast subsidies could easily be $3.5 million. The amount in a State like Michigan is $1.6 million. In Massachusetts, $1.2 million. In the State of Illinois, $1.9 million. In Georgia, $1.2 million. In the State of Kentucky, $868,000.

So we are saying, again, it depends on how much time or how much money a Senate candidate would spend on broadcasts. It is obvious that candidates who receive half-price television are going to spend a lot of money. This is going to encourage them to put their money into broadcasting because they get twice as good a deal as compared to other forms of advertising.

So I just hope my colleagues will look at this and realize this is an enormous entitlement. This is an enormous imposition on the broadcast industry, and it creates a lot of inequities. The proponents are saying U.S. Senate candidates should be treated better than anybody else in America when it comes to purchasing broadcasting time. I think it is far too generous.

I hope my colleagues will agree with this amendment on behalf of myself and Senator BURNS to delete this massive subsidy for politicians.

Mr. President, I yield the floor.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate on this amendment?

Mr. FORD. Mr. President, there will be a lot of debate.

The PRESIDING OFFICER. The Chair recognizes the Senator from Kentucky.

Mr. FORD. Mr. President, let me just for the information of my colleagues, and I have talked with the distinguished Senator from Oklahoma. We have several committee meetings right now, and particularly in the Finance Committee, and we are trying not to disrupt that meeting for a vote and the Senator from Oklahoma understands that, and the Republican leader has asked that we not have votes for a while in order to allow them to do their work, because it is very important for the committee to continue to meet.

I want to speak on this a little bit and then we may get to another amendment and may set this aside. I do not know exactly what we will do.

We also have both parties attempting to work out the board and how they may proceed under the FEC. It is 3–3 and what can they do to keep it from having gridlock there also. So we are trying to protect those people at the moment.

Mr. President, I understand what the Senator from Oklahoma is trying to do here. But he talks about the Attorney General race, the Governor race and so forth. We are not covering States races. We are governing Federal races. Many of the States have their own laws that pertain to elections. My State has just gone to public financing. There is a $600,000 threshold, and once they reach that, the State provides them with $1.2 million, and that is the maximum amount under law that any candidate for Governor-Lieutenant Governor, which now will run as a team, can spend. That is the limit on both sides.

This particular amendment if it comes about, my opponent last time would have about $1 million, raised about $400,000. So the challenger here would have had a better chance at getting his message over than under the present circumstances. So I think it is important that we continue to allow this to stay in the bill.

The Senator from Oklahoma is trying to protect the TV stations. He is saying that this is unfair to them. Well, the unfairness is—and I can refer him to Senators that will be here shortly that were overcharged by thousands, tens of thousands of dollars. They stuck it to the political candidates. People say, well, that is all right. Stick it to them. But now he is trying to eliminate and allow them to continue to break the statutory provision that we now have.

Let me read from the report on the Committee on Rules and Administration together with the minority views and additional views that came out with the original S. 3.

It says:

> While the FCC admitted that the audit of 30 licensees out of 10,000 commercial radio and television licensees was not a representative sample, the FEC determined that certain broadcast industry sales practices may not comply with the political programming law.

As we now have it.

> A significant finding was that in almost every day part or broadcast time period studied, political candidates paid higher prices than commercial advertisers at 16 television stations, or 80 percent of the 20 television stations surveyed.

You know you want to protect something. You say we do not want the 50 percent, they are doubling us now. There is a 100-percent increase under the rates and they are having to pay back. In October of 1990 when this finding came out television stations started sending money back to political candidates, because they had overcharged, been overcharging for a long time.

Let me tell you something else that they found, that:

> Furthermore, the FCC found that in one city, television broadcasters charged candidates more than every commercial advertiser during 9 day parts in a single week. During a particular daypart, candidates paid $5,500 for a 30-second spot, while commercial advertisers paid no more than $3,000 for a 30-second spot. During a local news program on another television station candidates paid $4,000 for a 30-second spot, while commercial advertisers paid an average of $1,562. In another example the FCC found that every candidate paid $4,000 for a 30-second "news adjacency" on one television station, while commercial advertisers paid between $575 and $2,550 for their 30-second spots within the same news program.

You try and protect an outfit that doubles the price, triples the price. And we had to have a study made and audit made in order to have the money returned. I can name you the States where they occurred. And I can name you the stations where they occurred. I will not do it. Here we are saying now we want to do away with a percent of the lowest unit rate when they have been charging us 100 percent or more of the regular rate and we are entitled to a lower rate, the lowest commercial rate now.

So I think it is unfortunate that we have to get into trying to eliminate this from the bill.

Second, we voted for free time and that was turned down. We voted to eliminate the vouchers, we voted several times in the last 3 weeks on this particular item and now we get it again.

So I would hope that my colleagues would look at this and say if we are going to be helpful, if we are going to be helpful in stopping the money chase, if we are going to be helpful in allowing challengers to have an opportunity to get their message over, and in the words of the junior Senator from Minnesota, let us talk about big issues instead of big cash. Talk about big issues instead of cash.

We have good political issues to discuss and I think that is the important thing and in a political campaign it is important for a candidate. Unless we do something like what we are doing here now we are going to find that there will be very few challengers with enough money, unless they are independently wealthy and can spend millions of dollars of their own money in a campaign, that we are going to find very few challengers. So therefore we find ourselves protecting the incumbents and not helping the people, and not reconcluding the art of campaigning, which is the debate of the issue talking with people going to rallies, meeting in courthouses, doing all those things the old-fashioned way which I think we want to get back to.

So, Mr. President, I would hope that my colleagues would not support this amendment and that at the appropriate time I will move to table.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I appreciate the comments made by my friend and colleague from Kentucky.

I do not doubt, over the years, considering the fact that candidates have spent millions and millions of dollars in broadcasting, that somebody has made a mistake somewhere.

But I will state that the present law says that candidates, both for Congress and for Senate, are to receive the lowest unit rate. So if they paid a higher rate in commercial, it probably had more to do with their purchasing pattern. In other words, they probably purchased nonpreemptible time—it could not be preempted for any reason—and, in all likelihood, the person who was buying the advertising time probably bought preemptible time.

In other words, they tell the broadcaster: "You plug it in whenever you can," and, in exchange for that, the broadcaster would give a lower rate.

I do not doubt that happens. But that has more to do with the purchasing tendencies of the candidate and commercial buyer and the result then may be a candidate paid a higher rate than a commercial person.

But I might mention again that the present law says the candidate will receive the lowest unit rate.

Now, the bill before us says candidates for U.S. Senate get one-half the lowest unit rate. This is one-half the rate of anybody else in America—not only one-half the rate of any private business, but also one-half the rate of a charity, one-half the rate of a church, one-half the rate of United Way. I disagree with that.

The Senator from Kentucky is exactly right. This bill only pertains to the U.S. Senate.

I would just tell my colleagues that its ramifications are much greater. How in the world can a broadcaster offer a candidate for the U.S. Senate broadcast rates at one-half the rate of what they would offer a State senator—I find that to be quite inequitable—or State representative or county treasurer or no telling what other political office it might be?

I just find it to be almost greedy on our part to say we are very special and we want one-half the rate of anybody else in America.

So I urge my colleagues, when we vote—and I am not sure when that will be; it will probably not be for some time—to take into consideration equity, to take into consideration that we really should not be mandating to all the broadcasters in America—some of which are profitable, that they give the lowest rate and then one-half the lowest rate to eligible candidates.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from KJRH, channel 2, Tulsa, OK, as well as a letter by the National Association of Broadcasters in support of this amendment.

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

KJRH 2,
Tulsa, OK, June 16, 1993.

Hon. DON NICKLES,
U.S. Senate, Washington, DC.

DEAR SENATOR NICKLES: Thank you for taking the initiative to offer your amendment to S. 3 striking the 50% discount of television station's lowest unit rate for political candidates during specified election campaign periods.

Your understanding of the unfairness of such a penalty is immensely important in the television industry. Our ability to continue to provide free over the air news, information, public service and entertainment to our viewers has received an important boost because of your actions.

Thank you for your critical support.

Sincerely yours,

WILLIAM J. DONAHUE.

NATIONAL ASSOCIATION OF BROADCASTERS,
Washington, DC, June 16, 1993.

Hon. DON NICKLES,
U.S. Senate, Washington, DC.

DEAR SENATOR NICKLES: I understand that you intend to offer an amendment to S. 3, the campaign reform bill, that would delete its provisions which grant candidates who agree to spending limits additional 50% discounts below lowest unit rates for TV time. NAB strongly supports your amendment, which would eliminate one of the most punitive of the political broadcasting provisions from this bill.

NAB has taken no position on many of the campaign reform issues under debate in the Senate, but we strongly object to the bill's provisions that unfairly force our industry to bear the brunt of efforts to reduce campaign spending.

The 50% discount provisions addressed by your amendment are the most egregious example of how the bill would harm local television stations. These stations already are obligated to provide candidates with a better deal than their commercial advertisers receive. In the last complete year for which industry financial data is available (1991), 35% of television stations lost money. It is undeniable that the 50% discount will drive more stations into the red, and make it even more difficult for stations to serve their local communities.

On behalf of NAB and our member television stations throughout the nation, we applaud your amendment and appreciate your leadership on this important issue. We look forward to working with you and other members of Congress to develop campaign reform legislation that is fair to both candidates and broadcast stations.

Sincerely,

EDWARD O. FRITTS.

Mr. NICKLES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. FORD). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAHAM). In my capacity as a Senator from Florida, I object.

Mr. HELMS. Very well, I understand, Mr. President.

The PRESIDING OFFICER. The call of the quorum will continue.

The bill clerk continued the call of the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. In my capacity as a Senator from Florida, I object.

The bill clerk continued the call of the roll.

Mr. BOREN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BOREN. Mr. President, I apologize to my colleagues. I was simply off the floor and wanted to make sure that I was not caught unaware of any actions on the floor. The Senator from North Carolina has indicated to me that he would like to speak as if in morning business, and I ask unanimous consent that the Senator from North Carolina be able to proceed as if in morning business for up to 15 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from North Carolina.

Mr. HELMS. I thank the Senator. It is nice to be able to get the floor. I have been here only 21 years, and to be foreclosed from speaking is a little bit interesting. But I understand, I will say to the distinguished occupant of the chair, and I say to my friend from Oklahoma [Mr. BOREN] what he has done is not without precedent.

Mr. BOREN. Mr. President, will my colleague yield to me just a moment?

Mr. HELMS. Sure.

Mr. BOREN. I simply say again to my colleague, I was just off the floor for a moment, just asked to be protected. And as my good colleague knows; we have had a wonderful relationship ever since we have been here and respect each other highly, and had I been on the floor at the moment he came here I would have immediately granted his request.

Mr. HELMS. I thank the Senator. I hold him in high esteem. And I might add, Mr. President, that Molly Boren and Dot Helms were students of Spanish together at one time. I am not sure they learned very much Spanish, but Dot did learn how to say the affirmative and the negative in Spanish. She said the negative more often than she said the affirmative.

In any case, I thank the Senator very much.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, I have a couple of items I wish to discuss, the

first being a little report I make each day that the Senate is in session to remind the American people of what has been happening to them over the past 30, 40 years.

We hear so frequently the charge that Ronald Reagan ran up the national debt or that George Bush ran up the national debt. Well, the truth of the matter is, as anybody who knows one scintilla about the U.S. Constitution, that no President can spend a nickel that has not first been authorized and appropriated by the Congress of the United States, House and Senate, and that all spending of the taxpayers' money must first be authorized and appropriated by the House of Representatives and agreed to by the Senate.

Now, if we can understand, this polecat of a $4 trillion Federal debt—and I shall address that in just a minute—$4 trillion-plus national debt lies on the doorsteps of the Congress of the United States.

Jimmy Carter did not cause it. Ronald Reagan did not cause it. George Bush did not cause it. The Congress, under the Constitution, had the responsibility of guarding the Federal purse and Congress defaulted.

If that is understood, I will make my daily report, which is that, as of the close of business on Tuesday, June 15, which is the most recent date for which the absolutely authentic figures are available, the Federal debt stood—I am going to say it very slowly so hopefully it will sink in—the Federal debt stood at 4 trillion, 301 billion, 302 million, 751 thousand, 632 hundred dollars and 55 cents.

That means that on a per capita basis, every man, woman, and child in this country owes $16,745.77 as his or her share of that debt.

I have often referred to the young people on both sides of the podium, the Senate pages. I say every year that they cannot get any better. I am going to miss every one of them who will depart from here this week. They know I love them. But we have not been fair to them, "we" being the Congress of the United States. Congress has not been fair to any of the young people. Congress has irresponsibly accumulated a Federal debt that defies any comprehension of its enormity.

DEMOCRATS RAISE TAXES ONCE MORE

Mr. HELMS. Mr. President, along another line but related, last night our friends from the other side of the aisle, the Democrats, met—behind closed doors, I might add—and agreed once more to raise taxes on the middle-income people of the United States.

They agreed to propose a 4.3-cent gas tax that is, by its very nature, regressive, and which will hurt the farmers, the truckers, the commuters and the small businessmen of North Carolina and of this country. Indeed it will hurt everybody—the airlines and anybody else who uses gasoline.

This is a dire contradiction of what the American people have said, in poll after poll, without exception: "Reduce spending, cut out more Federal spending."

Well, under the plan that they devised—it is a moving target, one never knows from one day to the next what it is going to be like—the American people are going to have it socked to them again. They are going to be gouged with more taxes to cover all of the new Federal spending programs. Let me emphasize, this proposed new gasoline tax is unfair and unnecessary.

I say again, Mr. President, that the American people want the Federal Government to stop spending so much money. They do not want the Federal Government—meaning the Congress of the United States—to raise taxes again.

I am going to do my best to strike this proposed gasoline tax increase, but that is a conversation for another day. This proposed gasoline tax, and the rest of the $300 billion in taxes in the Democrats' bill—I am not sure to whom to attribute it—is like Mr. Dooley said: "The Demmycrats" he used to say, "The Demmycrats have done fell out among themselves." They cannot agree on anything except that they intend to gouge the American people more and more and more.

This gasoline tax and the rest of the $300 billion proposed increase in taxes will cause more inflation. It will cause the loss of more jobs. It is going to slow the economy. Anybody who knows anything about the principles of economics knows that this is not the way to go.

And the American people sense it. They know that spending more money and raising more taxes is certain to hurt the economy, and therefore it's going to hurt them. How we can get that message across more clearly, I do not know.

I saw a study not long ago that came out of the Joint Economic Committee that concluded that a 5 cents a gallon gasoline tax increase will cost more than 300,000 jobs during the next 2 or 3 years. That is fearful to contemplate.

But in any case, our friends on the other side of the aisle have removed the Btu energy tax and they have replaced it with a 4.3 cents gasoline tax increase.

Mr. President, it seems to me—and I believe it seems to the American people—that a tax is a tax is a tax no matter what anybody tries to call it, no matter from which pocket you try to take it, no matter how much politics you try to play with trying to find a goose who will not squawk so much when you pull its feathers.

I sincerely believe that there is a tax revolt brewing around the country. And I submit, as exhibits A and B, what happened in Texas the other day, and what happened in Los Angeles the other day—and some other places. Maybe a wakeup call was being sent to Washington. I hope so.

The American people are outraged. They understandably feel that they have been hoodwinked. Think about what was promised by Mr. Clinton last year, and what is almost certain to be delivered this year. President Clinton made a statement on Tuesday which on its face—on its face—was not true. I do not know whether he had bad staff advice or whether he is so accustomed to giving out these ad lib promises, pulling them out of thin air. In any event, what he said on Tuesday was just not true. Others around this city are using stronger characterizations, but let me simply quote what Mr. Clinton said, verbatim. He said: "The plan the House passed, that the Senate Finance Committee is now dealing with, for every $10 that the deficit is reduced, $5 comes from spending cuts and $3.75 from upper income folks, $1.25 from the middle class." Wrong, wrong, wrong, Mr. President, on all three counts.

Somebody needs to explain the President's budget to the President. Obviously he does not understand it. Talk about trying to make a silk purse out of a sow's ear. The truth is that Mr. Clinton's budget—and whatever is being done to it on the House side and on the Senate side up here—calls for about $300 billion in new taxes. Do not let anybody tell you differently—new taxes, 300 billion dollars' worth.

Mr. Clinton proposes to increase taxes by $15 for every $1 in spending cuts—15 to 1. They are going to increase the taxes $15 for every $1 in spending cuts. Fifteen to one is not what Mr. Clinton promised the American people over and over and over again in 1992. Fifteen to one is not even close to what he claimed on Tuesday.

So maybe there should be a truth squad riding following Mr. Clinton around this city so that the American people can have a chance at being informed correctly.

Repeatedly, in 1992 candidate Clinton promised small tax increases, and huge spending cuts. I heard him say it over and over again. So did the American people. I suppose that is why 43 percent of the voters who went to the polls last November voted for him.

Mr. Clinton flat out promised a tax cut for the middle class—no ifs, ands, or buts—a flat out promise of a tax cut for the middle class. But once in office, there came the old bait and switch routine. He proposed huge tax increases and minuscule spending cuts to which I just referred.

So the President is busily flipping logic on its head. In his budget plan, he counts user fees, as spending cuts. You figure that one out. He counts spending increases, as tax cuts. He cannot get by

with that, and that is the reason I am standing here on this floor.

It is time to expose the deception. The claim that increases in custom fees, irrigation fees, and park fees, paid by the American public are spending cuts is a callous disregard for the truth.

The American people—I think I perceive—are not being fooled. I believe that they know a tax increase, by whatever misnomer, when they see one. The President implies that increasing taxes on senior citizens is, somehow, a spending cut. As a 71-year-old, and I guess a senior citizen, I find that very interesting. I do not know about the senior citizens whom the distinguished occupant of the chair knows in Florida, but I do not think they are going to buy that. They are certainly not buying it in North Carolina.

Mr. President, I noticed a few days ago an excellent report produced by the Heritage Foundation which, yes, is a conservative economic organization for which I have the highest respect. The Heritage Foundation revealed how the Clinton budgets have changed since the election. I think it is worthwhile to look back to the promises of last year and to what is being proposed this year, on a theory that that was then and this is now.

Let us look first at this chart on spending cuts. What happened to them? The title of this chart is, the "Disappearing Spending Cuts; Spending Cuts for Every $1 of Higher Revenues." Back in 1992, Mr. Clinton said, we will cut spending $3 for every $1 of tax increases. But that was then and this is now.

After inauguration day, there was a bit of slippage. He promised then that for every $1 in tax increases, there would be $2 in spending cuts.

Then, in his budget speech on February 17, Mr. Clinton had dropped it again. He said: $1 in spending cuts for every $1 of new taxes.

Mr. President, it gets worse. It was $3 in the campaign last year; $2 in January after he put on the inauguration show; $1 in February; and what do you reckon he proposed in the budget finally sent up here? He now proposes 25 cents in spending cuts for every $1 increase in taxes.

It gets worse. You young folks, Senate pages, sitting down there, look at this: The House passed a little old bill proposing that there be 6.7 cents in spending cuts for every $1 in tax increases. Some people might like to roll back, take a jet plane and go backwards in time to 1992, when all those grandiose promises were being made.

Mr. President, let us look at another chart. The bait and switch continues—that is an old game. The chart is called "Revenue increases" for every dollar in spending cuts.

"Revenue increases," Mr. President, is a euphemism for socking it to the taxpayers in tax increases. Mr. Clinton said during the campaign—if you can see this little sliver of yellow here—"33 cents is all I am going to increase your taxes for every $1 in spending cuts." But that was then and this is now.

Then, he said: "Well, I have to adjust my figures a little bit." It will be 50 cents for every $1. And then comes the budget speech, where it became $1 for $1. Then, the Clinton budget proposed $4 in tax increases for every $1 of spending cuts. Under the House-passed bill, the plain truth is clearer and clearer, and the fog is now being swept away—$15 in new taxes for every $1 in spending cuts.

So we can see from this second chart, to which I just all alluded, the taxes under Mr. Clinton's various budget plans—plus the House wisdom, if that is what you want to call it—the taxes are going up, up, up. They are going to be on you, you, and you. The House-passed bill calls for $15 in new taxes for every $1 in Federal spending.

I do not believe this is what the American people want. That was not their message in Texas or Los Angeles. They said: "Cut out the big spending—and we are sick of taxes."

Mr. President, the Democrats have just tinkered with the tax bill, and it was done behind closed doors last night. The new bill may not be exactly $15 to $1, but it is still very close; it is in the same ballpark. As I said earlier, this whole thing is a moving target.

The Democrats' budget has so much deception and misleading accounting. But the bottom line is that the American people, if something is not done, again are going to be socked with a tidal wave of new taxes.

It used to be said by a pretty eminent American that you can fool some of the people all of the time and all the people some of the time—and you know the rest of it.

I think the kind of doubletalk we are seeing and hearing may result in, come 1994 and 1996, that none of the people are going to be fooled any of the time by those who now default on 1992 campaign promises—and by those who assist them in the House and Senate of the Congress of the United States. It is now put-up-or-shut-up time. The American people, I believe, are watching.

The President can continue to stand logic on its head, but I think it is time to examine honestly and carefully and specifically all of this deception. The President implies that increasing taxes on senior citizens is somehow equivalent to a spending cut, and I dissent. It is simply not so.

But in any event, Mr. President, the Heritage Foundation report, despite the fact that the target keeps moving around, has done a notable job in analyzing what is going on. It shows how the American people will have to pay. It is an excellent report.

So, Mr. President, I am going to conclude by saying it is time for the responsibility of the Congress to show itself, and it is time for the President to learn something about his proposed budget, more than he knew on Tuesday when he clearly misstated the facts. He can smile, he can have his hair cut, and he can do all the rest of it, but when it gets down to the nub of it, he is talking about the future of the American people—particularly these young people to whom I apologize for what my generation has done to them.

I can say only in my personal defense that I have not voted for these bloated budgets in any of the 21 years that I have been in the Senate. I have been sneeringly called "Senate No" and the liberal newspapers down in my State have cartoons such as a dinosaur with my head on it, with my eyes going both ways. They are so partisan. The people of North Carolina have elected a conservative Republican Senator four times in a row, despite all of the major newspapers of North Carolina crying, "Down with Helms." It hasn't worked—yet.

Mr. President, I appreciate the confidence of the people of North Carolina, and I say to them: Within the length of my cable tow I will never, never distort the facts about a spending proposition or a taxing proposition. And I shall never vote for Mr. Clinton's tax-and-spend proposal.

I ask unanimous consent that a copy of the Heritage Foundation report be printed in the RECORD at the conclusions of my remarks.

Mr. President, I yield the floor, and I thank you very much.

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

[From the Backgrounder, the Heritage Foundation, May 25, 1993]

THE HOUSE BUDGET RECONCILIATION BILL: MAKING A BAD BUDGET EVEN WORSE

(Updating Backgrounder No. 932, "Taxes, Spending, Gimmicks, and Snake Oil: Why Bill Clinton's Budget Is Bad For America," March 16, 1993, and Backgrounder No. 942, "Why Higher Tax Rates on Income Will Slow Growth, Cost Jobs," May 25, 1993.)

The House of Representatives is scheduled this week to vote on the budget reconciliation bill, a measure which purports to reduce future federal budget deficits by a total of $336.8 billion over the next five years. The Clinton Administration and House Democratic leadership claim that the legislation represents a balanced use of spending cuts and tax increases to reduce federal borrowing. But in reality the package consists almost entirely of higher taxes. More than $301 billion, or 89.5 percent of the total, comes from increased revenue. The legislation would impose the largest tax increase in American history.

Even using the Washington definition of a budget cut—increasing spending at a slower rate than previously planned—the bill contains almost no spending cuts. Less than six percent of the package, or barely $20 billion ($4 billion per year), takes the form of reductions in the rate of growth of rapidly expanding federal entitlement programs. The remaining $15.4 billion of alleged savings, accounting for 4.6 percent of the total savings,

comes from provisions that can best be described as budget gimmicks. The ratio of tax increases to spending cuts: 15 to 1

TAXES AND DISGUISED TAXES

On a party-line vote, the House Ways and Means Committee approved almost all of the tax increases proposed by the White House. The only noteworthy change was the decision to forego the Administration's convoluted Investment Tax Credit and instead raise the top corporate income tax rate from 34 percent to "only" 35 percent. The package contains all the other economically destructive increases in tax rates on income and wealth creation proposed by the White House. The legislation also would impose a huge and controversial new tax on energy.

Architects of the House "deficit reduction" bill have attempted to hide the size of the tax increase. But the claim that the legislation raises "just" $246 billion over the next five years is accomplished only by using creative accounting to portray some spending increases as tax cuts and to characterize many revenue increases as spending cuts.

Spending Hikes Dressed as Tax Cuts.—The Democrat-controlled Joint Committee on Taxation, for instance, admits that three provisions that are counted as tax cuts are really spending increases. The three provisions are:

$1.252 billion of higher Social Security and medicare spending for educational assistance is counted as a tax cut;

$25.678 billion of higher welfare spending is counted as a tax cut;

$2.105 billion of higher spending for immunization is counted as a tax cut.

By counting these spending increases as tax cuts, lawmakers can pretend that the tax increase is smaller than it really is since the dollar value of this new spending is subtracted from the dollar value of all the tax increases. As a result, the reported size of the net tax increase in the budget reconciliation bill is dishonestly reduced.

Tax Hikes Dressed as Spending Cuts.—The number of spending increases masquerading as tax cuts is dwarfed, however, by the number of tax increases and revenue-raising provisions that are counted as spending cuts. By counting these tax increases as spending cuts, Congress artificially inflates the reported amount of spending cuts in the budget reconciliation bill. Among these provisions:

$2.420 billion from higher import "user fees";

$8.078 billion from increasing the monthly Part B Medicare tax;

$2.089 billion from increasing the federal unemployment tax in 1997 and 1998;

$.214 billion from aircraft registration taxes;

$.345 billion from patent and trademark "user fees";

$1.169 billion from Nuclear Regulatory Commission "user fees."

All told, the legislation actually raises nearly $55 billion more in revenues over the next five years than supporters admit. Not all of the higher revenues, it should be noted, are tax increases. Auctioning off portions of the electromagnetic spectrum, for instance, will raise an estimated $7.2 billion. And a tiny fraction of the user fees are genuine efforts to charge beneficiaries the cost of government-provided services. These steps are desirable, but they are not, by any stretch of the imagination, spending cuts.

More Budget Gimmicks.—The bill also is noteworthy for its use of blatant smoke-and-mirrors tactics. For instance, the legislation claims savings of $8.810 billion from ending lump-sum payments for federal retirees. This provision, however, simply shifts spending into future years. Similarly, the provision claiming to save $2.339 billion in military retirement costs is achieved by a delay in cost-of-living adjustments, thus doing nothing to alter the long-run growth of spending. And proponents claim the bill will save $4.270 billion by nationalizing the guaranteed student loan program. Yet the Congressional Research Service points out that, "Direct lending [the Clinton alternative] actually could increase budget outlays and reduce national income if it were unable to duplicate administrative efficiencies achieved by private lenders." One need only compare the Postal Service with Federal Express to consider whether this provision is likely to save taxpayers money.

MORE SPENDING AND HIGHER DEFICITS

Proponents of the budget reconciliation bill assert that the legislation is a much-needed step to bring deficit spending under control. Yet according to the White House's own estimates, adoption of the Clinton budget will result in $322 billion of higher spending by 1998. If history is any guide, spending actually will climb much faster than this since Congress, in the expectation that more revenue will be forthcoming, will increase spending even more. Tax increases in 1982, 1984, 1987, and 1990, for instance, where all enacted with the promise that the deficit would fall. But in every case, the deficit rose the following year.

The Administration effectively concedes that the tax increase will be swallowed by new spending. According to estimates prepared by the Office of Management and Budget (OMB), adoption of the Administration's budget will cause the deficit to climb to $431 billion by 2003. But even this estimate is based upon the remarkable assumption that the record tax increase will not harm the economy and shrink the tax base. The Administration's $431 billion deficit estimate also assumes that the budget gimmicks will generate real savings and that Congress will not increase spending in the future, two rather dubious assumptions.

PHONY IMPROVEMENTS TO THE PACKAGE

Even though the White House's own figures show that the Administration's budget will cause the deficit to rise, not fall, the President is telling taxpayers that he will place all new tax revenue in a "trust fund" to ensure that the money goes for deficit reduction. This is a charade, however, because it would not impose any road-blocks to new spending. Clinton's own Deputy OMB Director, Alice Rivlin admits, "I don't think it affects anything."

The 15 to 1 ratio of tax increases to spending cuts in the budget reconciliation bill has caused considerable discomfort to many lawmakers. For instance, Representative Charles Stenholm, the Texas Democrat, is insisting that the savings in the legislation be enforced by a sequester mechanism that would automatically cut spending and raise taxes. This approach is misguided, however, because the package has no savings to enforce. Nor is it reasonable to punish taxpayers, as Stenholm would do, by including an automatic tax increase provision in the sequester.

Other frustrated members of Congress are exploring proposals to eliminate the energy tax and instead impose a cap on entitlement programs. While a small step in the right direction, such a step would still leave the ratio of tax increases to spending cuts at an unacceptable level. Worse still, this approach would do nothing about the most economically destructive portion of the budget reconciliation bill—the higher tax rates on income.

CONCLUSION

Large tax increases are not the solution to deficit spending. Herbert Hoover, Lyndon Johnson, Jimmy Carter, and George Bush all imposed large tax increases and in every case the economy turned sour, jobs were destroyed, and the deficit rose. Higher tax penalties on productive economic activity are not compatible with a growing economy. The record tax increase in the budget reconciliation bill is a certain recipe for economic stagnation.

DANIEL J. MITCHELL,
John M. Olin Fellow.

MORNING BUSINESS

Mr. BOREN. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BOREN. Mr. President, I ask unanimous consent that upon disposition of S. 3, the Senate proceed to the consideration of H.R. 2118, the supplemental appropriations bill.

Mr. President, I might say that I have consulted with the Republican floor manager of the bill. He has consulted, I understand, with the minority leader, and this request has been cleared on both sides of the aisle, I believe.

Mr. MCCONNELL. That is correct.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOREN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, I ask unanimous consent to proceed for 5 or 6 minutes as if in morning business.

The PRESIDING OFFICER. The Senator is recognized.

Mr. GORTON. I thank the Chair.

(The remarks of Mr. GORTON and Mr. PACKWOOD pertaining to the introduction of S. 1123 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

THE FAST FLUX TEST FACILITY

Mr. GORTON. Mr. President, I would like to take just a few minutes of the Senate's time to speak again about the Fast Flux Test Facility at the Hanford site in Washington State.

As many of my colleagues may recall, FFTF is a sodium-cooled fast reactor that was originally constructed

as part of the Clinch River Breeder Reactor Program. Unfortunately, FFTF was left without a primary Federal mission when that program was discontinued. The Washington delegation and the Hanford community have since worked to market FFTF as an international, multimission user facility that would operate at a reduced cost to the Government while remaining available for a variety of Federal missions.

The FFTF marketing effort was highly successful in this Senator's view, despite what can only be termed as lackluster support from the previous Department of Energy. Significant financial commitments were secured from Japan and Europe, and a number of other potential users expressed interest in the facility. Japan went so far as to budget 1 billion yen—$9 million—for FFTF activities in each of the past 2 years. I visited earlier this month in Tokyo with Minister Nakajima of the Science and Technology Agency, and was assured that Japan's interest in FFTF remains high.

Because the Hanford community never felt that the FFTF marketing effort received a fair hearing from the Department under Secretary Watkins, the Washington delegation asked Secretary O'Leary to commission an independent review of the facility. This review would explore a multimission role for FFTF within the context of the Department's long term goals, and would assist the Secretary in determining the future disposition of the reactor. Regardless of the conclusions reached, the study would give FFTF supporters such as myself confidence that the fate of the facility will not be determined on the basis of faulty assumptions.

I am very pleased that Secretary O'Leary yesterday agreed to commission the independent review of FFTF. The review should be completed in 45 days, and will be conducted under the leadership of Mr. John Landis. Mr. Landis is a well respected nuclear engineer who is currently senior vice president and director of Stone and Webster Engineering Corp.

I have noted repeatedly on this floor that the FFTF is a national treasure that should not be squandered, and that we will reap great benefits by developing it as a multimission user facility. FFTF is our safest, most modern, and most versatile test reactor, and deserves a throughout review by the new administration. Secretary O'Leary deserves a great deal of credit for undertaking this task. This Senator, the rest of the Washington delegation, and the Hanford community are very appreciative.

Mr. GORTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BURNS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURNS. Mr. President, parliamentary inquiry, what is the business of the Senate?

The PRESIDING OFFICER. The Senate is in morning business.

Mr. BURNS. Mr. President, I ask unanimous consent I might speak on behalf of the Nickles amendment on the pending legislation.

The PRESIDING OFFICER (Mr. SHELBY). Without objection, it is so ordered.

THE NICKLES AMENDMENT NO. 465

Mr. BURNS. Mr. President, I rise today as a cosponsor of the amendment offered by my good friend the Senator from Oklahoma to delete the provisions in this so-called campaign finance reform bill which grant candidates who agree to spending limits additional 50 percent discounts below lowest unit rates for television advertising. I find this sort of troubling and I find it puzzling.

Now I have heard all the arguments about how the broadcasters are using the public's spectrum and this is fair to force them to give candidates a 50-percent discount on advertising. But what about what the public service broadcasters provide by airing news stories on both incumbents and challengers position on issues? What about the debates that are aired on television and radio stations around the Nation?

Quite frankly, I think there are important constitutional concerns with forcing broadcasters to sell political advertising to candidates of a mandated rate. Are the first amendment rights of broadcasters being not abused by telling broadcasters how to sell their advertising?

Not that I am proposing this, but, what if this were extended to newspapers, printers, and suppliers? A 50-percent discount from the lowest unit rate for newspaper advertising, flyers, campaign bumper stickers for political candidates. We would be laughed out of this Chamber with such a proposal. Well that is what we are asking broadcasters to do. This bill says to broadcasters, take the lowest rate you charge for your television, now knock 50 percent off of that for politicians.

I am a former broadcaster and I can tell you giving a 50-percent discount for politicians is not going to even come close to covering the cost of airing the ads. In fact, in 1991, 35 percent of the television stations in this country lost money. It is undeniable that the 50-percent discount will drive more stations into the red, and make it even more difficult for stations to serve their local communities.

I just want to bring up a little situation and then I want to talk about the fifth amendment just a little bit.

Following the 1988 elections, NAB contracted with Aristotle Industries to conduct an analysis of campaign spending. This study combed through Federal Election Commission spending reports. From that analysis of actual spending in the 1988 House and Senate campaigns, we learned that on average, Senate campaigns spent 41.1 percent of their funds on radio and TV time, while House candidates spent just 19.3 percent. Those figures do not include the cost of producing radio and TV spots, time buyers and consulting fees, or other related costs which are sometimes lumped into the overall cost of media.

At the time we made those figures available, many in Congress doubted their accuracy. But two Los Angeles Times reporters—Sara Fritz and Dwight Morris—did an even more exhaustive study of campaign spending following the 1990 elections. The two reporters looked at every single FEC report from every campaign expenditure during 1990, over 400,000 transactions, and analyzed the various ways candidates spend their money. Those results totally validate the 1988 findings by the NAB. According to Fritz and Morris, only 29 percent of the funds spent by candidates for Congress in 1990 went for radio and television advertising and media consultants.

So, if we are worrying about the total cost of running campaigns, it is not in what we spend in the media, yet we are asking those folks who operate those radio and television stations to take a reduced rate.

Now let us talk about the fifth amendment of our Constitution, where it says: "* * * nor shall private property be taken for public use without just compensation."

By forcing broadcasters to provide advertising to political candidates below their cost of airing such advertising amounts to a taking without just compensation. Clearly the provision in this bill forcing broadcasters to charge 50 percent of the lowest unit rate for their advertising to political candidates, in my view, this Senator's view, is unconstitutional.

This should be of great concern to every property owner in the United States. Because if we let this Government of ours take other people's property without just compensation, the next property the government will want to take at 50 percent of its value will be yours, and that is not out of the realm of possibility.

So I urge all my colleagues in the Senate to vote for this Nickles amendment. If the Nickles amendment fails, I am sure the broadcasters of this country will take this issue to the Supreme Court.

This welfare for politicians bill, and that is what I call it, is riddled with examples like this that show no regard for our Constitution. I hope the American people understand that this bill

will not reform our campaigns, but it is an attack on the Constitution that protects them from their Government. It is a very, very serious thing when we start talking about campaign reform and the different angles that it takes as it makes its way through the legislative process.

I thank the Chair. I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The Senate is now conducting morning business.

Mr. McCONNELL. Mr. President, based on an understanding I have with the Senator from Oklahoma, I ask unanimous consent to return to consideration of S. 3.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Kentucky.

CONGRESSIONAL SPENDING LIMIT AND ELECTION REFORM ACT OF 1993

The Senate continued with the consideration of the bill.

Mr. McCONNELL. Mr. President, as I have indicated on a number of occasions, the bill before us directly violates the first amendment of the Constitution. Further, several of the amendments which have been added to this bill during the course of the debate only serve to exacerbate the unconstitutional character of the underlying legislation.

The Supreme Court has issued numerous precedents on the issue of regulation of political speech, and all of them point to this solemn conclusion: The bill before us is an unconscionable affront to the freedom of speech, which is perhaps the most sacred right bequeathed to us by the Framers of the Constitution.

I do not make this charge lightly, nor without just cause. I would like to take a few minutes now to outline several of the most egregious violations contained in this flawed legislation and to enter into the legislative record a number of legal memorandums which address serious constitutional issues in turn.

First, as a crown of shame to this offensive legislation, the Senate last night added an amendment which would impose a tax on candidates who exercise their first amendment right to refuse taxpayers' subsidies and to speak freely. Once such candidates exceeded the speech limits contained in this bill, even by spending a single dollar over the limit, their total gross receipts in contributions would be taxed at the full corporate rate.

It hardly takes a constitutional expert to understand this is a discriminatory tax aimed directly at the speech exercise of a constitutional right. If you speak too much, this amendment, now part of the bill before us, will tax you on your first amendment right.

As I indicated in my statement last night, one can only imagine where such legislative concept could take us in terms of taxing other speech which we found objectionable for one reason or another.

I will not belabor the point any further, but I would like to insert into the RECORD at this point a legal memorandum prepared by Robert Peck, legislative counsel to the American Civil Liberties Union, which details the outrageous injury which this provision does to the first amendment of the Constitution.

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

MEMORANDUM

To: Interested Parties.

From: Robert S. Peck, ACLU Legislative Counsel.

Re: Durenberger Tax Amendment.

Date: June 8, 1933.

The ACLU opposes the proposal of Senator Durenberger to tax the campaign receipts of candidates who do not agree to voluntary spending limits as an unconstitutional infringement of First Amendment rights. *Buckley* v. *Valeo*, 424 U.S. 1 (1976), held that the imposition of spending limits on electoral campaigns violate the First Amendment by limiting the quantity, depth and reach of political speech. To be constitutional, the Court held, limits must be voluntary—hence, S. 3's rhetorical adhesion to "voluntary" spending limits. Any formulation that coerces compliance with a statute's suggested spending limits would fail the *Buckley* Court's criteria for voluntariness. Thus, a candidate must "remain[] free to engage in unlimited private funding and spending instead of limited public funding." *Republican National Committee* v. *Federal Election Commission*, 487 F. Supp. 280, 284 (S.D.N.Y.), *aff'd mem.*, 445 U.S. 955 (1980).

Senator Durenberger's amendment would tax only those who choose unlimited private funding and spending, as they are constitutionally entitled to do, and thus runs afoul of the Constitution. The Supreme Court has long held that the government cannot require people "to pay a tax for the exercise of that which the First Amendment has made a high constitutional privilege." *Follett* v. *McCormick*, 321 U.S. 573, 578 (1944). In doing so, the Court was not writing on a blank slate but reflecting some of the historical forces that led to the writing of the First Amendment.

The Framers of the Bill of Rights were intimately familiar with the history of taxes imposed to discourage or suppress disfavored speech. The system of licenses that limited press freedom in England during the 17th century was succeeded in 1712 by a parliamentary tax on newspapers and advertisements. Known derisively as "taxes on knowledge," the levy had the effect of curtailing circulation and thus the reach of publications that commented and criticized the policies of the Crown. In 1785, Massachusetts traveled down that same road and imposed a similar tax. This approach was soundly rejected by those who proposed and saw enactment of the First Amendment. The father of the Bill of Rights, James Madison, called the English view that allowed people to publish as long as they paid penalties for what was deemed improper or mischievous to make a "mockery" of expressive freedom. Elliot's Debates 569 (1937 ed.).

Relying on this history in 1936, the Supreme Court struck down a Louisiana tax on publications that printed advertisements and had a circulation above 20,000. *Grosjean* v. *American Press Co.*, 297 U.S. 233 (1936).

The Durenberger amendment similarly taxes the exercise of a First amendment right. The Court has said that the "power to tax the exercise of a privilege is the power to control or suppress its enjoyment. Those who can tax the exercise of [a] practice can make its exercise so costly as to deprive it of the resources necessary for its maintenance." *Murdock* v. *Pennsylvania*, 319 U.S. 105, 112 (1943) (citations omitted). Such a tax cannot stand, for the power to impose a tax on the exercise of a First Amendment right "is indeed as potent as the power of censorship which this Court has repeatedly struck down." *Id.* at 113. In the *Murdock* case, where a tax on the distribution of religious literature was struck, the Court found that the use of a tax to suppress the dissemination of views because they or the method by which they were propagated were not in favor amounted to "a complete repudiation of the philosophy of the Bill of Rights." *Id.* at 116.

Approval of the Durenberger amendment would be a similar repudiation. It penalizes and inhibits a candidate for exercising his or her constitutionally protected rights. As the Supreme Court has observed repeatedly, giving sanction to such a system "would allow the government to 'produce a result which [it] could not command directly.' Such interference with constitutional rights is impermissible." *Perry* v. *Sindermann*, 408 U.S. 593, 597 (1972) (quoting *Speiser* v. *Randall*, 357 U.S. 513, 526 (1958)).

Moreover, any system of taxation that burdens the exercise of First Amendment protected rights bears "a heavy burden on the State to justify its action." *Minneapolis Star* v. *Minnesota Commissioner of Revenue*, 460 U.S. 575, 592-93 (1983). "In order to justify such differential taxation, the State must show that its regulation is necessary to serve a compelling state interest and is narrowly drawn to achieve that end." *Arkansas Writers' Project, Inc.* v. *Ragland*, 481 U.S. 221, 231 (1987). No such compelling interest can support the proposed taxation of political committee revenues.

First, the Supreme Court has already rejected all proffered rationales to impose spending limits or burden the candidates' rights to spend freely from their own private funds. Second, because the Court has recognized that spending is an indispensable condition to effective political speech, the decision to spend is the exercise of speech. To discriminate between candidates on the basis of that decision amounts to unconstitutional viewpoint-discrimination. The Court has observed that "the First Amendment forbids the government to regulate speech in ways that favor some viewpoints or ideas at the expense of others." *City Council of Los Angeles* v. *Taxpayers for Vincent*, 466 U.S. 789, 804 (1984). The proposed tax squarely violates

this bedrock principle by picking and choosing between the candidates who will suffer this penalty. It once again proves the maxim articulated by Chief Justice John Marshall observed on behalf of the Supreme Court early in its existence that the power to tax is the power to destroy. *McCulloch* v. *Maryland*, 17 U.S. (4 Wheat.) 316, 427 (1819).

The Durenberger amendment should be rejected. Like the tax struck down in *Grosjean*, it is "a deliberate and calculated device in the guise of a tax to limit the circulation of information to which the public is entitled in virtue of the constitutional guaranties." 297 U.S. at 250.

Mr. MCCONNELL. Let me briefly detail the other unconstitutional measures contained in the legislation before us.

A sense-of-the-Senate provision urging that this body actually amend the first amendment of the Bill of Rights to give Congress the right to restrict the freedom of speech in political campaigns. I ask unanimous consent to insert into the RECORD at this time several statements made by my colleagues on the other side of the aisle during the debate on the flag-burning amendment regarding the danger of passing any amendment to the first amendment of the Constitution.

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

FLAG BURNING STATEMENTS

GEORGE MITCHELL

June 26, 1990, pages S8735–S8736; under our system, once the Supreme Court has ruled, that ruling is the law of the land. So even though I disagree with the Court's ruling, I accept it. The question now before us is whether we should override the Supreme Court's decision by amending the Constitution.

I do not support changing the Constitution. We can support the American flag without changing the American Constitution.

The first 10 amendments to the Constitution have come to be known as the Bill of Rights. They were adopted as part of the Constitution because the States insisted that before a new and powerful Federal Government could be created, there had to be clear and controlling limits on the power of that Federal Government against individual citizens.

The Bill of Rights secures the liberty of the individual by limiting the power of government.

Across the whole sweep of human history, there is no better, clearer, more consist, more eloquent, or effective statement of the right of citizens to be free of the dictates of Government than the American Bill of Rights.

For 200 years it has protected the liberties of generations of Americans. During that time, the Bill of Rights has never been changed or amended. Not once. Ever. It stands today, word for word, exactly as it did when it was adopted two centuries ago.

Of the 10 amendments which make up the Bill of Rights none is more important than the first. In this debate, its relevant words are: Congress shall make no law abridging the freedom of speech.

The English language could not be more clear. Let me repeat those few words. "Congress shall make no law abridging the freedom of speech."

Never in 200 years has the First Amendment been changed or amended. As a result, never in 200 years has Congress been able to make a law abridging the freedom of speech.

Now we are asked to change that, for the first time. We are asked to give Congress and the States the power to do that which, for 200 years, the Bill of Rights has prevented them from doing.

We are asked to permit Congress, or any State, to make a law that would abridge the freedom of speech, as defined by the Supreme Court.

Even though, as I have already said, I disagree with the Court, I do not believe we should amend the Bill of Rights. I do not believe we should ever, under any circumstances, for any reason, amend the American Bill of Rights. The Bill of Rights is so effective in protecting individual liberty precisely because of its unchanging nature. Once that is unraveled, its effectiveness will be forever diminished.

If the Constitution is amended to prohibit the burning of a flag, where do we stop?

The supporters of this amendment argue that their goal is so important that it warrants overriding the court's decision. But the supporters should consider this question before they vote.

The point is that once the Bill of Rights is changed or amended, no line can be drawn. That is why it should not be changed or amended.

We Americans revere the flag. We also revere the Constitution and the Bill of Rights. We need not choose between them.

For a free people, the fight against an enemy army demands sacrifice and courage. That is difficult and demanding. It is also difficult and demanding in time of peace to live up to our own high ideals.

It is not difficult for Americans or anyone else to tolerate differences and eccentricities. They are all around us. But defending the freedom of those who would deny it to others—that is difficult.

Perhaps that is why no other nation today tries, or has ever tried, to live by a standard as high and as demanding as the American Bill of Rights. Every nation has a government. Every nation has a flag. But only the United States of America has a Bill of Rights.

We Americans do try to live by the Bill of Rights. We have chosen not to take the easy way out. We have chosen not to try to silence those who are wrong, but rather to challenge them with the truth.

We will celebrate the 200th anniversary of the Bill of Rights next year. We will remind ourselves, and the world, that the greatest protector of liberty is the truth.

We have political liberty in America because we reject any government-imposed political doctrine. We believe each American will find and defend his or her own political views.

That way has served America well. It has preserved our liberties for two centuries.

Our Founding Fathers had more confidence in their fellow Americans and more faith in their children than some of our current leaders. They knew better than to have the Government dictate what politics are right or wrong.

For 200 years, the Bill of Rights protected the liberties of Americans through economic turmoil, civil and political strife, social upheaval, and international tension.

Despite the worst that fate and enemies have hurled at us, we have never ever found it necessary to change the fundamental principles on which our Government was founded and by which our freedom is secured.

Principles which have stood the test of time should not be discarded or tampered with.

It will be a sad irony if a few obnoxious publicity seekers who appear to hate America achieve their victory stampeding those who love America to take the unwise action of changing the Bill of Rights for the first time in our history. I love America and the American flag and the American Bill of Rights too much to let that happen without a fight.

June 11, 1990, page S7671: The question before us is whether or not after 200 years, the American Bill of Rights, the most concise, the most eloquent, the most effective statement of individual liberty in all of human history, is to be changed for the first time.

TOM DASCHLE

June 25, 1990, page S8641: I intend to vote against this particular amendment and all other constitutional amendments that would amend what I consider to be the most important clause of the document which makes the United States of American what is—the free speech clause of the Bill of Rights.

If we tamper with the Bill of Rights on the 200th anniversary of our Constitution, we are ultimately diminishing every flag in America. We are ultimately demeaning the sacrifices of the men and women who fought to keep us free, the veterans who are referred to so often in this place, the veterans who are no longer with us, the veterans who are inscribed on the Vietnam Wall, the veterans' names who are on marble blocks in counties and States across our country.

If we are ultimately violating all of this, are we not then violating our oaths of office and our standing as men and women sworn to protect our constitutionally guaranteed freedoms, freedoms that all citizens of the United States now share with abundance?

That we should trade 200 years of protection under the Bill of Rights for a 30-second commercial on the flag is, frankly, demeaning. It assumes that our desire to hold office is stronger than our desire to do what is right. I deeply hope that is not true.

June 21, 1990, page S8516: I will vote against any amendment, any amendment of any kind, that would burn the most important clause of the document that makes the United States of America what she is, the free speech clause of the Bill of Rights.

If we tamper with the Bill of Rights on the 200th anniversary of our Constitution we are diminishing every flag in America.

How easy it is * * * to see the votes we might gain on this issue if we play the 30-second ad game with our Nation's flag.

What chapter will we have ghosted for our autobiographies to explain away our writing a loophole into the free speech clause of the Bill of Rights of the Constitution of the United States?

It is that freedom I will be defending, and my own integrity, when I vote to honor the men and women who have served this great Nation by voting to protect the Bill of Rights for which so many died. * * * I believe the proposed amendment to the Bill of Rights is an attack on the heart and soul of the Constitution. That we would trade almost 200 years of protection under the Bill of Rights for a 30-second commercial on the flag is demeaning, and I have anger and disdain for those who would exploit the flag for cheap political gain.

PATRICK LEAHY

June 25, 1990, page S8647: We have gone through 200 years without amending the Bill of Rights. We have gone through two world

wars, a Civil War, several major depressions, the expansion of the West, the addition of states. We have had Presidents who have acceded to office either in the normal electoral fashion, some tragically through death or assassination and one by resignation. And through all of that, with all these strains on our great Nation, not once did we ever think it was necessary to amend the Bill of Rights.

True patriotism means standing up for everything that the American flag symbolizes and all the Bill of Rights stands for.

The first amendment is central to the constitutional framework; it ensures our right to say what we want, to pray or not to pray, and demand that our Government listen to our voices of dissent; it reflects the confidence the Founders had in the strength of our system of government. They knew that criticism of our leaders, of our policies, of our symbols, posed no threat to the survival of the Republic. America would not crumble, even as 200 years later publicity-hungry dissidents torched the flag for the benefit of television cameras * * * everything that we need to ensure that we will remain a democracy is in that first amendment. For those who felt that the diversity guaranteed by the first amendment, who felt as I do today, and felt 200 years ago that diversity would itself breed democracy, history has proven them right. We have found, though every challenge to our core principles and values, that the basic charter of human rights remains unscathed.

Our predecessors demonstrated wisdom and foresight. They recognized that the beauty of the Constitution lies in its simplicity. Let us demonstrate that same courage and prudence today.

Do we really want to say in the 101st Congress that after everything that has gone before us—from the birth of this Nation to today—that in over 200 years the image of people that we all despise burning the flag is one thing that provokes us to amend the Bill of Rights, nothing else was important enough? Or should we be remembered as the Congress and the Senate that stood up to the passions of the moment and said, "no matter what the political risk, no matter what the political posturing, we will protect the Bill of Rights first and foremost."

We may see public opinion polls that say we should vote for this * * * I am able to cast a vote that contradicts a public opinion poll, but I could never cast a vote that contradicts my conscience. I could not do that and serve in this body even one minute longer. We, the 100 men and women in the U.S. Senate, must truly act as the conscience of our Nation. Ultimately, we have to do what is right. If we truly reflect that conscience, we will reject this amendment.

DALE BUMPERS

June 25, 1990, page S8648:

When Vaclab Havel spoke to a joint session of Congress recently, I have never seen a foreign dignitary received with as much enthusiasm as was he. And what did he say?

"We want something like our Declaration of Independence and your Preamble to the Constitution and your Bill of Rights"

October 18, 1989, page S13644: The Constitution is also the one piece of irrefutable political evidence that says every person counts, that all are equal in the eyes of the law. I hold it second only to the Holy Bible as the most sacred possession in the hands of mankind. For these reasons, any amendments to the Constitution must be examined with the greatest degree of scrutiny.

It is worth repeating now * * * that we have only amended the Constitution 16 times since the ratification of the Bill of Rights in 1791–198 years since the first 10 amendments were adopted as the Bill of Rights. In that entire period of time, we have never seen fit to change one "t" or one "i" of those 10 amendments.

DAVID BOREN

June 21, 1990, page S8433: I began to worry that in the name of protecting the flag, we were about to chip away at the liberties for which it stands and for which Americans have fought and died. I realized that we cannot honor our flag if we do not protect the freedom it represents.

We should each ask ourselves if 100 years from now we want to be remembered for tampering with the Bill of Rights for the first time in our history. Can we be true to those who gave their lives for our country if we compromise the freedoms for which they sacrificed? Do we want to have it recorded that we put more attention to last week's polls than we did to the teachings of Jefferson and George Washington? Do we really feel that 200 years of experience under our Bill of Rights should be cast aside in favor of uncertain and dangerous tampering with the language of our Constitution?

The best way to honor our flag is to commit ourselves to the values included in our Bill of Rights and to pass on those human liberties to our children and their children. We have sworn an oath to defend the Constitution. We must do our duty.

HOWARD METZENBAUM

October 4, 1989, pages S12596–S12597: Government may not forbid the expression of an idea simply because society finds the idea itself offensive or disagreeable. The right to free expression is meaningless if that right only protects expression sanctioned by the majority. The depth of a nation's commitment to free speech is measured by its willingness to tolerate expression which most its people find repellent. And the strength of a nation's unity—its sense of shared values—is measured by its capacity to tolerate expression which tries to destroy that unity. Strong nations tolerate dissenting expression. Weak nations suppress it. It is that simple.

But one of the things that makes this country the greatest and freest in the world, is that we protect free expression even when we hate the message and despise the messenger.

June 14, 1990, page S7928: I am angry that once again we are going to turn the Bill of Rights into a political football. In 200 years, the Bill of Rights has never, never, been curtailed. This country has gone through a Civil War, two World Wars, and a Great Depression—monumental events which tested our strength and unity. But in those moments, we resisted the temptation to cut back individual freedom. Once you start fiddling with the Bill of Rights to outlaw offensive expression, where do you stop?

The reason this country is a shining example for the rest of the world is that we protect all political expression, even when it is wrong-headed, offensive, and outrageous. That is not such a complicated idea.

We do not protect the flag by diminishing the liberties for which it stands. We do not breed respect for the flag by legislating devotion to Old Glory. And we will not strengthen this Nation by weakening the Bill of Rights.

TED KENNEDY

June 11, 1990, page S7693: When we pledge allegiance to the flag, we pledge allegiance to the principles for which it stands. Few, if any, of those are more fundamental to the strength of our democracy than the first amendment's guarantee of freedom of speech. Let us not start down this disastrous road of restricting the majestic scope of the first amendment by picking the kinds of speech that are to be permitted in our society.

Next year, in 1991, the Nation will celebrate the 200th anniversary of the ratification of the first amendment and the other bedrock provisions of the Bill of Rights. It would be the height of hypocrisy for Congress to celebrate that proud bicentennial by proposing to amend the first amendment for the first time in our American history.

I urge the Senate to reject any such proposal, and I intend to do all I can to see that the first amendment says amended.

June 14, 1990, page S7927: The first amendment protects not only the speech we admire, but also speech we abhor.

No constitutional freedom is more central to our democratic tradition that freedom of speech. The concept of free and open debate is the cornerstone of our democracy. If the government can sensor its critics, then the ideal of free debate becomes an empty promise.

The words of the first amendment are simple and majestic: "Congress shall make no law abridging freedom of speech." The proposed constitutional amendment would undermine that fundamental liberty. For the first time in our 200-year history, it would create an exception to the freedom of speech our Constitution protects.

A constitutional amendment would also irreparably damage the separation of powers that has protected our constitutional freedoms throughout our history. The brilliance of the Framers is not more evident that in the concept of an independent Federal judiciary, sworn to uphold the Constitution's bulwarks against the swollen tides of public outrage.

For more than 200 years, we have trusted the courts to determine when expression is protected by the Constitution, because judges insulated from public pressure can best evaluate the claims of unpopular minorities.

October 16, 1989, page S13430: No constitutional freedom is more central to our democratic tradition than freedom of speech. The concept of free and open debate is the cornerstone of our democracy. If the Government can censor its critics, then the ideal of free debate becomes an empty promise.

Enacting that exception would irreparably damage our remaining liberties. Throughout our history, freedom of expression has rested on the idea that the Constitution requires us to tolerate opposing viewpoints—not just those we approve, but those we despise as well. That tolerance is a fundamental part of our American creed. We proudly teach it to our children: it is perhaps the most distinctly American virtue.

Once a constitutional amendment is proposed by the Congress, it is forever out or our hands. Once an amendment is ratified, it becomes part of our national charter for all times. We ought not to place in the Constitution an amendment restricting our fundamental freedoms when no one can say with certainty just what that amendment means.

For two centuries, the Constitution and Bill of Rights have served as the enduring charter of our liberties, a model for freedom-loving peoples throughout the world. And for two centuries, nothing—not a bitterly divisive civil war, not a shattering depression, none of the other dramatic changes that

have transformed the Nation from a cluster of quarreling colonies to the world power it is today—has caused American to amend the Bill of Rights.

BARBARA MIKULSKI

October 18, 1989, page S13644: The sanctity of the Bill of Rights. These first 10 amendments to the Constitution were ratified on December 15, 1791. In the almost 198 years, since, our Nation has ratified 16 more amendments—and almost every one of those amendments has expanded not contracted—the Bill of Rights.

Now is not the time to change that course. Now is not the time to tamper with laws, precedents, and principles that have stood use in good stead for almost two centuries. Now is not the time for us to do something we have never done before—restrict the democratic ideals our Founding Fathers saw fit to write into the document we use as the foundation for our existence as a nation.

JEFF BINGAMAN

June 20, 1990, page S8298: I cannot support an effort to begin writing exceptions into the first amendment of our Constitution. The Supreme Court has said the first amendment protects the right of free speech, no matter how unpopular or offensive that speech is.

I am not willing to amend the Constitution to permit States and the Federal Government to restrict the expression of those views.

It does not strengthen us as a nation to begin, by constitutional amendment, to restrict the right of political expression. It does not protect our Nation to diminish the very liberties which have made us the envy of all mankind.

BILL BRADLEY

June 20, 1990, page S8296: Our American flag is best protected by preserving the freedom that is symbolized. I cannot support a constitutional amendment that would limit that freedom.

Our Founding Fathers believed that fundamental to our democratic process was the unfettered expression of ideas. That is why the amendment that protects your right to express yourself freely is the first amendment, and politicians should never put that at risk.

Now if this constitutional amendment passes, we will have done something no Americans have ever done—amend the Bill of Rights to limit personal freedom.

I took an oath to support and to defend the Constitution of the United States. Each Senator has to decide in her own mind and in his own heart what he feels he must do, to fulfill the promise he made to preserve and to stand by the Constitution. Different Senators will arrive at different answers. For me, this amendment does not preserve the Constitution. To the contrary, it constricts, nattoes, limits—makes it less than it was before. To preserve means to keep intact, to avoid decay, but this amendment will leave freedom of expression less intact, less robust, more in a state of decay. To support an amendment which would, for the first time in 200 years, reduce the personal freedom that all Americans have been guaranteed by the Constitution would be, for me, inconsistent with my oath. I will never break my oath.

Even if you agree with the flag amendment, how can you know that the next amendment will be one you will like? You cannot. So let us not start. Once you begin chipping away, where does it stop? Do not risk long-term protection of personal freedom for a short-term political gain.

PAUL SIMON

June 14, 1990, page S7930: Because I disagree with an unpopular decision by the Court does not mean that we ought to then all of a sudden rush in and, for the first time in 200 years, amend the Bill of Rights.

Right now in Central and Eastern Europe, freedom is expanding, and we are thrilled by it. Let us not in this day of greater expansion of freedom amend the Bill of Rights of the U.S. Constitution. Let us not move in the opposite direction. I hope we show some courage and do not adopt a constitutional amendment.

CHRISTOPHER DODD

October 19, 1989, page S13727: I revere the Bill of Rights, which has never been amended in our history. That fact confirms how highly we value the freedoms contained in these amendments, freedoms that are the cornerstone of our democracy. I am reluctant to consider measures that could, however unintentionally, reduce those freedoms unless there is a compelling necessity.

Mr. MCCONNELL. Let me also briefly detail the various penalties which this legislation imposes on candidates who exercise their constitutional right to speak and spend regardless of any arbitrary expenditure limitation imposed by Congress. Such candidates lose the broadcast discount, which the law currently provides to all political candidates.

Noncomplying candidates also lose the mail subsidy which the bill provides to candidates who agree to limit their speech. If they exceed the expenditure limits, not only are they taxed at the full corporate rate under the amendment described earlier, but their opponents also receive massive infusions of tax dollars—partially funded by the discriminatory tax on noncomplying candidates—to beat them into submission.

Noncomplying candidates are saddled with additional and burdensome reporting requirements that comply candidates do not need to follow.

Further, those who have decided not to accept any taxpayer subsidies or to limit their free speech are forced to include a demeaning and self-incriminating disclosure in their advertisements, which suggests that they are scofflaws or, at the very heart, not reform minded.

Now, if the purpose of this provision were to provide necessary and irrefutable information to the public, then the question must be raised why the majority rejected an amendment offered by this Senator to require complying candidates to disclose that their advertisements were being subsidized by the taxpayers.

In any event, there are other disclaimer requirements contained in the bill, and some of them even apply to complying candidates. All such forced disclaimers amount to compelled speech and are, therefore, clearing hostile to basic first amendment freedoms.

On these points, I now ask unanimous consent to insert into the RECORD several more legal memoranda covering in much greater detail the serious constitutional concerns which these penalty provisions raise.

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

PENALTIES

I. INTRODUCTION

The First Amendment's guarantee of freedom of speech does more than protect our freedom to say what we think. Among its other protections, it secures the "right [of people] not only to advocate their cause but also to select what they believe to be the most effective means for so doing." *Meyer* v. *Grant*, 486 U.S. 414, 424 (1988). In the context of a campaign where public financing is offered, some candidates will choose public financing, and some will forego taxpayer support in favor of donations from supporters. The choice between these alternative methods of paying for a campaign, when available, is itself constitutionally protected from governmental interference.

Moreover, the First Amendment "entails solicitude not only for communication itself, but also for the indispensable conditions of meaningful communication." *Richmond Newspapers, Inc.* v. *Virginia*, 448 U.S. 555, 588 (1980) (Brennan, J., concurring). Those involved in electoral politics know that one indispensable condition is money to get their campaign message out. In striking down expenditure limitations in *Buckley* v. *Valeo*, 424 U.S. 1 (1976), the Supreme Court recognized that spending limits violate the First Amendment by reducing the quantity of expression, including the number of issues, the depth of discussion, and the size of the audience that might be reached. Spending limitations, the Court said, amount to "substantial and direct restrictions on the ability of candidates, citizens and associations to engage in protected political expression, restrictions that the First Amendment cannot tolerate." 424 U.S. at 59 (footnote omitted).

None of the rationales for regulation that we offered by defenders of expenditure limitations passed constitutional muster. The Court rejected both a concern about the potential for corruption and the proferred alternative rationale of equalizing the financial resources of candidates as compelling interests sufficient to support spending limits. *Id.* at 56–57.[1] Accordingly, Congress cannot constitutionally impose spending limits on political candidates who raise their own funds.

II. THE REQUIREMENT OF VOLUNTARINESS

To fit within constitutional requirements that forbid mandatory expenditure limits, the proponents of S. 3 claim that its spending limits are voluntary. This approach rests on a footnote in the BUCKLEY decision that stated "[j]ust as a candidate may voluntarily limit the size of the contributions he chooses to accept, he may decide to forego private fundraising and accept public funding." 424 U.S. at 57 n. 65. This authorization by the Court has been interpreted to mean that spending limits as a condition of receiving

[1] The Court accepted corruption only as a rationale for limiting contributions, finding that spending did not implicate corruption. No other rationale survived the Court's analysis, even with respect to contribution limits. *See also, Let's Help Florida* v. *McCrary*, 621 F.2d 195, 199 (1980) quoted with approval (*Citizens Against Rent Control* v. *Berkeley*, 454 U.S. 290, 297 (1981)) ("The sole governmental interest that the Supreme Court recognized as a justification for restricting contributions was the prevention of quid pro quo corruption between a contributor and a candidate.").

public federal campaign funds are constitutionally valid "as long as the candidate remains free to engage in unlimited private funding and spending instead of limited public funding." *Republican National Committee* v. *Federal Election Commission*, 487 F. Supp. 280, 284 (S.D.N.Y.), *aff'd mem.*, 445 U.S. 955 (1980); *see also*, *Weber* v. *Heaney*, 793 F. Supp. 1438, 1457 (D. Minn. 1992).[2]

III. THE TEST FOR VOLUNTARINESS

S. 3 purports to fit within these requirements by encouraging candidates to abide by congressionally set voluntary spending limits by offering the carrot of public funding. However, the bill does not stop there, but maps out as well a series of penalties that are applied to those who do not choose to participate in public funding. The result is coercive, rather than voluntary, and effectively punishes a candidate because he or she (or a citizen engaging in independent expenditures) chooses to exercise that which the Constitution says there is every right to exercise.

Such a system of penalties is transparently unconstitutional. As the Supreme Court has said, "if the government could deny a benefit to a person because of his constitutionally protected speech or associations, his exercise of those freedoms would in effect be penalized and inhibited. This would allow the government to 'produce a result which [it] could not command directly.' Such interference with constitutional rights is impermissible." *Perry* v. *Sindermann*, 408 U.S. 593, 597 (1972) (quoting *Speiser* v. *Randall*, 357 U.S. 513, 526 (1958)). S. 3 both denies the privately financed candidate certain additional benefits that are made available to the publicly financed candidate, as well as imposes additional disclosure requirements.

The differential treatment of the competing candidates raises the question of whether S. 3's incentives and benefits for those agreeing to accept public financing and spending limits amount to "direct state interference with a protected activity [or] state encouragement of an alternative activity consonant with legislative policy." *Maher* v. *Roe*, 432 U.S. 464, 475 (1977).

Seen through the prism of those who choose public financing and thus become eligible for these incentives and benefits, S. 3 may appear to be mere encouragement of activities in line with legislative policy. However, by moving beyond merely making available a choice between public or private financing to exacting a variety of penalties and disadvantages to those who opt out of %thepublic financing scheme, the proposed measure travels far into the forbidden territory of state interference with a protected activity for the privately funded candidate. S. 3 makes privately funded campaigns more difficult while also reducing the costs of publicly funded campaigns beyond any conceivable concept of equalization. It thus establishes a kind of government-imposed political favoritism for some candidates over others that cannot be squared with the idea of fair elections.

No matter how important Congress deems the establishment of expenditure ceilings, "it is not the government, but the people—individually as citizens and candidates and collectively as associations and political committees—who must retain control over the quantity and range of debate on public issues in a political campaign." 424 U.S. at 57.

It is worth remembering that *Buckley* upheld public funding because its purpose was "not to abridge, restrict or censor speech, but rather to use public money to facilitate and enlarge public discussion and participation in the electoral process, goals vital to a self-governing people." *Id.* at 92–93. The legitimate governmental interest in public financing is to enhance access to political discourse and the political process, not to restrict it in any manner. S.3 tranverses that line, and thereby calls into question the validity of its public funding scheme—a scheme that ultimately abridges and restricts the speech of some (those who choose private funding without limits) in order to facilitate the speech of others (those who choose public funding with spending limits), a result "wholly foreign to the First Amendment." *Id.* at 49.

IV. THE ISSUE OF PENALTIES

S. 3's penalties become most apparent when you examine the legislation's likely effects on the candidate who chooses not to accept the funds and leaves open the option of spending more than Congress prescribes as appropriate for the race. For example, if the Clinton administration's proposal is accepted, the contributions of those who eschew public financing (and spending limits) will be taxable, but not those who accept partial public financing. No more obvious unconstitutional penalty could be created.

Simiilarly unconstitutional penalties are found in the favoritism of publicly financed candidates in the bill's 50 percent discount in broadcast rates, reduced postal rates, and disproportionate removal of spending caps in response to spending by a non-participating opponent or someone making adverse independent expenditures.

The reduction in broadcast rates below anything broadcasters charge to any other customers raises serious Fifth Amendment issues. It amounts to a taking of private property without compensation. Moreover, the reduced broadcast and postal rates appear to amount to a form of unconstitutional political discrimination between political opponents. *Cf. Weisberg* v. *Powell*, 417 F.2d 388 (7th Cir. 1969). In *Greenberg* v. *Bolger*, 497 F. Supp. 756, 774–78 (E.D.N.Y. 1980), preferential mailing rates for major parties were struck down as violative of the First Amendment. In finding this to be an unconstitutional burdening of the right of minority parties to express ideas different from those of the majority, the court also noted that the government could not "require licensees to deny access to persons not affiliated with the 'major' parties or to favor certain views by granting them reduced payments or special discounts." *Id.* at 777. *See also*, *Rhode Island Chapter of the National Women's Political Caucus* v. *Rhode Island Lottery Comm'n*, 609 F. Supp. 1403, 1414 (D.R.I. 1985) (statute that allowed major parties to conduct fundraising lotteries, but denied the right to other political groups, found to violate First Amendment because it benefited popular views and burdened unpopular views); *McKenna* v. *Reilly*, 419 F. Supp. 1179, 1188 (D.R.I. 1976) (state party's allocation of taxpayer "check-off" funds to endorsed candidates to the exclusion of unendorsed candidates found violative of First Amendment).

In addition, the cap-waiver approach taken by S. 3—permitting a publicly funded candidate to exceed the expenditure cap when the amount of money being spent against him or her exceeds the "voluntary" limits—creates the real possibility that a publicly funded candidate will spend more than the privately funded candidate—and have lower costs to boot! The realistic possibility that this may occur clearly penalizes the privately funded candidate, but more likely amounts to coercion to choose public funding, thereby eliminating, as a practical matter, a constitutionally protected choice.

Other penalties imposed directly on the non-participating candidate include excessive recordkeeping provisions and a compulsory statement on broadcast advertisements that the "candidate has not agreed to voluntary campaign limits." The recordkeeping provisions include a requirement that expenditures in excess of the "voluntary" limits—limits that the covered candidate did not agree to—be reported on a daily basis. Such recordkeeping and reporting requirements "burden too heavily and infringe too deeply" on protected First Amendment activity and are not "narrowly tailored to fit the legitimate governmental interest." *American Library Association* v. *Thornburgh*; 713 F. Supp. 469, 477 (D.D.C. 1989) *vacated as moot, sub nom.*, *American Library Association* v. *Barr*, 956 F.2d 1178 (D.C. Cir. 1992).

The interest in equalization, which the Supreme Court rejected in *Buckley* as a reason to burden the expenditure rights of candidates, should not trigger as intrusive and costly a reporting requirement as this for a candidate who is only doing what is constitutionally protected. Even if equalization is a legitimate reason for needing a report when the expenditure threshold has been eclipsed, there is no justification for requiring daily reports, for the Supreme Court has "long recognized that even regulations aimed at proper governmental concerns can restrict the exercise of rights protected by the First Amendment" and thus must be drawn narrowly to minimize that problem. *Minnesota Star & Tribune Co.* v. *Minnesota Commissioner of Revenue*, 460 U.S. 575, 592 (1983).

Similarly, the broadcast disclaimer requirement intrudes on free speech rights. It is sustained by no compelling governmental interest and violates the principle that the First Amendment encompasses "the decision of both what to say and what not to say." *Riley* v. *National Federation of the Blind*, 487 U.S. 781, 797 (1988).

While the required statement is well within the bounds of what one candidate can say about another, the requirement that the candidate who may be philosophically opposed to public funding add this, like a mantra, to his political broadcast statements unconstitutionally "penalizes the expression of particular points of view and forces speakers to alter speech to conform with an agenda they do not set." *Pacific Gas & Electric Co.* v. *Public Utilities Commission*, 475 U.S. 1, 9 (1986). The point of view implicated is the one that finds public funding inappropriate for a candidate for political office, as well as the one that oppose government restrictions on the quantity of speech.

Certainly the sponsors of the bill would not find an alternative disclaimer that the "candidate has chosen not to sell his First Amendment rights to the government in order to be permitted to spend tax dollars" as an acceptable alternative. It is thus a pejorative form of compelled speech that forces a candidate to alter his intended speech to

[2] Nevertheless, serious questions under the doctrine of "unconstitutional conditions" are raised by this seeming approval that the government may impose conditions on a candidate's political free-speech rights by providing some level of public funding. While this issue will be addressed further elsewhere in this memorandum, it suffices to say that a Democratic administration and Democratic Congress could not, for example, forbid candidates who accept public financing from criticizing Democrats during a campaign funded by the government's largesse. While such a restriction would be viewpoint discrimination, similar issues are raised by suppressing the quantity of speech.

explain both why he is saying this in his advertisement and why it should not be regarded negatively. The First Amendment, which regards political campaign speech with special solicitude, does not permit this kind of compelled speech. *See, e.g., Meese* v. *Keene*, 481 U.S. 465 (1987).

These penalties make privately funded campaigns more costly (which runs counter to the legislation's professed goal) and holds out the candidates as seemingly less desirable. Yet, the *Buckley* Court found that in devising a public financing scheme Congress may not unconstitutionally "make private fundraising for others any more difficult." *Id.* at 95 n. 128. The "First Amendment is plainly offended" by S. 3's scheme because it represents a legislative "attempt to give one side of a debatable public question an advantage in expressing its views to the people." *First National Bank of Boston* v. *Bellotti*, 435 U.S. 765, 785-86 (1978).

The First Amendment is further offended because S. 3 "imposes a financial burden on speakers because of the content of their speech." *Simon & Schuster, Inc.* v. *Members of the New York State Crime Victims Board*, 112 S.Ct 501, 508 (1991). In *Simon & Schuster*, the Court held that New York's "Son of Sam" law that took the profits from writings about a criminal's crime for a crime victims fund to "plainly impose[] a financial disincentive only on speech of a particular content." *Id.*

While it may be arguable that the constitutionally protected choice between public and private funding is not a content distinction, even though there is substantial reason to believe it is, the courts have also found that the government's regulatory power is constitutionally suspect when it "favors certain classes of speakers over others." *Home Box Office* v. *FCC*, 567 F.2d 9, 48 (D.C. Cir.) (per curiam), *cert. denied*, 434 U.S. 829 (1977). This should be especially so when the speakers are political opponents in a campaign for public office. Even when the restriction is "neutral as to the ideas expressed," it remains constitutionally suspect because it "limit[s] political expression 'at the core of our electoral process and of the First Amendment freedoms.'" *Buckley*, 424 U.S. at 39 (quoting *Williams* v. *Rhodes*, 393 U.S. 23, 32 (1968).

Moveover, in evaluating campaign financing schemes, courts have recognized that they cannot "diminish a protected right [but], where there is such a diminution, the burden [must be] justified by a compelling state interest." *Republican National Comm.* v. *Federal Election Comm'n*, 487 F. Supp. 280, 285 (S.D.N.Y.), *aff'd*, 445 U.S. 955 (1980). No such compelling interest exists to justify the burdens placed on the candidate who foregoes taxpayer funding. Denying reduced broadcast or postal fees while imposing additional disclosure requirements amounts to an improper burden on the choice not to accept public financing. Moreover, these denials and impositions have no basis in preventing corruption, the only sufficiently compelling interest in the campaign finance context that has satisfied the courts. Thus, the differential treatment of these candidates "den[ies] a benefit to a person because he exercises a constitutional right," *Regan* v. *Taxation with Representation*, 461 U.S. 540, 545 (1983), and effectively "penalize[s] them for such speech." *Speiser* v. *Randall*, 357 U.S. 513, 518 (1958).

V. THE IMPOSITION OF UNCONSTITUTIONAL CONDITIONS

It is axiomatic that the "First Amendment has its fullest and most urgent application precisely to the conduct of campaigns for public office." *Monitor Patriot Co.* v. *Roy*, 401 U.S. 265, 271-72 (1971). Thus, any attempt to use the availability of public funding and eligibility for reduced expenses to gag candidates who do not curtail their speech runs the substantial risk that it imposes an unconstitutional condition on the exercise of a right. It was this concern that led Congress to attempt to remove the "abortion gag rule" from Title X and President Clinton to issue the executive order that accomplished that task.

Explaining that doctrine in *Rust* v. *Sullivan*, 111 S.Ct. 1759, 1774 (1991) (emphasis in original), the Supreme Court said that government creates an unconstitutional condition when it "place[s] a condition on the *recipient* of the subsidy rather than on the particular program or service, thus effectively prohibiting the recipient from engaging in the protected conduct outside the scope of the federally funded program." Because a political campaign—even one that accepts public funding—cannot be considered a federally funded program and leaves no alternative channels for the speech that expenditure limits attempt to restrict, S. 3 creates a number of unconstitutional conditions for both publicly and privately funded candidates.

The *Rust* Court was clear that government control over speech attached to the expenditure of federal funds in a "traditional sphere of free expression so fundamental to the functioning of our society" runs counter to the First Amendment. *Id.* at 1776. Thus, courts have struck down speech restrictions on government-funded university research (*Board of Trustees of the Leland Stanford Junior University* v. *Sullivan*, 773 F. Supp. 472 (D.D.C. 1991)), government-funded artistic expression (*Finley* v. *National Endowment for the Arts*, 795 F. Supp. 1457 (C.D. Cal. 1992), *appeal pending*), and government-funded education materials (*Gay Men's Health Crisis* v. *Sullivan*, 792 F. Supp. 278 (S.D.M.Y. 1992)). Political campaigns require no less adherence to this principle.

Because the meager amount of public funding that is likely to be offered, it becomes apparent that S. 3 is not offered to enhance political discourse but is actually aimed at restricting it through spending limits. Moreover, because it targets those candidates who do not participate in public funding for penalties, it infringes on their speech rights.

Finally, other portions of the Clinton administration's proposals—such as the ban on lobbyist contributions—also unconstitutional conditions a lobbyist's First Amendment right to petition the government on the giving up of the First Amendment right to contribute to the political candidate or candidates of his or her choice.

VI. CONCLUSION

S. 3 unconstitutionally attempts to advantage candidates who opt for public financing and thereby agree to expenditure limits by providing a series of additional benefits to those candidates, while penalizing their nonpublicly funded opponents. The regulatory scheme proposed by this legislation coerces candidates to give up their right to unfettered expenditures or, when they choose to do so anyway, imposes additional burdens on their candidacies. The scheme cannot withstand constitutional scrutiny.

MEMORANDUM—PENALTY PROVISIONS IN THE CAMPAIGN FINANCE REFORM BILL

I. INTRODUCTION

The Supreme Court, in *Buckley* v. *Valeo*, 424 U.S. 1 (1976), struck down an attempt by Congress to limit expenditures by candidates for federal office. The Court made clear that it is for the people, not the government, to decide when and how much to spend in a campaign. *Id.* at 57. Undaunted, this administration has resurrected mandatory campaign expenditure limits in the guise of the Congressional Campaign Spending Limit and Election Reform Act of 1993. Supporters of this bill seek to justify its limitations by labelling them "voluntary" conditions on the acceptance of public funding.

If the word "voluntary" applies to this scheme, then Mr. Orwell should add another word to Newspeak, the twisted political vocabulary of Big Brother. The bill represents a concerted effort to cap Congressional campaign expenditures by branding and punishing those candidates who are to exceed the government's pre-ordained expenditure limits. Whether or not candidates succumb to such pressure, the Bill creates blatantly unconstitutional burdens on the exercise of free speech that should—and would—be denounced by the courts were it ever enacted into law.

II. DESCRIPTION OF PROVISIONS

The Bill contains three provisions that have the effect of penalizing any candidate refusing to accept the public finance system and its concomitant expenditure limitations. First, under Section 503, a candidate exceeding the government's expenditure limit would trigger payment of additional public funds to any opponents of that candidate that have agreed to the expenditure limitations. In each instance, the opposing candidate would receive not just matching funds, but a supplement larger than the excess expenditure of the non-conforming candidate. Thus, for example, a candidate spending 10 percent more than the expenditure limit would enable his opponent to receive additional public funds equal to 33 percent of that limit. In an even more perverse result, a candidate spending 201 percent of the limit would entitle his opponent to spend up to 300 percent of that limit! Section 503(d)(2). The opposing candidate would continue to obtain additional spending authority until the nonparticipating candidate has spent three times the expenditure limit.

Second, Section 103 would require candidates opting out of the public finance system to monitor and report within 48 hours expenditures as they exceed a variety of thresholds. The campaign would have to file a report each time expenditures grew by an amount equal to 10 percent of the total limit (once they reach 75 percent of the cap). Additional reports would have to be filed as expenditures exceed 133⅓, 166⅔, and 200 percent of the limit.

Finally, section 104 requires candidates opting out of the public system to include a statement in their advertisements that, "This candidate has not agreed to voluntary campaign spending limits."

III. CONCLUSION

The proposed bill goes far beyond the parameters for public campaign financing established by the Supreme Court in *Buckley* and subsequent decisions. Congress may not impose limits on campaign expenditures without a compelling government interest. It may provide public funds and even attach certain conditions to the acceptance of those funds, providing that the only consequence of opting out of the public system is the loss of the public financing.

As it was intended, the bill would force virtually all candidates to "accept" expenditure limitations through a variety of punitive measures. Such a choice is not a "voluntary" election between unlimited private

fund raising and spending and a public financing system. Moreover, these penalties are not narrowly tailored to prevent corruption or the appearance of corruption in the electoral process, the only compelling government interest accepted by the Supreme Court in the area of campaign finance. In short, the bill constitutes a direct assault on protected First Amendment rights that cannot pass constitutional scrutiny and would be struck down if it were ever enacted into law.

IV. DISCUSSION

Campaign contributions and expenditures occupy "an area of the most fundamental First Amendment activities." *Buckley* v. *Valeo*, 424 U.S. 1, 14 (1976). Candidates seeking public office and individuals seeking to support—or oppose—such candidates enjoy the right to make their views known. This right reflects "our 'profound national commitment to the principle that debate on public issues should be uninhibited, robust and wide-open.'" *Id.* (*quoting New York Times Co.* v. *Sullivan*, 376 U.S. 254, 270 (1964). In short "[t]he First Amendment denies government the power to determine that spending to promote one's political views is wasteful, excessive, or unwise." 424 U.S. at 57.

The government may not trample upon either the quality or the quantity of public debate absent a *compelling* government interest. In *Buckley*, the Supreme Court made clear that there is no such governmental interest justifying limitations on the amount that a candidate, or an individual, spends to make his or her voice heard. Campaign expenditures—as opposed to large individual contributions—do not raise the specter of corruption or the appearance of corruption of a candidate. Any interest tangentially served by expenditure limitations could not outweigh the direct, negative impact upon core First Amendment values. Thus, the Court unequivocally struck down governmental limitations on campaign expenditures as placing "substantial and direct restrictions on the ability of candidates, citizens, and associations to engage in protected political expression, restrictions that the First Amendment cannot tolerate." 424 U.S. at 59.

In an attempt to avoid this constitutional prohibition against mandatory campaign expenditure limitations—while achieving the same end—proponents of the Bill label its spending limits as "voluntary." They undoubtedly rely upon the Supreme Court's decision upholding the current system of public financing for presidential campaigns. *Id.* at 108. The Court upheld this system only because "acceptance of public financing entails *voluntary* acceptance of an expenditure ceiling. *Noneligible candidates are not subject to that limitation.*" 424 U.S. at 95 (emphasis added). As one court has explained, "[t]he First Amendment is not implicated where candidates remain *free to choose* between funding alternatives." *Weber* v. *Heaney*, 793 F. Supp. 1438, 1457 (D. Minn. 1992) (emphasis added).

The existing presidential campaign finance system is constitutional because it "*facilitate[s] and enlarge[s]* public discussion and participation in the electoral process." 424 U.S. at 91–92 (footnote omitted) (emphasis added). Public funding merely provides another potential source of campaign financing, "as long as the candidate remains free to engage in unlimited private funding and spending instead of limited public funding." *Republican National Committee* v. *Federal Election Commission*, 487 F. Supp. 280, 284 (S.D.N.Y.), *aff'd mem.*, 445 U.S. 955 (1980). Candidates who desire to exceed the presidential campaign spending limits are free to opt out of the system—as did Ross Perot in 1992.

The proposed congressional campaign finance system is unconstitutional precisely because it would impede the exercise of the right to "engage in unlimited private funding and spending." Rather than simply withholding funds, the Bill would systematically brand and punish any candidate who dared to opt out of the public finance system. The proposed system would thus *hinder and curtail* public discussion in the electoral process.

First and foremost, the Bill would punish any candidate spending more than the preordained "proper" amount by providing additional funds to that candidate's opponent(s). Section 503. Unlike the current system of public funding for presidential campaigns, in which a candidate's decision to participate or not affects only the amount of money that the candidate can spend, this Bill provides additional public funding to a non-participating candidate's opponent as soon as the non-participating candidate exercises his or her First Amendment right to go over the "voluntary limit." Indeed, the opposing candidate would typically receive *more than* the amount by which a candidate exceeded the government's limit.

Proponents of the bill label these additional funds as a "benefit" for the participating candidate. Although true insofar as it goes, this "benefit" is no more than the means chosen to punish the "offending" candidate. The additional funds would not stem from the opposing candidate's agreement to limit expenditures; he or she would have already done so. Rather, the "excess expenditure" provisions are triggered by the action of the candidate who has chosen to remain outside the system. Clearly, these provisions were designed to deter the exercise of the constitutionally protected right to engage in unlimited campaign expenditures.

The Bill would also impose onerous reporting requirements on any candidate choosing to remain outside the public funding system. These candidates would have to track expenditures and submit reports within 48 hours as numerous thresholds are passed. Section 103. Particularly in the hectic, and often critical, closing days before an election, few campaigns could realistically meet such a requirement. Ironically, candidates accepting the expenditure limits would be completely relieved of this burden even though the government interest in ensuring their compliance with expenditure limits is at least as, if not more, substantial.

Candidates who reject the expenditure limitations are also forced to place a notice in their advertisements stating the following: "This candidate has not agreed to voluntary campaign spending limits." Section 104. Forcing a candidate to make any statement is itself an intrusion into protected First Amendment rights. *Riley* v. *National Federation of the Blind*, 487 U.S. 781, 797 (1988) (protection includes "decision of both what to say and what *not* to say"). Even worse, the obvious purpose for requiring such a "warning label" is to brand the candidate as a renegade and to place the government's imprimatur of approval on those candidates that do accept such limits.

Again, the requirement is not imposed on candidates accepting the expenditure limits. While fairness might suggest, for example, that they be required to disclose that their advertisements are "paid for by your tax dollars," this requirement would itself be of questionable constitutional validity. Regardless of against whom it is directed, Congress should not require any candidates to place a "scarlet letter" in their advertisements.

Unlike situations where the Supreme Court has found conditions on public funds to present a voluntary choice, a candidate could not "terminate [his or her] participation in the [federal] program and thus avoid the requirements of [that program]." *Grove City College* v. *Bell*, 465 U.S. 555, 575 (1984). Likewise, in *Rust* v. *Sullivan*, the Court emphasized that "to avoid the force of the regulations, [the recipient] can simply decline the subsidy." 111 S. Ct. 1759, 1775 n.5 (1991). Here, candidates declining the public campaign subsidies would still be subject to stringent and onerous regulation of their activities.

The Supreme Court has consistently held that Congress cannot coerce a citizen to give up a right as fundamental as political expression by imposing an adverse consequence upon the exercise of that right unless the restriction is narrowly tailored to meet a compelling interest. Thus, for example, in *United States* v. *Jackson*, the Court struck down a provision in the Federal Kidnapping Act that did not prohibit, but unnecessarily discouraged, defendants from pleading not guilty and demanding a trial by jury. 390 U.S. 570, 583 (1968). Similarly, in *Shapiro* v. *Thompson*, 394 U.S. 618 (1969), the Court found that a waiting period for new residents seeking welfare assistance impermissibly burdened the fundamental right to travel. The Court has also made clear many times that a defendant's plea of guilty must result from a free and unfettered choice. *See, e.g., Machibrada* v. *United States*, 368 U.S. 487, 493 (1962).

As a restriction on the fundamental right to free expression, the penalties imposed upon a candidate's campaign spending could be justified only if they were narrowly tailored to prevent corruption or the appearance of corruption. *FEC.* v. *National Conservative Political Action Committee*, 470 U.S. 480, 496–97 (1985) ("preventing corruption or the appearance of corruption are the only legitimate and compelling government interests thus far identified for restricting campaign finances"). Even a cursory examination reveals that the penalties bear virtually no rational relation to that purpose, much less the required tight causal nexus.

The Supreme Court in *Buckley* rejected the argument that the "interest in alleviating the corrupting influence of large contributions" could justify limiting campaign expenditures. 424 U.S. at 55. Such concern is adequately addressed by existing "contribution limitation and disclosure provisions." *Id.* Moreover, providing additional funds to an opposing candidate does nothing to alleviate any potential corrupting concern that might be tied to "excess expenditures."

Likewise, neither the expenditure reporting requirements nor the advertising notice requirement are narrowly tailored to prevent actual or apparent corruption. The limits on individual contributions not only already address that concern, but also mean that candidates spending large amounts on their campaigns are *less* likely to be influenced unduly by individual contributors.

When viewed as a whole, the provisions of the Bill make eminently clear that it is designed not to avoid actual or apparent corruption, but instead to limit campaign expenditures. Indeed, the Bill is appropriately, albeit ineptly, entitled the "Congressional Campaign *Spending Limit* and Election Reform Act of 1993." Section 1 (emphasis added). Its proponents seek to stifle the voices of candidates that could and would

spend more on their campaigns if allowed to do so.

The administration has admitted that its whole purpose is to curtail campaign spending. When it announced this program, the administration stressed that "[t]hese limits will have teeth. In 1992, * * * 39 Senate candidates raised more than the spending limit set in this bill." Summary of Comprehensive Finance Reform Plan at 1. Only a Hobbesian choice, such as that presented by the Bill, could persuade such candidates to forgo the obvious and significant advantages of unlimited private fund raising and spending for the limitations in the public finance system. As the Supreme Court reiterated in *Shapiro* v. *Thompson*, where, as here, "a law has 'no other purpose * * * than to chill the assertion of constitutional rights by penalizing those who choose to exercise them, then it [is] patently unconstitutional." 394 U.S. at 631 (*quoting United States* v. *Jackson*, 390 U.S. 570, 581 (1968).

MEMORANDUM—REFORM ACT BROADCAST AND MAILING RATE DISCOUNT PROVISIONS

ISSUE PRESENTED

Whether the proposed provisions of the Congressional Campaign Spending Limit and Election Reform Act of 1993 (the "Reform Act") which permit (i) Senate candidates who agree to comply with campaign spending limits to purchase broadcast time during the general election period at 50% of the lowest unit rate and (ii) Senate and House candidates who agree to comply with campaign spending limits to mail up to one piece per voting age person at the lowest third-class non-profit rate during the general election period (collectively, the "discount provisions") are constitutional.[1]

CONCLUSION

The discount provisions: (i) impermissibly infringe upon the right of nonparticipating candidates to engage in political speech; (ii) unfairly and unnecessarily discriminate against such candidates by burdening their opportunities to engage in political speech; and (iii) impose unconstitutional conditions upon the exercise of political speech.

ANALYSIS

A. First amendment

1. The Discount Provisions Impose Burdens on Political Speech

The discount provisions unquestionably impose burdens on the exercise of political speech. Moreover, they are not narrowly tailored to serve a compelling state interest. Accordingly, they violate the First Amendment. *See Austin v. Michigan Chamber of Commerce*, 494 U.S. 652, 666 (1990) (stating that "the right to engage in political expression is fundamental to our constitutional system"); *Buckley v. Valeo*, 424 U.S. 1, 39 (1976) (stating that political expression is "at the core of our electoral process and of the First Amendment freedoms"); *Police Department of Chicago v. Moseley*, 408 U.S. 92, 101 (1972).

The exclusion of nonparticipating candidates from the discount provisions burdens such candidates' opportunities to engage in political speech by substantially diluting their voices in the political marketplace and by making the cost of their political speech substantially more expensive than that of participating candidates. Each provision is the equivalent of a government subsidy to participating candidates which provides them with an undue advantage and greater access to a wide range of ways to communicate with the public during the general election period.

The broadcast discounts permit participating Senate candidates to overwhelm and effectively mute the messages of nonparticipating opponents. This burden is particularly heavy because of the medium and the time period in which such discounts are available.

The television broadcast medium is an extremely effective instrument of political speech because the electorate gives a large portion of its time and attention to television viewing. In *Buckley*, the Court observed that the electorate's increasing dependence on television has made this expensive mode of communication an "indispensable instrument[] of effective political speech." *Buckley*, 424 U.S. at 19.

Further, the general election period in which the broadcast discounts are available is the period in which the electorate is most attentive to political speech. The Supreme Court has recognized that voters are less interested in the campaign during the primary period and has implied that voters are more interested during the general election period. *Anderson v. Celebreeze*, 460 U.S. 780, 792 (1983). The Seventh Circuit has also recognized that the deluge of candidate broadcasts "close to the election would certainly have an impact on undecided voters." *Flory v. Federal Communications Commission*, 528 F.2d 124, 129 (7th Cir. 1975).

The nonparticipating Senate candidates' political speech is additionally burdened because the costs for broadcasting time during the general election period is twice that of their eligible Senate candidate opponents. Thus, nonparticipating Senate candidates may not be able to purchase the amount of broadcast time necessary to maintain their voice during the crucial closing period of a campaign.

Similarly, nonparticipating Senate and House candidates' political speech is burdened because participating candidates are provided significantly lower mailing rates during the general election period. Thus, noneligible candidates may not be able to finance the amount of mailings necessary to maintain their speaking power.

2. The Discount Provisions Are Not Narrowly Tailored To Serve a Compelling Governmental Interest

The critical question is whether the burdens imposed on those who decline to participate in the campaign spending limitation program (i) serve a compelling governmental interest and (ii) are narrowly drawn so as not to offend the Constitution. Two interests said to be advanced by the Reform Act are the elimination of the improper influence of special interests and the reduction of the unfair advantages of incumbency. Neither is a compelling interest.[2]

First, the provisions plainly do not eliminate the advantages of incumbency. An incumbent can be a participating candidate. Second, the discount provisions can only remotely reduce the improper influence of special interests. In reality, they are the penalty intended to coerce "voluntary" compliance with campaign spending limits.

B. Invidious discrimination

Providing broadcast time during the general election period to participating Senate candidates at an additional discount clearly discriminates against nonparticipating Senate candidates. Similarly, providing lower mailing rates to participating Senate and House candidates clearly discriminates against nonparticipating Senate and House candidates. The disparity in treatment violates due process and the equal protection clause because it places an unfair burden upon the right of noneligible candidates to engage in political speech. See generally, *Johnson v. Robinson*, 415 U.S. 361, 364 n.4 (1974) (stating that if a classification is invalid under the equal protection clause of the Fourteenth Amendment, it is also inconsistent with the due process clause of the Fifth Amendment); *Schneider v. Rusk*, 377 U.S. 163, 168 (1964) (stating that although "the Fifth Amendment contains no equal protection clause, it does forbid discrimination that is 'so unjustifiable as to be violative of due process'"); *Buckley v. Valeo*, 424 U.S. at 93–94. Moreover, the converse is equally compelling and offensive to the Constitution—*i.e.*, the provisions *favor* some political speech over other political speech. Under either construction, the Reform Act's discount provisions violate due process and the equal protection clause.

In *Buckley*, the Supreme Court considered due process and equal protection challenge to provisions in the Federal Elections Campaign Act of 1971 which granted a smaller amount of federal funds to minor party or new party presidential candidates than to major candidates. *Buckley v. Valeo*, 424 U.S. at 85–108 (1976). The Court held that the provisions did not invidiously discriminate against minor party or new party presidential candidates because (i) such candidates were eligible for varying amounts of public funding based on their historical performance at the polls, and (ii) they were denied only the *enhancement* of the opportunity to communicate with the electorate and that the major party candidates suffered a countervailing denied by agreeing to certain spending limitations. *Id* at 95. The Court reasoned that Congress enacted the 1971 provisions with a "sufficiently important governmental interest," *id.*—eliminating improper influence of large private campaign contributions, protecting the national fisc and not fostering factionalism. Accordingly, it held that the burdens imposed on political activity by limiting public financing to major and historically proven parties were justified by such compelling public interests.

The discount provisions in the Reform Act are plainly distinguishable from the public financing provisions upheld in *Buckley*. First, since they are not based on historical performance at the polls, the provisions discriminate against major party candidates. Second, the discount provisions go the heart of political expression—*i.e.*, direct funding of television, radio and mail communications during a defined period of the campaign. Thus, the government has directly allocated the spending of the monies as to unfairly and unnecessarily burden the fundamental right of political expression by the noneligible candidates.

C. Unconstitutional condition

The Supreme Court has held that the federal government may not grant a benefit on the condition that the beneficiary surrender a constitutional right, even if the federal government may withhold the benefit altogether. *See, e.g., Nollan v. California Coastal Commission*, 483 U.S. 825 (1987); *Perry v. Sindermann*, 408 U.S. 593 (1972); *Shapiro v. Thompson*, 394 U.S. 618 (1969); *Frost & Frost Trucking Co. v. Railroad Commission*, 271 U.S.

[1] S. 3, section 131 & H.R. 3, section 131 (broadcast provisions); S. 3, section 132 & H.R. 3, section 132 (mail provisions).

[2] The only compelling governmental interest recognized by the Supreme Court in regulating campaign financing is elimination of actual of apparent corruption. *Buckley v. Valeo*, 424 U.S. 1 (1976). Neither is addressed by these provisions.

583 (1926). Accordingly, proposals to increase public financing for participating candidates as a response to non-participating candidates who exceed campaign spending limits are constitutionally suspect: the "generous additional benefit to the participating candidate appears to be intended to cause an opponent to think twice about pursuing the constitutionally-available option of non-participation." *See* Stein, Associate Justice, New Jersey Supreme Court, *The First Amendment and Campaign Finance Reform: A Timely Reconciliation*, 44 Rutgers L. Rev. 743 (1992)

The Reform Act threatens the First Amendment freedom of a candidate to spend unlimited funds in aid of his or her candidacy. *See Buckley*, 424 U.S. at 52 (stating that "[t]he candidate, no less than any other person, has a First Amendment right to engage in the discussion of public issues and vigorously and tirelessly to advocate his own election and the election of other candidates."). The unusual benefit offered by the Reform Act is, in part, additional broadcast discount rates for eligible Senate candidates and discount mailing rates for eligible Senate and House candidates which would not be available if the candidates were to forgo the right to exceed the campaign spending limits. Further, as discussed above, the discount provisions permit the eligible Senate candidates to utilize an indispensable instrument of effective political speech—television—and the eligible Senate and House candidates to communicate with every voter in the state or district at a crucial period of the campaign. Moreover, the discount provisions are not germane to the federal government's interest or justified by a compelling state interest. Accordingly, the generous discount provisions provided to candidates who agree to accept campaign spending limits here appear to be intended to effectively coerce a candidate into not pursuing his or her constitutional rights to spend unlimited funds in the aid of his or her candidacy. This coercion violates the Constitution.

MEMORANDUM—CONTENT-BASED DISCLOSURE PROVISIONS IN S. 3 AND H.R. 3

ISSUE PRESENTED

Whether the content-based disclosure provisions of the proposed amendments to the Federal Election Campaign Act of 1971 ("FECA") violate the First Amendment to the United States Constitution.

CONCLUSION

Section 104 of the proposed legislation requires "non-eligible" candidates to state that they have not agreed to campaign spending limits. Such compelled speech violates the First Amendment. The Constitution protects both the right to speak freely and the right to refrain from speaking at all. Absent the most compelling and unusual circumstances, the government cannot require candidates to advance content-based disclaimers in political speech—particularly those that effectively brand candidates as a miscreant.

The content-based disclosure provisions (§134) of the proposed legislation is similarly suspect. It also mandates speech by requiring citizens who contribute to "unauthorized" political advertisements to state that they are "responsible for the content of" the advertisement. This provision cannot be justified as controlling actual or apparent corruption in the political process, the only governmental interests recognized as sufficiently compelling to justify restraints on political speech.

ANALYSIS

A. Content-based disclaimer—Spending limit

Section 104 of S.3 and H.R.3 requires that any broadcast or other communication paid for or authorized by a non-eligible Senate candidate shall contain the following disclaimer: "This candidate has not agreed to voluntary campaign spending limits * * *". By compelling a candidate to speak where he or she otherwise would remain silent, section 104 violates the First Amendment.

"We begin with the proposition that the right of freedom of thought protected by the First Amendment against state action includes both the right to speak freely and the right to refrain from speaking at all." *West Virginia State Board of Education v. Barnette*, 319 U.S. 624, 714 (1943) (states may not require children to pledge allegiance to the country at the start of the school day); *see also Wooley v. Maynard*, 430 U.S. 705 (1977) (state cannot compel motorist to carry motto "Live Free or Die" on automobile license plate). The government may not enter the political marketplace by forcing individuals to subscribe to or advance messages dictated by the government. Further, the government is prohibited from requiring citizens who object to a position to effectively endorse that position.

"Mandating speech that a speaker would not otherwise make necessarily alters the content of the speech." *Riley v. National Freedom of the Blind*, 487 U.S. 781, 795 (1989). Therefore, section 104 must be considered as a content-based regulation of speech. *See Miami Herald Pub. Co. v. Tornillo*, 418 U.S. 241, 256, (1974) (statute compelling newspaper to print an editorial reply "exacts a penalty on the basis of the content of the newspaper"). Unless the government can come forward with a countervailing interest that is sufficiently compelling to justify requiring the compelled speech, the mandatory disclaimer provision must fail.

The governmental interest advanced in support of section 104 is that of informing the public of presumably relevant information—that the candidate has chosen not to agree to voluntary campaign spending limits. But this disclaimer does far more than simply provide information. It effectively brands a candidate by requiring him/her to "admit" that they are not parties to what parades itself as a "reform" of campaign abuses. The inference created by the disclaimer's inference is that the candidate is somehow outside of the law. To the extent that it is a legitimate political issue, opponents are free to point it out. But to compel a non-participating candidate to do so is plainly unconstitutional.

"[W]here the State's interest is to disseminate an ideology, no matter how acceptable to some, such interest cannot outweigh an individual's First Amendment right to avoid becoming the courier for such message." *Wooley*, 430 U.S. at 717.[1]

In assessing the constitutionality of mandatory disclosures by professionals fundraisers, the *Riley* Court indicated the constitutional infirmity of measures like section 104:

Thus we would not immunize a law requiring a speaker favoring a particular government project to state at the outset of every address the average cost overruns in similar projects, or a law requiring a speaker favoring an incumbent candidate to state during every solicitation that candidate's recent travel budget. Although the foregoing factual information might be relevant to the listener, and, in the latter case, could encourage or discourage the listener from making a political donation, a law compelling its disclosure would clearly and substantially burden the protected speech.

Id. at 798 (emphasis added). While knowing that a candidate has not agreed to spending limits may be relevant to a potential donor or voter, it does not follow that the government can compel a candidate to say as much.

B. Content-based disclosure—Financing Communications

Section 134 of the proposed legislation requires that any person making a disbursement for the purpose of financing unauthorized[2] communications expressly advocating the election or defeat of a clearly identified candidate include in the communication the following statement "* * * is responsible for the content of this advertisement." The blank is to be filled in with the name of the political committee or other person paying for the communication and the name of any connected organization of the payor.

Section 134 essentially mandates speech by private persons that they would not otherwise make, thereby altering the content of that speech. Therefore, like section 104, section 134 should be scrutinized by the demanding standards accorded content-based regulations of speech—the regulation must promote a compelling interest through the least restrictive means. *See, e.g., Sable Communic. of California, Inc.* v. *FCC*, 492 U.S. 115, 126 (1989).

The governmental interests served by compelling the disclosure that a contributor is "responsible for the content of" an advertisement are presumably to inform the audience of the identity of the purveyor of the message to allow an informed assessment of its content and to police fraudulent or defamatory political advertising. These governmental interests are not recognized as compelling. *FEC* v. *National Conservation Political Action Committee*, 470 U.S. 480, 496–97 (1985) ("preventing corruption or the appearance of corruption are the only legitimate and compelling governmental interests thus far identified for restricting campaign finances.") Moreover, Congress has *not* chosen the least restrictive means to serve those interests. And in failing to do so, the legislation runs afoul of the First Amendment.

Any governmental interest is already served by the FECA, which requires groups airing "unauthorized" political advertisements to identify themselves and to state that the communication is not authorized by any candidate or candidate's committee.[3] The common law of misrepresentation as well as criminal statutes also serve the supposed interests without regulating the content of political speech. In light of the current statutory requirements, the obvious intent behind section 134's mandatory speech requirement is to make fundraising by independent groups more difficult. Thus, section 134 fails to meet the appropriately rigorous constitutional test when compelling speech. Indeed, disclosure requirements like section 134 are not inherently consistent with the First Amendment and do not necessarily serve to advance discourse. The Court often has struck down disclosure requirements that threatened to have a "deterrent and 'chilling' effect on the free exercise of constitutionally enshrined rights of free speech,

[1] The fact that the disclosure mandated by section 104 is one of fact rather than opinion is inconsequential—"either form of compulsion burdens protected speech." *Riley v. National Federation of the Blind*, 487 U.S. 781, 797–98 (1989).

[2] See 2 U.S.C. §441d(a)(3).

[3] *See* 2 U.S.C. §441d(a)(3).

expression and association." *Gibson* v. *Florida Legislative Investigation Comm.*, 372 U.S. 539, 557 (1963); *see also, Brown* v. *Socialist Workers '74 Campaign Comm.*, 459 U.S. 87, 100 (1982) (names of campaign contributors and recipients of funds); *Talley* v. *California*, 362 U.S. 60 (1960) (identification of names and addresses of authors on handbills); *N.A.A.C.P.* v. *Alabama*, 357 U.S. 449, 462 (1958) (membership lists).

Mr. MCCONNELL. Candidates are not the only American citizens who will have their first amendment rights sharply curtailed by the legislation now before us. Private citizens who join together to speak independently in a political campaign will discover that their speech triggers further taxpayer subsidies to the candidates they oppose.

In other words, as I have explained on several previous occasions, if B'nai B'rith or the NAACP were to spend money in Louisiana to oppose the Senate candidacy of David Duke, the ex-Klansman would be eligible to receive taxpayer subsidies—on a dollar-for-dollar matching basis—to respond to such expenditures. It may seem unbelievable, but it is in the bill before us.

Let me repeat that, Mr. President. Under this bill, if some civil rights organization, say, B'nai B'rith or the NAACP, wanted to make independent expenditures against David Duke in a Senate race in Louisiana, David Duke would get our tax dollars to counter those expenditures. On this point, I ask unanimous consent to insert into the RECORD at this time another legal memorandum on this legislation's unconstitutional restrictions on independent spending by private citizens.

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

MEMORANDUM—INDEPENDENT EXPENDITURE PROVISIONS OF THE CONGRESSIONAL CAMPAIGN SPENDING LIMIT AND ELECTION REFORM BILL

The Congressional Campaign Spending Limit and Election Reform Bill ("the Bill") is the latest in a series of Congressional attempts to reserve politics for professional politicians and to cut the ordinary citizen out of the process.

In 1974, Congress said to the American public, "We can spend whatever we can raise on our campaigns, but you can't spend more than $1,000 on independent campaigning." The Supreme Court struck down that attempt to stifle free speech in *Buckley* v. *Valeo*, 424 U.S. 1, 39-59 (1975). In 1984, Congress said, "Okay, you can *spend* any money you want on a campaign, but you have to spend it alone. A group of private citizens cannot spend more than $5,000 on an independent campaign, so your right to spend doesn't mean very much anymore." The Supreme Court struck down that "back door" approach in *Federal Election Commission* v. *National Conservative Political Action Committee*, 470 U.S. 480, 490-501 (1985) ("*FEC* v. *NCPAC*").

Now, the White House wants Congress to say, "Okay, you can spend your money on a campaign, and you can band together with your friends and neighbors to do it, but every time you speak your mind on an election, we'll give professional politicians a taxpayer-financed loudspeaker to drown out anything you have to say."

The history of this so-called "reform" makes clear that Congress is trying to find an indirect way to do something the Constitution prohibits Congress from doing directly: outlawing citizen participation in federal elections. The Supreme Court has made it clear that such indirect means of cutting off free speech are completely unconstitutional. As the Court put it, "What the First Amendment precludes the government from commanding directly, it also precludes the government from accomplishing indirectly." *Rutan* v. *Republican Party of Illinois*,——U.S.——, 110 S. Ct. 2729, 2738-39 (1990). Apparently, this statement was not clear enough for the White House and some Members of Congress.

SUMMARY OF THE BILL'S PROVISIONS

1. Whenever an independent campaign expenditure is made to advocate the defeat of a candidate (either directly or by advocating the election of the candidate's opponent), the candidate's "voluntary" spending limit is increased by the amount of the federal expenditure. In addition, the candidate receives from the federal government a "voter communication voucher" in the same face amount as the independent campaign expenditure. The candidate can spend the "voter communication voucher" on television, radio, direct mail, or any other campaign activity. S. 2, §101, adding FERC §503(c)(1)(B).

"Voter communication vouchers" may be used to pay for postage at rates more favorable than the rates available to private citizens. In addition, "voter communication vouchers" may be used to purchase broadcast time, for which the candidate pays half-price unless the voucher is used to purchase air time for an immediate response to the independent campaign expenditure, in which case the candidate pays full price. See proposed Sections 315(a)(2)(B)(ii) and 315(b) of the Communications Act (providing that the fifty percent discount shall not apply to "immediate response" broadcast time purchased with communications vouchers, but permitting all broadcasts—including immediate response—to be paid for from general funds). The "full price for an immediate response" rule is easy to circumvent: the candidate simply uses other funds to pay for the "immediate response," thereby enabling himself to take advantage of the "candidates-only" 50% discount on broadcast time, and keeps the voucher to pay for a different broadcast, also at the half-price rate.

2. The Bill also would repeal the current "equal access" rule in Section 315(a) of the Communications Act. In its place, the Bill provides that if a broadcaster accepts an independent advertisement for or against any qualified candidate, the broadcaster must notify designated representatives of the opposed candidate or candidates, and must provide immediate response time (at half price unless the opposed candidate chooses to spend his "voter communications voucher" on an "immediate response" advertisement). S. 2, §202, amending §315(a)(2)(B)(i)(II) of the Communications Act.

3. Section 201 of the Bill would amend Section 301(17) of FECA, 2 U.S.C. §431(17), to classify expenditures by various categories of persons, under various circumstances, as other than independent expenditures—i.e., as expenditures that count against the candidate's "voluntary" spending limits under proposed Section 502(b)—even when those expenditures are independent. See FECA §301(a), 2 U.S.C. §431(9) and proposed FECA §502(f).

SUMMARY OF CONCLUSIONS

The independent expenditure provisions of the Bill contain at least three serious constitutional defects.

The proposed independent expenditure provisions are unconstitutional because they restrict the First Amendment right to political speech. There is no meaningful difference between the disincentives for independent electoral advocacy contained in S. —— and limitations on speech that the Court has struck down in numerous other contexts. The provisions that discourage independent speakers from spending funds to promote or oppose candidates run afoul of the general rule that "regulatory measures * * *, no matter how sophisticated, cannot be employed in purpose or in effect to stifle, penalize or curb the exercise of First Amendment rights." *Louisiana* v. *NAACP*, 366 U.S. 293, (1961). Similarly, the disincentives for broadcasters to permit independent electoral advocacy are indistinguishable from the imposition of a content-based tax on speech, and are therefore barred by the First Amendment. *See Arkansas Writers' Project, Inc.* v. *Ragland*, 481 U.S. 221, 229 (1987) (denial of state tax exemption based on magazine's content violates First Amendment). See also *Regan* v. *Time, Inc.*, 468 U.S. 641, 648-9 (1984) ("Regulations which permit the government to discriminate on the basis of the content of the message cannot be tolerated under the First Amendment.")

Furthermore, by limiting the right of individuals to engage in independent electoral advocacy, the Bill casts new doubt on the constitutionality of the contribution limits of FECA, codified at 2 U.S.C. §441a(a)(1)-(3). Those limits were upheld in *Buckley* v. *Valeo*, 424 U.S. 1, 28 (1975), partly on the grounds that an individual's right to make independent expenditures rendered the contribution limits of FECA less threatening to First Amendment freedoms. If the public is now officially discouraged from making independent expenditures, the "safety valve" that protected First Amendment rights in *Buckley* is gone.

In addition, by redefining independent expenditures so that some expenditures over which a candidate has no control against the candidate's "voluntary" maximum spending limit, the Bill may impermissibly restrict a candidate's or potential candidate's pre-election activities.

ANALYSIS: SQUELCHING INDEPENDENT ELECTORAL ADVOCACY

The Bill is designed to squelch independent electoral advocacy by discouraging independent campaign expenditures. The discouragement takes two forms: (1) disincentives for non-candidates to engage in independent electoral advocacy; and (2) disincentives for broadcasters to permit independent electoral advocacy.

Because these disincentives to engage in independent political speech amount to a restriction on such speech, the independent expenditure provisions of the Bill will be struck down on the same grounds that direct limits on independent electoral advocacy were struck down in *Buckley*, 424 U.S. at 39-59, and *FEC* v. *NCPAC*, 470 U.S. at 490-501: a restriction on independent political speech can be upheld only if justified by a compelling governmental interest, and no such interest (including the interest in preventing corruption or the appearance of corruption) is served by limitations on such speech. *See*

also Citizens Against Rent Control/ Coalition for Fair Housing v. *Berkeley*, 454 U.S. 290, 299–300 (1981) (limitation on the right to contribute to committee opposing a referendum impermissibly limits expenditures in opposition to the referendum, thereby violating First Amendment right of free speech).

Before discussing in detail how this scheme discourages free speech, a few general points should be kept in mind about the purpose of the Bill.

The "voter communication voucher" provisions of the Bill are one part of a larger goal: ensuring that each of the two major party candidates for a Senate seat will have at least the same amount to spend as the amount spent against him by his opponents and independent spenders. This goal pervades the Bill as a whole. *Cf.* S.——, §101, adding FECA §503(b) (qualified Senate candidate running against candidate who does not adhere to Section 502(b) limits receives payments that at least match the amount by which her opponent's spending exceeds those limits).

While it might appeal to a naive sense of fairness that every candidate should have the same amount to spend on her campaign as the campaign funds arrayed against her, this is one instance in which "The appearance of fairness * * * may not reflect political reality," *Buckley, supra*, 424 U.S. at 31 n.33. If each major party candidate has approximately the same amount to spend on his campaign, and gets additional funds to counteract independent spending against him, the "name recognition" effects of campaign spending are likely to be a wash. Thus, whichever candidate began the race with greater name recognition has a tremendous advantage over his opponent: neither the opponent nor his independent supporters can close the name recognition gap, since any incremental spending on their side is matched automatically on the other side. Since the better known candidate in a given race is almost sure to be the incumbent, proposed Section 502(b) will function as a job tenure provision for Members of Congress. In an era when most Americans favor term limits for members of Congress, it is ironic that the Administration would propose to use taxpayer funds to insulate incumbents from the potential challengers in this fashion.

Furthermore, equalizing pro- and anti-candidate speech is *not* a legitimate governmental purpose, *Buckley, supra* 424 U.S. at 56–57, and therefore the restrictions on independent speech at issue here cannot be justified with reference to that purpose. More fundamentally, contrary to what the public apparently is supposed to believe, the Bill does not promote public debate by supplementing independent speech with an *equal* amount of countervailing candidate speech. The Bill would drown out independent speech, because it gives the professional politician the ability to more than match independent speech.

A dollar's worth of communication voucher has the purchasing power of at least two dollars of independent money. "Voter communication vouchers" may be used by the candidate to purchase broadcast time at half-price, unless the candidate uses the voucher to pay full price for an immediate response to an independent broadcast. No sensible candidate would do that, because she can use real money to pay for the immediate response at the half-price rate, and save the voucher to buy other broadcast time at half price. The "voter communication vouchers" also can be used to pay for postage at rates more favorable than the rates available to independent advocates. Thus, for every independent dollar spent against a candidate, the candidate gets at least two dollars' worth of political adversiting money. Independent speech is not so much "balanced off" as it is "drowned out."

The "voter communication voucher" system and the right to reply give the candidate two other advantages over the independent citizen. First, even at full price, the right to reply is more valuable than the right to initiate the exchange of broadcasts. Having the last word, especially in the context of an electoral campaign, is of incalculable importance. Second, the candidate can coordinate the voucher expenses with his overall campaign expenses. A dollar spent as part of the candidate's overall media strategy is more valuable than a dollar spent by an independent advocate. As the Supreme court noted in *Buckley, supra* 424 U.S. at 47, "Unlike contributions, * * * independent expenditures may well provide little assistance to the candidate's campaign and indeed may prove counterproductive. The absence of prearrangement and coordination of an expenditure with the candidate or his agent * * * undermines the value of the expenditure to the candidate." Therefore, a candidate is "overcompensated" for any independent expenditure made against him even by a straight, dollar-for-dollar matching fund.

Paradoxically, then,. every independent dollar spent against a candidate will help that candidate, because it will trigger a campaign finance advantage worth far more than one dollar to that candidate. It therefore makes no sense for a person to spend funds to advocate a candidate's defeat (or the election of the candidate's opponent): the best the person can hope for from the unequal exchange of speech is not to hurt his own cause too badly. Thus, the Bill makes independent expenditures a losing proposition.

The Bill's attempt to destroy any value independent electoral advocacy might have is plainly unconstitutional. The speech targeted by the Bill lies at the core of the freedom guaranteed by the First Amendment. The First Amendment's guarantee of freedom of expression "has its fullest and most urgent application precisely to the conduct of campaigns for political office." *Monitor Patriot Co.* v. *Roy*, 401 U.S. 265, 272 (1971). *See also Buckley, supra*, 424 U.S. at 50, ("[L]egislative restrictions on advocacy of the election or defeat of political candidates are wholly at odds with the guarantees of the First Amendment.") *And Eu* v. *San Francisco Democratic Committee*, 489 U.S. 214, 233 (1989) ("We have recognized repeatedly that 'debate on the qualifications of candidates [is] integral to the operation of the system of government established by our Constitution,'" *quoting Buckley, supra*, 424 U.S. at 14).

Government action of the kind contemplated by the Bill would be an unconstitutional restriction of free speech because it would reduce the overall level of speech. *See Buckley, supra*, 424 U.S. esp. at 19 ("A restriction on the amount of money a person or group can spend on political communication during a campaign necessarily reduces the quantity of expression by restricting the number of issues discussed, the depth of their exploration, and the size of the audience reached.") (footnote omitted), and *FEC* v. *NCPAC, supra*, 470 U.S. at 493–94. The "voter communication voucher" creates a disincentive to engage in protected speech that will result in self-censorship. This is plainly unconstitutional, because the government may not alter the ordinary incentives associated with speech to deter the exercise of constitutionally protected speech, absent a compelling government interest. *Simon & Schuster, Inc.* v. *New York State Crime Victims Board*,——U.S.——, 116 L. Ed. 476, 488 (1991) (New York's "Son of Sam" law, which required the escrow of proceeds from certain published accounts of crime and established claims against those proceeds by crime victims, struck down on the grounds that it established "a financial disincentive to create or publish works with a particular content"). A reversal of the normal incentives for campaign speech that would lead any rational person to refrain from such speech is unconstitutional. *See Smith* v. *California*, 361 U.S. 147, 154 (1959) (government action cannot promote self-censorship of speech that would be protected from direct government censorship).

The Bill's burden on broadcasters is a "fail safe" device to make sure no independent political speech that overcomes the first set of unconstitutional hurdles will ever be effectively communicated. Broadcasters are not required to sell political advertising time, *see Columbia Broadcasting System, Inc.* v. *Democractic National Committee*, 412 U.S. 94 (1973). If a broadcaster accepts ads from a candidate, the broadcaster must allow other *candidates* equal access, but the broadcaster is never required to accept independent ads. A broadcaster's decision to run independent campaign advertising is left to the normal incentives of the market place. The Bill tries to distort those normal incentives so that politicians will have access to the airwaves (at half price), but ordinary citizens will not (even at full price).

If a broadcaster accepts an independent advertisement for or against any qualified candidate, the broadcaster must notify designated representatives of the opposed candidate or candidates, and must provide immediate response time (at half price unless the opposed candidate chooses to spend his "voter communication voucher" on the responsive advertisement). S.——, §202, amending §315(a)(2)(B)(i)(II) of the Communications Act. The inconvenience of scheduling such responses is a penalty imposed on agreeing to run independent commercials, and could well deter some broadcasters from accepting independent commercials. *See Miami Herald Publishing Co.* v. *Tornillo*, 418 U.S. 241, 256–7 (1974) (inconvenience involved in printing statutorily-mandated replies can deter editorials). The provisions permitting the response time to be purchased at half price gives broadcasters an additional reason to refuse independent commercials. Uncertainty about how the right to an immediate reply would work in the context of a three person race may be yet another disincentive for broadcasters to accept independent advertisements.

These burdens are indistinguishable from a tax imposed on a medium of communication that is triggered by the content of the communication. Just as "differential taxation of First Amendment speakers is constitutionally suspect when it threatens to suppress the expression of particular ideas and viewpoints," *Leathers* v. *Medlock*. —— U.S. ——, 111 S. Ct. 1438, 1443 (1991), a government-mandated price scheme violates the First Amendment when it threatens to suppress particular kinds of speech, such as campaign speech. Any such burden on speech is unconstitutional. *Arkansas Writers' Project, Inc., supra*, 481 U.S. at 229 (denial of sales tax exemption based on magazine's content violates First Amendment). *See also Regan* v. *Time, Inc., supra*, 468 U.S. at 648–9 ("Regulations which permit the government to discriminate on the basis of the content of the

message cannot be tolerated under the First Amendment.")

It should be noted that the Bill also expands the definition of "independent expenditure" beyond the more limited reading of the phrase "expenditure * * * relative to a clearly identified candidate" in *Buckley, supra. Cp. id.*, 424 U.S. at 44 (former 18 U.S.C. §608(e)(1) construed to apply only to communications that "in express terms advocate the election or defeat of a clearly identified candidate") *with* proposed Subsections 301(17)(A) and 301(18) (independent expenditure is any expenditure made without the "participation or cooperation" of the candidate or his committee that contains "express advocacy," defined to mean "when a communication is taken as a whole and with limited reference to external events, an expression of support for or opposition to a specific candidate, to a specific group of candidates, or to candidates of a particular political party, or a suggestion to take action with respect to an election, such as to vote for or against, make contributions to, or participate in campaign activity."). The *Buckley* court specifically limited the definition of "independent expenditure" to avoid constitutional infirmity; this Bill's more expansive definition directly conflicts with the Court's holding.

Moreover, this definition poses several vagueness issues.

Is an advertisement produced with the passive acquiescence of a candidate an independent expenditure because it was made without the "participation" of the candidate? Or is it the candidate's expenditure because it was made with the "cooperation" of the candidate?

Is a conference of Native American activists discussing the general need to advance Native American role models in all fields of endeavor, including government service, an independent expenditure if the conference is held in a state where a Native American is running for a Senate seat?

Is a documentary on the social cost of welfare fraud an independent expenditure if it is broadcast in a state where one Senate candidate was accused of welfare fraud?

The Bill criminalizes "knowing an willful" failures to report certain "independent expenditures," *see* proposed Section 304(d) and 2 U.S.C. §437g(d)(1)(A). In cases where there could be some doubt whether an advertisement is reportable, the criminal penalty could have a chilling effect on free speech. Since a jury might infer knowledge and willfulness in a case where a person honestly believed he had no duty to report his speech as an "independent political expenditure," the vagueness issues posed by the expanded definition may rise to the level of a due process violation. *Cf. Buckley, supra*, 424 U.S. at 40–41.

Furthermore, because the Federal Election Commission might have the authority to resolve doubtful cases that arises under expanded definition, the vagueness problem may render the proposed statute unconstitutional under the delegation doctrine, *see Panama Refining Corporation* v. *Ryan*, 293 U.S. 388 (1935), and *A. L. A. Schecter Poultry Corporation* v. *United States*, 295 U.S. 495 (1935), and *see generally* J. Ely, *Democracy and Distrust* 131–34 (1980) (acknowledging that the delegation doctrine has been moribund since the 1930s, but arguing for its revival), or under the Appointments Clause, *see Buckley, supra*, 424 U.S. at 109–143.

JEOPARDIZING BUCKLEY

As noted above, S. —— is the latest entry on a long list of Congressional failures to curb campaign abuses while at the same time preserving and protecting the constitutional rights of the American people. Among all those failures, there has been only one campaign finance restriction that the Supreme Court has let stand: the contribution limits upheld in *Buckley* v. *Valeo*. Ironically, the Bill could cause the Supreme Court to take a fresh look at the contribution limits, and perhaps to strike them down.

There are several indications in the *Buckley* opinion that contribution limits were upheld in that case in part because independent spending offered an alternative means for people to exercise their right to advocate the election or defeat of a candidate. *See id.*, 424 U.S. at 28 (1975) ("The Act's $1,000 contribution limitation focuses precisely on the problem of large campaign contributions * * * while leaving persons free to engage in independent political expression"). *See also id.*, 424 U.S. at 22 (main effect of contribution limits is "to compel people who would otherwise contribute amounts greater than the statutory limits to expend such funds on direct political expression") and 37 ("Treating [volunteers'] expenses as contributions * * * forecloses an avenue of abuse without limiting actions voluntarily undertaken by citizens independently of a candidate's campaign.") (footnote omitted).

Thus, if independent spending is rendered worse than useless by the "voter communication voucher" scheme set up by Section 102 if the Bill, there is good reason to believe that the Court would subject FECA's contribution limits to renewed scrutiny. If independent spending is no longer a viable option, a person who wishes to promote or oppose a candidate is left with only one remaining avenue for his or her protected speech: contributing to a candidate's campaign. But this option, standing alone, is not enough to restore the speaker's full constitutional rights. "[T]he transformation of contributions into political debate involves speech by someone other than the contributor." *Buckley, supra*, 424 U.S. at 21. "'It hardly answers one person's objection to a restriction on his speech that another person, outside his control, may speak for him,'" *Arkansas Writers' Project, supra*, 481 U.S. at 231, *citing and quoting Regan* v. *Taxation With Representation*, 461 U.S. 540, 553 (1983) (Blackmum, J., concurring).

For a "speech by proxy" scheme to pass constitutional muster, the proxy may not be "outside [the] control" of the contributor. Of course, the government is not required to ensure that candidate's campaigns are subject to the control of their contributors. But the government would be obligated not to prevent contributors from trying to exercise such influence as they can over the content of the campaign's message, if the candidate's campaign is the only vehicle contributors can use to advocate their political positions. Since the amount of contributions is the most effective means, and in many instances perhaps the only means, for a private party to influence the content of campaign speech, contribution limits no longer would be lawful if the "voter communication voucher" system survives a constitutional challenge.

REDEFINING INDEPENDENT EXPENDITURE TO BLOCK POLITICAL NEWCOMERS

Section 201 of the Bill would amend Section 301(17) of FECA, 2 U.S.C. §431(17), to classify expenditures by various categories of persons, under various circumstances, as other than independent expenditures—*i.e.*, as expenditures that count against the candidate's "voluntary" spending limits under proposed Section 502(b). *See* FECA §301(a), 2 U.S.C. §431(9) and proposed FECA §502(f). In many instances, proposed Section 301(17) would act to lock a candidate in to his original group of advisors, and would deter the candidate from interviewing or consulting with a wide variety of potential supporters and advisors, because the price of consulting anyone is to "taint" that person in such a way that any expenditure he or she later makes counts against the candidate's "voluntary" maximum limit. Not surprisingly, the effect of this provision is to favor incumbents, whose need to consult with anyone outside an already established circle of advisors is far less than a potential challenger's needs to canvass for initial support; interview and select media consultants, committee members, staff; woo party members; raise funds; etc.

A few examples illustrate how the proposed rules could deter a candidate from communicating with potential supporters and advisors or discharging advisors. Proposed Section 301(17)(B)(iv) treats an expenditure as having been made by the candidate if it is made by anyone who at any time during the election cycle (*i.e.*, the six years between the last election and the current election, *see* proposed Section 135(29)) was authorized to raise or expand funds on behalf of the candidate, or served in an executive or policymaking position on the candidate's committee. Thus, if a candidate wants to disassociate himself from an advisor, he may do so only by turning the advisor loose from his control while still allowing any expenditures the former advisor makes to count against the candidate's "voluntary" maximum. Rather than do so, a candidate is more likely to keep an advisor he no longer really wants, solely to prevent uncontrolled spending by that person to deplete the candidate's permissible campaign budget.

Similarly, proposed Section 301(17)(B)(v) treats an expenditure as having been made by a candidate if it is made by a person who had advised or counselled the candidate or his agent "at any time" regarding the candidate's plans, projects or needs relating to his pursuit of office during the election cycle, "including any advice relating to the candidate's decision to seek Federal office." Thus, anyone considering a run for office must exercise extreme caution regarding whom he consults, since every person he consults gets what amounts to a key to the candidate's limited treasury. These provisions restrain a candidate's First Amendment rights of free speech and association, because they force a candidate to pay an unacceptably high price for certain kinds of communication and association related to his campaign.

There is a constitutionally protected interest in the opportunity to run for political office that may not be restricted unless the restriction serves a "vital" governmental interest and does not unfairly or unnecessarily burden a candidate's continued access to political opportunity. *See Buckley, supra*, 424 U.S. at 92–93, *citing American Party of Texas* v. *White*, 415 U.S. 767, 780–81 (1984), *and Lubin* v. *Panish*, 415 U.S. 709, 716 (1974). If independent expenditures by persons who may actually be seeking to dovetail their efforts with the candidate's are not a sufficient threat of corruption or the appearance of corruption to justify a ban on their expenditures, *Buckley, supra*, 424 U.S. at 45–46, it follows that expenditures by persons whose connections with candidates have been severed (or never were formed) cannot pose such a threat. Furthermore, the provisions that include utterly unrelated expenditures by people a candidate

may have consulted on a few as one occasion, as many as five years before an election, poses an unfair and unnecessary burden on the candidate's ability to control his or her own campaign finances.

Mr. McCONNELL. Further, I ask unanimous consent to insert two more legal memoranda on the bill's excessive and unconstitutional restrictions on the political activities of State and local parties. This bill proposes a hostile takeover of State election laws imposing Federal laws, regulations, and limits on State and local party activities which have only the most tangential relation to Federal elections. Such a massive imposition of Federal power violates not only the first amendment but also our entire system of federalism, which is guaranteed to us by the 10th amendment and the guarantee clause.

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

MEMORANDUM—CONGRESSIONAL CAMPAIGN SPENDING LIMIT AND ELECTION REFORM ACT OF 1992 STATE PARTY PROVISIONS

The Congressional Campaign Spending Limit and Election Reform Act of 1992 ("the bill") restricts contributions and expenditures made by state or local political entities in state elections. The bill "federalizes" the bulk of state campaign expenditures and contributions, especially in even-numbered years and in Presidential election years, leaving untouched only miscellaneous administrative functions. Congress has never before attempted to exert so much federal control over state electoral processes. The bill attacks the cherished principles of our federal system because it threatens the freedoms granted the American people under the Tenth Amendment to the Constitution and under the Guarantee Clause.

SUMMARY OF PROVISIONS

The "state party provisions" are found in Subtitle B of Title III. In an apparent (and unsuccessful) attempt to avoid violating the First Amendment through restrictions of constitutionally protected speech in state elections, Section 311(b) would enable the state committee of a political party to create and maintain a "state party grassroots fund." Such an account would be a "separate segregated fund established and maintained by the State committee of a political party solely for purposes of making expenditures and disbursements" as described in Section 324(d):

Generic campaign activities;

Slate cards, sample ballots and some campaign materials;

Voter registration; and

Development and maintenance of voter files during an even-numbered year.

In other words, the bill would allow certain election activities traditionally performed by state parties to be performed only by state grassroots funds, and then subject those funds to extensive federal regulation. Under Section 312, an individual could not contribute more than $20,000 in any calendar year to a grassroots fund, nor could an individual contribute to any other political committee established and maintained by a state committee of a party in excess of $5,000. See §312(a). Under Section 312(b), multicandidate committee could not contribute more than $15,000 in any calendar year to a grassroots fund and would not contribute more than $5,000 to any other political committee established and maintained by a state party committee.

The bill would subject to federal regulation the following activities:

Almost all get-out-the-vote activity;

Generic campaign activities;

Any campaign activities that identify a federal candidate (regardless of whether a state or local candidate is also identified);

Voter registration;

Development and maintenance of voter files during an even-numbered calendar year;

"Any other activity that significantly affects a federal election, or is not otherwise described in Section 301(8)(B)(xvii)."

See §313(a). The bill would not regulate all of these activities all of the time, however. Get-out-the-vote activities by state, district and local committees of political parties would be free from the bill's restrictions only if (1) such activities are conducted during a calendar year other than a calendar year in which a Presidential election is held; (2) the get-out-the-vote activity is "exclusively" on behalf of and identifies only state or local candidates or ballot measures; and (3) the get-out-the-vote activity does not include any effort or means used to identify or turn out those identified to be supporters of any Federal candidate * * *."

CONCLUSIONS

The bill violates the Tenth Amendment and the Guarantee Clause because the bill infringes upon the core of state authority: the authority of a state to organize and operate its own governmental system. During even-numbered years and Presidential election years, virtually every material aspect of state electoral speech and conduct would be subject to federal control, and this burden lessens only modestly in other years. The bill attempts to minimize free speech concerns by setting up these so-called "grassroots fund," but in doing so it creates an unprecedented federal intrusion on most state electoral activity.

DISCUSSION

The bill would violate the Tenth Amendment and the Guarantee Clause. The Supreme Court has long affirmed the importance of the states in our system of government. As the Supreme Court said just last year, "the Constitution has never been understood to confer upon Congress the ability to require the States to govern according to Congress' instructions." *New York* v. *United States*, 112 S.Ct. 2408, 2421 (1992). The Constitution gives Congress power to regulate the electoral processes of states only in those areas specifically addressed by Amendments to the Constitution: The Fourteenth (conferring the rights on state citizenship upon all United States citizens who are residents of a state, and empowering Congress to enact implementing legislation); the Fifteenth (conferring on Congress the power to enact legislation to safeguard the right to vote regardless to "race, color, or previous condition of servitude"); the Nineteenth (conferring on Congress the power to enact legislation to protect against gender discrimination in voting); the Twenty-fourth (conferring on Congress the power to enact legislation to enforce the prohibition against State use of poll taxes as a requirement for voting); and the Twenty-sixth (conferring on Congress the power to enact legislation to enforce the right of 18 year olds to vote). These Amendments underline the constitutional flaws of this bill: if Congress had unbridled constitutional authority to regulate the state electoral process, these Amendments would have been unnecessary.

If a state gubernatorial candidate wishes to engage in a get-out-the-vote drive in the same calendar year as a Presidential election—a frequent occurrence—then that activity would be subject to the bill. Indeed, in a Presidential election year, voter registration programs and get-out-the-vote drives for a city council election would be subject to the bill. Even in a non-Presidential election year, the gubernatorial candidate would need to be prepared to demonstrate that the activity "does not include any effort or means used to identify * * * supporters of any Federal candidate," a showing that would require the candidate for state office to create and maintain records of potential voters separately from any such database maintained by the state party for voters in federal elections. In addition, state parties are subject to the bill's restrictions every other calendar year for the development and maintenance of their voter files, a pattern that would also require multiple, segregated files. Finally, the state or local candidate would be always open to the charge that whatever and whenever be the activity that he or she undertakes, it "significantly affects a Federal election" and is therefore subject to the bill. The only aspects of state and local party activity left untouched by the bill would be administrative and ministerial acts—for example, holding party meetings and staffing an office.

In *Oregon* v. *Mitchell*, 400 U.S. 112 (1970), the Supreme Court struck down a federal statute that established a minimum voting age of 19 for all state and local elections. The opinion announcing the judgment of the Court stated that "[n]o function is more essential to the separate and independent existence of the States and their governments than the power to determine within the limits of the Constitution the qualifications of their own voters for state, county, and municipal offices and the nature of their own machinery for filling local public offices." Id. at 125.

The Constitution provides no grant of authority for Congress to regulate the state electoral process by limiting expenditures by state entities in support of either state candidates or state party-building activities—whether or not such expenditures and activities happen to take place close to a federal election. If such a power existed in the Commerce Clause or elsewhere, the Twenty-sixth Amendment—enacted in response to *Oregon* v. *Mitchell*—as well as the Fourteenth, Fifteenth, Nineteenth, and Twenty-fourth Amendments, would have been unnecessary. The effect of state campaign activities on federal interests is incidental at best. An incidental effect on the federal system has never been deemed sufficient to justify such an intrusion on the ability of state parties and state electors to run their own systems consistently with the Constitution.

The Guarantee Clause guarantees the states a "republican form of government," one in which the people control their rulers through the majoritarian process. The Guarantee Clause allows states to decide, for example, whether and when to fill interim vacancies in their legislatures. See *Cintron-Garcia* v. *Romero-Barcelo*, 671 F.2d 1, 5 (1st Cir. 1982). Regulation of speech in state elections has a profound-impact on the entire structure and mechanism of state and local governments. The courts have repeatedly "recogniz[ed] a State's interest in establishing its own form of government." *Sugarman* v. *Dougall*, 413 U.S. 634, 642 (1973).

MEMORANDUM—STATE PARTY "SOFT MONEY" PROVISIONS OF THE CONGRESSIONAL CAMPAIGN SPENDING LIMIT AND ELECTION REFORM ACT OF 1993 AND THE FIRST AMENDMENT

Congress would through this bill undermine the ability of state political party committees to perform their traditional role of organizing crucial local grassroots activities, such as voter registration drives, public education programs, get-out-the-vote campaigns, and "generic campaign activities." It would do so by severely restricting the financial contributions that individual donors and political action committees ("PACs") could make to such efforts, and by specifically subjecting a state party's activities in connection with these grassroots programs, as well as any other campaign activities that could significantly affect a federal election, to the limitations and prohibitions of the federal election campaign laws. This unjustified assault on the First Amendment rights of both state party committees and individual citizens who would like to encourage greater participation in the electoral process and to promote the political causes of their parties serves no legitimate government purpose and is blatantly unconstitutional.

I. STATE PARTY CONTRIBUTION LIMITATIONS

A. The provisions at issue

The bill would allow state political parties to establish separate, segregated "State Party Grassroots Funds," the money in which could be used solely for designated get-out-the-vote campaigns, voter registration drives, generic campaign activities, and the like. Section 312(a) of the proposed legislation would limit individual contributions to no more than $20,000 in any calendar year to a State Party Grassroots Fund and no more than $5,000 in any calendar year to any other state party political committee. The Section further provides that an individual's total contribution to the State Party Grassroots Fund and all state party committees in any given state cannot exceed $20,000 in a calendar year. The proposed legislation imposes similar contribution limitations on multicandidate political committees, or PACs. Under Section 312(b), PAC contributions are restricted to no more than $15,000 in any calendar year to a State Party Grassroots Fund and no more than $5,000 in any calendar year to any other state party political committee. The Section also indicates that a PAC's total contribution to the State Party Grassroots Fund and all state party committees in any given state cannot exceed $15,000 in a calendar year.

Currently, federal election laws do not restrict the amount of money that individuals and PACs can donate to state political party committees for grassroots voter turnout and citizen involvement programs. These suggested provisions would severely limit the amount of money that individuals and PACs could contribute to state parties in support of one of their primary activities—efforts to encourage eligible voters to participate in the political process.

In addition, these sections of the proposed legislation are even more restrictive than they first appear because money donated by any individual to state party organizations and grassroots funds would be encompassed within a $60,000 annual limitation on overall federal election contributions. See Section 312(c). This overall annual limitation specifically includes a $20,000 total cap on individual contributions to all state political committees. Under current law, a $25,000 total federal limitation applies to individual contributions to candidates for federal office and to national political party committees, but not to contributions to state and local political party committees. Consequently, the proposed legislation would undoubtedly reduce overall contributions to state political party funds/committees by not only preventing individual and PAC contributions in excess of $20,000/5,000 or $15,000/5,000 respectively, but also by forbidding individual contributions, no matter how small, if the prospective donor has already given $60,000 to candidates or their authorized committees, national political parties, or other state political party committees or grassroots funds. Such federal limitations on contributions could threaten the ability of state political parties to function in a meaningful way in the political process.

B. Conclusion

Sections 312(a), (b) and (c) would violate the fundamental First Amendment right to promote the political cause of the state parties. These harsh, overbroad restrictions on political contributions to state parties stifle speech on important public issues at the heart of our political system without serving any compelling government interest.

C. Discussion

In *Buckley* v. *Valeo*, 424 U.S. 1 (1976), the Supreme Court emphasized that the making of campaign contributions and expenditures is a form of pure political speech that is "at the core of our electoral process" and must be afforded the broadest possible protections available under the First Amendment. Id. at 14–23, 39 (quoting *Williams* v. *Rhodes*, 393 U.S. 23, 32 (1968)). Nevertheless, the Court has concluded that Congress can impose limitations on political contributions, if there is a sufficiently compelling governmental interest in doing so and if it has used a mechanism that is tailored to avoid any unnecessary interference with the contributors' First Amendment rights. Id. at 24–39. The state party contribution limitations of the bill satisfy neither prong of this two part First Amendment test.

First, the only governmental interest that has been found constitutionally sufficient to justify limitations on political contributions is the need to avoid corruption or the appearance of corruption in the electoral process resulting from the coercive influence of large individual financial contributions to candidates for federal office. Id. at 25–26. The proposed limitations on contributions to state party committees and to State Party Grassroots Funds would not serve that purpose.

Contributions to state party committees and party-sponsored grassroots efforts are not contributions to individual candidates that could result in a donor wielding undue influence over a candidate's positions and actions, once elected to public office. Instead, contributions to state party committees and party-sponsored grassroots efforts are contributions to a cause or viewpoint, reflecting the contributors' general agreement with the philosophies of the state party.

In considering the constitutionality of various limitations on political activities, the Supreme Court has long recognized the distinction between limitations on contributions to a political candidate—which may in certain circumstances be permissible as a means of avoiding corruption or the appearance of corruption in the electoral process—and limitations on contributions to causes or viewpoints—which are not permissible because they achieve no such purpose. *Federal Election Commission* v. *National Conservative Political Action Committee*, 470 U.S. 480, 495–98 (1985) (citing *First National Bank of Boston* v. *Bellotti*, 435 U.S. 765, 789–90 (1978) and *Buckley* v. *Valeo*, 424 U.S. at 47); *Citizens Against Rent Control/Coalition for Fair Housing* v. *City of Berkeley*, 454 U.S. 290, 296–300 (1981). Causes, such as grassroots efforts of state political parties, are not under the control of or dominated by candidates for federal office. Nor are they so entwined with the campaigns of candidates for federal office as to be susceptible to corruption by donations in the same manner as are individual federal candidates.

In addition to restricting the speech of contributors, these contribution limitations have the intent and effect of circumscribing the protected speech of state political parties. The state party activities that would be severely restricted by these proposed contribution limitations include voter registration, get-out-the-vote, and "generic campaign activities" that by definition promote a political party rather than any particular candidate, see Section 311(b). These are activities that reduce rather than increase the potential for political corruption: the larger the voter turnout, or the more the election is focused on issues rather than personalities, the smaller the chance of any single voter or contributor having a disproportionate impact on the political process.

Even if the proposed contribution limitations served to reduce the potential for corruption and thus were supported by a compelling governmental interest, they fail to satisfy the second prong of the First Amendment test. They constitute a fatally overbroad response to any potential for political corruption. See generally *Federal Election Commission* v. *National Conservative Political Action Committee*, 470 U.S. at 498. They are not limited to reducing any undue influence created by large contributions of individuals and groups. Instead, they apply equally to prevent small individual contributions, of any size, if the prospective donor has already given to other political entities a total amount equal to the annual overall federal election contribution limitation. Moreover, there are more narrowly tailored methods, such as carefully drawn disclosure or reporting requirements, that could achieve the same goal. The availability of these less restrictive options would call for the invalidation of the contribution limitations in the bill.

Alternatively, if the purported justification of these contribution limitations is not the prevention of political corruption but rather the "leveling of the playing field" or the equalization of the relative ability of voters in all political parties to affect electoral outcomes by placing ceilings on the efforts of wealthy voters and special interest groups, the proposed limitations are constitutionally forbidden. *Buckley* v. *Valeo*, 424 U.S. at 48–49. The Supreme Court has repeatedly made clear that the "First Amendment's protection against governmental abridgement of free expression cannot properly be made to depend on a person's financial ability to engage in public discussion." Id. at 49 (citing *Eastern R. Conf.* v. *Noerr Motors*, 365 U.S. 127, 139 (1961)).

Having no constitutionally permissible justification, campaign reform legislation that limits contributions to state political party committees and grassroots funds, and which thereby threatens essential voter registration campaigns, get-out-the-vote efforts, and other important state party functions, would not be allowed to stand.

II. STATE PARTY RESTRICTIONS ON USAGE OF CAMPAIGN FUNDS

A. The provisions at issue

Section 313(b) of the proposed legislation would greatly expand the scope of state party activity that is subject to federal regulation by adding to the Federal Election Campaign Act a new section explicitly restricting certain traditional, previously unlimited state party functions. Specifically, this new section would subject to federal limitations, prohibitions and reporting requirements all state party committee contributions and expenditures for:

Any get-out-vote activity conducted during a presidential election year;

Any get-out-the-vote activity conducted during any other year that is not exclusively on behalf of (or does not specifically identify only) one or more state or local candidates or ballot measures, or that includes any effort or means used to identify or turn out those identified to be supporters of any federal candidate;

Any generic campaign activity (i.e., an activity that promotes a political party rather than a particular candidate);

Any activity that identifies or promotes a federal candidate, regardless of whether state or local candidates are also promoted;

Voter registration;

Development and maintenance of voter files during an even numbered calendar year;-or

Any other activity that significantly affects a federal election or that is not exclusively on behalf of (or does not specifically identify only) state or local candidates.

The proposed legislation would impose severe federal limits on virtually all of the critical state party campaign activities that do not clearly and exclusively relate to candidates for state office. For example, under this proposal, a state party's costs for making buttons that do nothing more than encourage citizens to "Vote" in a state election that takes place during a presidential election year would be considered an expenditure that is subject to the limitations of the federal election campaign laws. Similarly, a state party's expenditure of funds for a pamphlet promoting a gubernatorial candidate would be subject to the limitations of the federal election campaign laws if it: (i) reports on an endorsement of the gubernatorial candidate by a federal candidate; (ii) includes a statement of the gubernatorial candidate's view of the programs of a particular federal candidate; or (iii) contains a photograph of the gubernatorial candidate and a federal candidate.

B. Conclusions

The bill's attempt to limit the use of state political party funds is a flatly unconstitutional restriction on protected political speech. Proposed Section 313(b) eliminates previously unconfined avenues for the free expression of political ideas that were essential to upholding the current contribution limitations of the Federal Election Campaign Act. These provisions do so without serving any substantial governmental interest in stemming the reality or appearance of corruption.

C. Discussion

The proposed limitations on the use of state party funds heavily burden core First Amendment political expression. First, it was precisely because the Federal Election Campaign Act leaves open many unrestricted avenues for political activists to express their support of political ideas that the Supreme Court allowed the current federal election contribution limitations to stand. *Buckley* v. *Valeo*, 424 U.S. at 22, 28; see also *Republican National Committee* v. *Federal Election Commission*, 487 F.Supp. 280, 287 (S.D.N.Y. 1980).

Second, even if such limitations on the use of state party funds were permissible, these sweeping provisions would nevertheless be constitutionally defective because they are vague and overbroad. They apply to restrict the ability of state parties to communicate with voters through such a broad range of means and on such a wide array of topics, including any matter that could significantly affect an election for federal office, that they essentially regulate all state party campaign activity, unless that activity clearly and exclusively relates to candidates for state office. In *Buckley* v. *Valeo*, construing similarly imprecise restrictions on expenditures in the Federal Election Campaign Act of 1971, the Supreme Court made clear that, in order to survive a vagueness challenge, the expenditure limitations at issue could not be read to apply to funds spent on the propagation of one's views on issues without "in express terms advocat[ing] the election or defeat of a clearly identified candidate for federal office." 424 U.S. at 44. contrary to this constitutional requirement, the proposed limitations would sweep so broadly as to reach and suppress not only explicit advocacy of candidates, but also discussion of public issues and efforts to further public involvement in the electoral process. By including within its regulatory scope any activity that could significantly affect an election for federal office, the bill fails to recognize that "candidates, especially incumbents, are intimately tied to public issues involving legislative proposals and governmental actions. Not only do candidates campaign on the basis of their positions on various public issues, but campaigns themselves generate issues of public interest." Id. at 42. Because they have the "potential for encompassing both issue discussion and advocacy of a political result," id. at 79–80, the broad use restrictions of proposed Section 313(b) are unenforceable.

Third, because "voting is of the most fundamental significance under our constitutional structure, *Illinois Board of Elections* v. *Socialist Workers Party*, 440 U.S. 173, 184 (1979), and "no right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live," *Burdick* v. *Takushi*, 112 S.Ct. 2059, 2067 (1992) (quoting *Wesberry* v. *Sanders*, 376 U.S. 1, 17 (1964)), these grassroots efforts to increase voter awareness and participation are at the very center of the First Amendment. The Supreme court in *Buckley* v. *Valeo* made clear that these goals are to be encouraged—not discouraged by regulation. 424 U.S. at 93.

Fourth, as the Supreme Court has repeated time and again, the only constitutionally valid limitations on campaign giving and spending are those that are imposed as a cure for real or apparent corruption in the electoral process. *Federal Election Commission* v. *National Conservative Political Action Committee*, 470 U.S. at 496–97 (citing other cases). Usage limitations are not such a cure. It is absurd to suggest that a large contributor to a state party exercises a corrupting influence on the federal electoral process because the state party elects to use his or her contribution in efforts to encourage citizens to vote in a gubernatorial election that happens to occur in a presidential election year. But, even if that proposition were true, it is still more absurd to suggest that such state party get-out-the-vote efforts based on small contributions (or, for that matter, contributions of any size that are in compliance with the proposed state party contribution limitations of Sections 312 (a), (b) and (c) of the bill) "corrupt" the federal process and thus need to be subject to additional draconian federal limitations. This bill draws no distinction between use of funds derived from large contributions and use of funds obtained from $10 donations—it restricts the speech resulting from all. Thus, the usage limitations of the proposed legislation are blatant restrictions on the quantity and nature of protected political speech. If included in a congressional campaign reform law, these restrictions should and will be struck down.

Mr. MCCONNELL. Another legal memorandum which I have here and ask unanimous consent to insert into the RECORD at this time details the serious constitutional questions raised by the bill's restrictions on lobbying activities and contributions.

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

MEMORANDUM—CONGRESSIONAL CAMPAIGN SPENDING LIMIT AND ELECTION REFORM ACT OF 1992—RESTRICTIONS ON CONTRIBUTIONS BY LOBBYISTS

The Congressional Campaign Spending Limit and Election Reform Act of 1992 ("the bill") would restrict the ability of designated American citizens—lobbyists—from petitioning certain government officials. The bill would prohibit lobbyists from contributing to a Member of Congress whom the lobbyist contacted in the preceding year. The bill would also restrict lobbyists from contacting any Member of Congress for twelve months following a contribution or solicitation on that Member's behalf. Like other American citizens, lobbyists have a First Amendment right to contribute to political campaigns and to petition their government. These provisions would burden impermissibly these citizens' First Amendment rights to free speech and to petition their government.

SUMMARY OF PROVISIONS

The restrictions on lobbyists' speech are found in Section 401 of Title IV. Section 401(b) would amend Section 315 of the Federal Election Campaign Act, 2 U.S.C. 441(a), as amended by Section 313(b), by adding a two-part provision. The first part of Section 404(b) would prohibit a lobbyist from making any contributions to or soliciting any contributions on behalf of either any Member of Congress with whom the lobbyist has had any "lobbying contact" in the preceding twelve months, or any "authorized committee" of the President if the lobbyist has had "a lobbying contact" with a "covered Executive Branch official." The term "covered Executive Branch official" is defined quite broadly to include a large number of Executive Branch officials from the President down to "any officer or employee serving in a position of confidential or policy-determining character under Schedule C. * * *"

The second part of Section 404(b) would prohibit a lobbyist from making a lobbying contact with a Member of Congress or a covered Executive Branch official where the lobbyist has made a contribution to or solicited contributions on behalf of those persons during the preceding twelve months.

CONCLUSIONS

The bill violates the free speech and petition rights of a selected set of American citizens—lobbyists. Lobbying is protected by the

Constitution both as free speech and as an act of petitioning the government. Any restriction on these rights must be analyzed under the Supreme Court's "strict scrutiny" test. "Strict scrutiny" requires that in order for the government to justify its restriction of a citizen's First Amendment rights, the government must have a compelling state interest in doing so and the government must have available no other more narrowly tailored options for achieving that goal. The bill does not offer a compelling state interest for this absolute ban on speech and petition, and in any event there exist more narrowly tailored means of regulating the influence of lobbyists to the extent that lobbyists' activities could lead to corruption of the federal political process.

DISCUSSION

Lobbying the government is clearly "protected by the First Amendment." *Regan* v. *Taxation With Representation*, 461 U.S. 540, 552 (1982) (Blackmun, J., concurring); *Eastern Railroad Presidents' Conference* v. *Noerr Motor Freight, Inc.*, 365 U.S. 127, 137–138 (1961). The *Noerr* court set out the rationale for lobbying's protected status:

"In a representative democracy such as this, these [legislative and executive] branches of government act on behalf of the people and, to a very large extent, the whole concept of representation depends upon the ability of the people to make their wishes known to their representatives. . . . The right of petition is one of the freedoms protected by the Bill of Rights, and we cannot, of course, lightly impute to Congress an intent to invade these freedoms."

Id. at 137–138. See also In re IBP Confidential Business Documents Litigation, 797 F.2d 632 (8th Cir. 1986), cert. denied sub nom. *Bagley* v. *IBP, Inc.* 479 U.S. 1088 (1987) (letter to legislative subcommittee privileged as First Amendment petitioning activity); *Greenwood Utilities Com'n* v. *Mississippi Power Co.*, 751 F.2d 1484 (5th Cir. 1985) (right to petition extends even to petitions for anticompetitive ends); *Cammarano* v. *United States*, 358 U.S. 498 (1959).

This bill would force lobbyists to choose between exercising their First Amendment right to petition the government and their First Amendment right to make political contributions to candidates of their choice. If a lobbyist contributes to a candidate, the bill would prohibit him or her from petitioning, or lobbying, that candidate for a year after the candidate's election. This prohibition would apply even though the justification put forward for contribution limits, and accepted by the Supreme Court in *Buckley*, was to address this very problem—limiting the influence of contributors on office holders. 424 U.S. at 25–27. Alternatively, if the lobbyist has petitioned, or lobbied, the candidate within the preceding year, the bill would prohibit him or her from contributing to that candidate's campaign. There is no constitutional justification for requiring a citizen to choose between two fundamental rights.

In addition, the bill would single out lobbyists for special treatment. In this regard, the bill is akin to the differential taxation schemes for newspapers and magazines struck down as unconstitutional by the Supreme Court twice in the last decade. See *Arkansas Writers Project, Inc.* v. *Ragland*, 481 U.S. 221 (1986); *Minneapolis Star & Tribune Co.* v. *Minnesota Comm'r of Revenue*, 460 U.S. 575 (1983). In *Minneapolis Star*, the Court held unconstitutional a Minnesota tax on paper and ink used in the production of newspapers. In *Arkansas Writers Project*, the court held unconstitutional an Arkansas sales tax program that taxed general interest magazines but exempted newspapers and religious, professional, trade and sports journals. In *Arkansas Writers Project*, the sales tax could not be characterized as nondiscriminatory because it was not applied evenly to all magazines, much as the Minnesota tax singled out certain publications for unique treatment. See *Arkansas Writers Project*, 481 U.S. at 228–229. The present bill would achieve the same unconstitutional results by singling out a particular class of citizens who wish to speak and to petition their government, and then burdening those speakers' and petitioners' rights. Indeed, the bill is even more egregious than the differential taxes struck down in *Minneapolis Star* and *Arkansas Writers Project* because the bill proposes a complete prohibition on lobbyists' speech, whereas the state statutes at issue in the Supreme Court cases permitted speech, albeit at a higher and unjustified price.

Mr. MCCONNELL. The bill before us also imposes an unconstitutional condition on the receipt of taxpayer funds in Presidential races by requiring participating candidates to agree to a number of Presidential debates in a predetermined format. This requirement is as unconstitutional as it is unnecessary, and I anticipate that the Supreme Court in its wisdom will strike it out. A legal memorandum which I now ask unanimous consent to have printed in the RECORD details the constitutional problems with this absurd provision.

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

MEMORANDUM—CONDITIONING PUBLIC FUNDING FOR GENERAL ELECTION CAMPAIGNS FOR PRESIDENT ON AGREEMENT BY CANDIDATE TO PARTICIPATE IN PRESIDENTIAL DEBATES

For the first time, Congress would through this bill attempt to dictate to presidential candidates how they conduct their general election campaigns. It would do so by conditioning the receipt of federal funding for the general election period upon an agreement by the presidential and vice presidential candidates to participate in three presidential and one vice presidential debates. This unprecedented invasion of a candidate's First Amendment right to decide how to conduct his or her campaign serves no proper government interest, and is clearly unconstitutional.

I. THE PROVISIONS AT ISSUE

Section 703 of the bill would add a new Section 315(b)(3)(A) to the Federal Election Campaign Act. This new provision would require, as a condition for receipt of federal funding during the general election period, the candidates for President and Vice President to agree in writing that the presidential candidate will participate in at least three debates with all other presidential candidates eligible to receive federal funding, and that the candidate for vice president will participate in at least one debate with all other vice presidential candidates eligible for public funding. In the event the Federal Election Commission determines that either of the candidates of a political party was responsible "at least in part" for the failure to participate in such debates, those candidates would become ineligible to receive federal funding, and would be required to repay any amounts received to the Secretary of the Treasury.

Under current law, candidates are eligible for federal funding if they agree to certain record keeping and audit requirements, certify that they will not incur qualified campaign expenses in excess of the amount of funding they receive, and certify that they will accept no contributions except as necessary to make up for deficiencies in the availability of public funding. 26 U.S.C. §9003(a) (b).

II. CONCLUSIONS

Section 703 would violate a candidate's First Amendment right to run his or her campaign the way he or she sees fit. When it first enacted public funding for presidential campaigns, Congress clearly expressed its intention that such funding not be used as a pretext for dictating how candidates conduct their campaigns. Yet that is exactly what this provision would do, with no compelling government interest stated to justify this intrusion.

Moreover, this provision could prove extremely disruptive to presidential campaigns. Enforcement of the provision would be vested in the Federal Election Commission, which would receive broad authority to seek injunctive relief in the days immediately before an election. The mere threat of an injunction could disrupt a presidential campaign, and affect the result of an election.

II. DISCUSSION

As with all other aspects of this bill, the provision purporting to require participation in presidential and vice presidential debates touches "an area of the most fundamental First Amendment activities." *Buckley* v. *Valeo*, 424 U.S. 1, 14 (1976). Indeed, the First Amendment guaranty of free speech "has its fullest and most urgent application precisely to the conduct of campaigns for political office." *Monitor Patriot Co.* v. *Roy*, 401 U.S. 265, 272 (1971). That guaranty includes "the right to refrain from speaking at all," *West Virginia Board of Education* v. *Barnette*, 319 U.S. 624, 714 (1943), because "[m]andating speech that a speaker would not otherwise make necessarily alters the content of the speech." *Riley* v. *National Federation of the Blind*, 487 U.S. 781, (1989). Thus, candidates have a First Amendment right to decide whether they will debate their opponents.

Throughout our Nation's history, candidates have always been afforded the latitude to determine how they will conduct their campaigns, and whether speeches, television appearances, newspaper interviews, or presidential debates are the most effective way of communicating their messages. When Congress initially enacted public funding for presidential campaigns in 1974, it was appropriately concerned about the possibility that public funding would lead to government mandates on how campaigns would be conducted, and made certain that such intrusion would not occur.

"The bill makes clear that candidates are permitted full flexibility and discretion in their election efforts, subject only to limitation on the dollar amounts of expenditures and contributions.

* * * * *

"Equally important, the Committee has resisted any suggestion that those who accept federal campaign funds be obligated to conduct their campaign in particular ways, or to use the federal monies for specific purposes that some may think are useful to the electorate. Whether they qualify for public assistance and accept it, or not, all candidates are free to 'do their own thing': To decide how they will conduct their campaign

and employ their financial resources." S. Rep. No. 689, 93d Cong., 2d Sess., [1974] U.S. Code Cong. & Adm. News 5595–96.

When the Supreme Court upheld the public funding provisions of the 1974 Amendments, it specifically relied upon this commitment by Congress to avoid interference with the conduct of political campaigns. *Buckley* v. *Valeo*, 424 U.S. at 93 n.126. Earlier this year, a well-regarded district court judge interpreted this passage in *Buckley* as evidencing "the possibility that subsidy provisions could be unconstitutional as applied if they entailed excessive government entanglement with the mostly private political process." *Voice Choice, Inc.* v. *Stefano*, 1993 WL 15229 (D.R.I. Jan. 12, 1993).

Proponents of Section 703 might argue that it does nothing more than impose an additional condition on the receipt of public campaign funding, and that candidates may maintain control over their own campaigns by opting not to accept the public funding; the availability of this option, proponents might say, avoids conflict with the First Amendment. To the contrary, the Supreme Court has repeatedly made clear that the government may not impose "unconstitutional conditions" on the receipt of public funding.

In *Perry* v. *Sindermann*, 408 U.S. 593, 597 (1972), the Court pointed out that:

"For at least a quarter-century, this Court has made clear that even though a person has no 'right' to a valuable government benefit and even though the government may deny him the benefit for any number of reasons, there are some reasons upon which the government may not rely. It may not deny a benefit to a person on a basis that infringes his constitutionally protected interest—especially, his interest in freedom of speech. For if the government could deny a benefit to a person because of his constitutionally protected speech or associations, his exercise of those freedoms would in effect be penalized and inhibited."

Subsequently, in *FCC* v. *League of Women Voters of California*, 468 U.S. 364, 402 (1984), the Court applied this principle to strike down on First Amendment grounds a statute that prohibited non-commercial broadcasting stations that receive federal funding from airing editorials. The Court specifically rejected the argument that the stations waived their First Amendment rights by accepting the federal funding. *Id* at 401 n.27. This is especially true when, as in Section 703, the recipient of public funding cannot exercise his or her First Amendment rights outside the publicly funded enterprise. See *Rust* v. *Sullivan*, 111 S.Ct. 1759, 1775 (1991). If a candidate exercised his or her First Amendment right to refuse to participate in presidential debates, Section 703 would take away all of that candidate's federal funding. This condition violates the First Amendment.

This unconstitutional condition cannot be justified by any compelling governmental interest. The only governmental interest sufficiently "compelling" to support campaign finance restrictions is the prevention of corruption or the appearance of corruption. *Buckley*, 424 U.S. at 26, 94–96. See *FEC* v. *National Conservative Political Action Committee*, 470 U.S. 480, 496–97 (1985) ("we held in *Buckley* and reaffirmed in *Citizens Against Rent Control* [v. *Berkeley*, 454 U.S. 290 (1981)] that preventing corruption or the appearance of corruption are the only legitimate and compelling government interests thus far identified for restricting campaign finances.") No similar interest has been or could be advanced here. The sole justification for Section 703 appears to be the view that presidential and vice presidential debates serve the sponsors' notion of the "public interest," even though such debates are a relatively recent phenomenon in presidential campaigns. And, notably, despite the provisions for public funding of House and Senate campaigns in the bill, the sponsors have not seen fit to vindicate the supposedly important public interest in debates by requiring House and Senate candidates who receive taxpayers' money to debate.

It is not difficult to foresee that such reasoning by this provision's sponsors could next lead to a requirement that presidential candidates appear on "Larry King Live," or whatever happens to be in vogue at the moment. Those requirements, like this one, are not supported by any justifiable government interest sufficient to override the candidate's First Amendment right to run his or her own campaign.

The mischief that could be caused by this provision can be readily predicted. Section 604(b) of the bill would grant the FEC authority to seek a temporary restraining order if "there is insufficient time to conduct [normal] proceedings before the election * * *." Even private parties could seek such relief under Section 604(a) in the event the FEC deadlocked. The mere threat of such an injunction could be enough to cause serious disruption during the final days of a presidential election campaign.

Mr. MCCONNELL. Finally, Mr. President, the last memorandum which I ask unanimous consent to have printed in the RECORD explains in some detail the roughshod treatment which third party candidates receive under this bill. Not only does this incumbent drafted bill clearly protect the interests of incumbents, it also clearly protects the interests of the two major parties in a way that offends the first and fourteenth amendments of the Constitution.

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

MEMORANDUM—CAMPAIGN FINANCE AMENDMENTS—DISCRIMINATION AGAINST NON-PARTY CANDIDATES

ISSUE PRESENTED

Whether the proposed campaign finance amendments impermissibly discriminate against nonmajor party candidates.

CONCLUSION

1. The proposed campaign finance amendments discriminate on their face against non-major party Senate candidates by providing them with fewer communication vouchers than are provided to major party Senate candidates, forcing them into an unfair dilemma: they must either elect the supposedly "voluntary" system of public subsidies, and thus suffer a severe financial disadvantage in relation to major party candidates, or they can campaign with private funds but be subject to severe punitive measures—extensive federal subsidies to their opponents and additional subsidies to their opponents if they exceed the expenditure ceiling—for refusing to accept public funding. This discrimination based on status offends due process and equal protection as embodied in the Fifth Amendment to the United States Constitution.

2. The amendments also differentiate between major party and non-major party Senate candidates with respect to the amount of funds they are provided if their opponents violate the amendments' expenditure limits. The distinction and disparity in treatment is wholly arbitrary, and without constitutional support or authority.

ANALYSIS

A. Voter communication vouchers

Section 503(c) of the proposed campaign finance amendments facially discriminates against non-major party Senate candidates[1] with respect to the number of voter communication vouchers they are provided:

"(c) VOTER COMMUNICATION VOUCHERS.—(1) The aggregate amount of voter communication vouchers issued to an eligible Senate candidate shall be equal to 20 percent of the general election expenditure limit under section 502(b) (10 percent of such limit if such candidate is not a major party candidate)."

Thus, major party Senate candidates are provided with twice the number of communication vouchers as non-major party Senate candidates, *regardless of the historical strength of support for the respective candidates.*

Such bald discrimination against non-major party candidates violates equal protection as guaranteed by the Fifth Amendment to the United States Constitution. Different treatment of major and non-major party candidates received careful review by the Supreme Court in *Buckley* v. *Valeo*, 424 U.S. 1, 93–96 (1976). The 1974 Federal Election Campaign Act contained a similar disparity between the funding provided major and non-major party Presidential candidates. The *Buckley* Court sanctioned this disparity because it was based on the legitimate goal of supporting only those candidates with a reasonable chance at success, *as measured by the historical strength* of the candidates' parties in the previous Presidential election. The Court emphasized that "acceptance of public funding [under the 1974 Act] entails voluntary acceptance of an expenditure ceiling. Non-eligible candidates are *not* subject to that limitation." *Id. at 95.*

The disparate treatment in the proposed amendments, on the other hand, is not based on the strength of the performance of a candidate's party in the previous Senate election, but on the candidate's *status* as either major or non-major party members. Under the Federal Election Campaign Act, non-major party Presidential candidates are entitled to funding "based on the ratio of the vote received by the party's candidate in the preceding [Presidential] election to the average of the major-party candidates." *Buckley*, 424 U.S. at 88. Thus, a non-major party Presidential candidate will receive a greater amount of funds the greater the support for his party in the previous election. Although the funds received by a non-major party presidential candidate will never equal those received by a major party Presidential candidate, this disparity only reflects the relative historical strength of support for the respective party candidates, since by definition the candidates of the major parties received over 25% of the vote in the previous Presidential election, while the candidates of the non-major parties received less than 25% of the vote. In approving this scheme, the *Buckley* Court emphasized that "Congress'

[1] A non-major party candidate is a candidate: (1) who is not a member of a party receiving 25% or more of the popular vote in the last presidential election and (2) who did not qualify under state law for the ballot in a general election in an open primary in which all candidates for office participated and which resulted in at least one other candidate for the ballot in the general election. *See* Section 135(a)(23) and (and I.R.C. §9002(6) referenced therein).

interest in not funding hopeless candidacies with large sums of public money necessarily justifies the withholding of public assistance from candidates without significant public support." *Id.* at 96 (citations omitted). *See also American Party of Texas v. White*, 415 U.S. 792, 794 (1974).

The proposed amendments, however, discriminate against non-major party Senate candidates *regardless* of historical strength of support. If the Senate candidate is not a member of a party which received over 25% of the national vote in the preceding Presidential election, and if the Senate candidate did not qualify for the general election in an open primary election, then he will be labeled a non-major party candidate, regardless of the historical support for his party's candidates in the particular *Senate* election. For example, a non-major party Senate candidate may be an incumbent who received over 60% of the vote in the previous election. Nonetheless, he will receive only one-half the number of communication vouchers as his major party challenger. Such discrimination, which is based purely on the status of the candidate's party as "major" or "non-major," and which does not take into account the historical strength of support for the Senate candidate or his party's past candidates for the relevant Senate office, is plainly unconstitutional.

Moreover, the current bill would remove a non-major party candidate's unfettered right to opt out of public funding by imposing an array of punitive measures on non-participating candidates. For example, in addition to receiving broadcast vouchers and subsidized mail rates, Senate candidates who agreed to the expenditure limitations would receive huge subsidies from the federal government if their non-participating, non-major party opponent exceeded that limitation. This "damned if you do, damned if you don't" is not sanctioned by the holding in *Buckley*.

B. Excess expenditure amounts

Among the proposed campaign finance amendments' enforcement mechanisms for ensuring compliance with their expenditure limits is the provision of increased aid to a non-complying Senate candidate's opponent in the form of an "excess expenditure amount." Section 503(b)(3) of the proposed amendments sets forth the method for calculating the "excess expenditure amount." If a non-complying Senate candidate exceeds the general election expenditure limit by an amount of anywhere from $1 to one-third of the entire expenditure limit, a major party opponent is provided with an "excess expenditure amount" equal to one-third of the entire expenditure limit. If the non-complying Senate candidate exceeds the expenditure limit by anywhere from one-third to two-thirds of the limit, the opponent is provided with an "excess expenditure amount" of two-thirds of the limit. And if the non-complying Senate candidate exceeds the limit by anywhere from two-thirds of the limit upwards, the major party candidate is provided with an "excess expenditure amount" equal to 100% of the expenditure limit.

A different rule holds, however, if the opponent is a non-major party candidate. If the non-complying Senate candidate's opponent is a non-major party candidate, then the non-major party Senate candidate is provided with an "excess expenditure amount" of the lesser of: (1) an amount equal to the contributions he has received in excess of the threshold contribution limit or (2) one-half of his opponent's general expenditure limit. As explained above, this difference is wholly arbitrary and, to the extent it provides greater benefits on the basis of *status*—major party candidates—it is constitutionally indefensible.

Mr. McCONNELL. On one other issue which arose late in the debate but is of paramount constitutional importance is the vast increase in power transmitted to the Federal Election Commission by this legislation. The bill gives the general counsel of the Commission—actually the bill, as amended now, does not but would have—the bill gives the general counsel of the Commission, an unelected, unappointed bureaucrat, unprecedented powers to harass candidates, contributors, and private citizens exercising their first amendment rights.

The bill gives the general counsel a deciding vote in all cases where the six Commissioners are deadlocked on whether to proceed with an investigation. Up to now, the Commission has been truly bipartisan with both parties selecting equal numbers of Commissioners. This change in the law, should it be returned to the bill in any form, would abruptly change the balance of power.

The general counsel, also, under the original bill, stood to gain immense powers to issue subpoenas and compel testimony merely at his own personal whim. These measures have the effect of anointing the general counsel as campaign czar.

Additional constitutional flaws, Mr. President: An amendment lifting all out-of-State fundraising until the last 2 years of a Senate election cycle raises serious constitutional questions; a 50-percent broadcast discount, the Supreme Court may wish to review whether this qualifies as a taking, the subject of the Nickles amendment, the Nickles-Burns amendment, which will be voted on before 2 o'clock; an amendment requiring that all letters to the editor which advocate the election or defeat of a candidate be filed in advance with the Federal Election Commission or the Secretary of State certainly raises serious constitutional questions. Others may also want to challenge the bundling restrictions in the legislation, the incumbents-only provisions for candidate travel to be exempt from the spending limits. This violates the 14th amendment by discriminating against challengers in favor of incumbents.

With all of these constitutional flaws in mind, flaws which go to the heart of the bill and, in effect, nearly every one of its major provisions, I will raise—and the Senator from Oklahoma, who is not on the floor at the moment knows that I will raise it—a point of order against S. 3, as amended, on the ground that it violates the first amendment of the Constitution.

Now, Mr. President, the Senator from Oklahoma would like to have a few moments to speak in opposition to this. He is in the Senate Finance Committee on a very important issue as we speak, and by understanding with him I am going to ask unanimous consent to temporarily lay aside the constitutional point of order. He has indicated he will not make a motion to table the constitutional point of order but simply wants to speak in opposition to it at the appropriate time. He and I are hoping that we will be able to stack these amendments, beginning sometime around 1 o'clock or a little after. We will do that after consultation, obviously, with the majority so that we can minimize the inconvenience to Senators moving toward a final vote at 2 o'clock.

So, Mr. President, I ask unanimous consent that my constitutional point of order be temporarily laid aside.

THE PRESIDING OFFICER. Without objection, it is so ordered.

Is the Senator making a point of order at this time or is he reserving that?

Mr. McCONNELL. I say to the President, I wish to make a parliamentary inquiry as to when the Senator from Kentucky should make the constitutional point of order.

The PRESIDING OFFICER. The point of order would be in order any time prior to 2 o'clock.

Mr. McCONNELL. The constitutional point of order then does not need to be made at this moment; it can be made at any time prior to 2 o'clock?

The PRESIDING OFFICER. That is right.

Mr. McCONNELL. The constitutional point of order I will make will be made against the entire amendment, and it is my understanding based on what the Chair has just stated that I can make that constitutional point of order against the entire bill at any time prior to 2 o'clock.

The PRESIDING OFFICER. The Senator from Kentucky is correct.

Mr. McCONNELL. I thank the Chair. I yield the floor.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

ORDER OF PROCEDURE

Mr. LIEBERMAN. Mr. President, I ask unanimous consent to proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN addressed the Chair.

AGREEMENT OF THE SENATE FINANCE COMMITTEE

Mr. LIEBERMAN. Mr. President, I rise to speak in reaction to the agreement among the Democratic Members of the Senate Finance Committee which was announced yesterday. In doing so, I want to go back to the President's State of the Union Message

earlier this year and other comments that the President has made about his goals and his challenges with regard to the economy.

As the President said in his State of the Union speech, he is trying to do two things, and we have to try to do two things at once that have not often be done at once successfully. And that is because of the difficult situation that the President has inherited, simultaneously, to try to cut the deficit, to stimulate a weak economy, and to create jobs.

As part of doing that, the President has set out some significant goals. One was to reduce the deficit by $500 billion over the next 5 years. Another was to stimulate a genuine economic recovery, which means to create jobs for the millions of people who lost their jobs in the recession that the economists tell us we're out of. But a lot of people out there do not really feel we're out of the recession based on the lives they are leading.

Mr. President, as I look at this agreement from the Democratic members of the Finance Committee, it seems to be that it achieves some substantial deficit reduction. But I am deeply troubled that at the same time it has removed from the President's program and from the House-passed legislation most of the incentives for an economic recovery, most of the incentives for job creation. And in doing so, the Finance Committee has presented us with a program that does not really achieve what is uppermost on the minds of the American people today; that is, jobs and jobs creation—protecting jobs for those who still have them and creating jobs for those who have lost them in this recession.

Mr. President, the truth is that if we could set the deficit aside we'd look at our economy as it is today and any of us in our right mind would not be raising taxes. We would be cutting taxes. That's what our Government has traditionally done when the economy was weak. We're inhibited in our ability to do that because of the need to cut the deficit.

But I think that by eliminating the incentives for investment, by eliminating some of the tax cuts within the program as it has moved along from the White House through Congress, we are making a big mistake that will make it even harder for our economy to recover, and for our people to be employed.

Now this agreement that was announced yesterday takes some steps in the right direction. Some taxes are cut back. The tax increases are somewhat less than they would otherwise would be. More spending cuts are adopted, but there's still a lot of tax increases in this program, and though those tax increases will go, according to the President's recommendation, into a trust fund directly to cut the deficit, they will, I fear, also have the effect, by taking money out of the economy, of making it harder for this economy of ours to get pumping again in creating jobs.

And that is why the investment incentives, the tax cuts, that were in this program are so critically important and why I am so disappointed that they've been left out of this Finance Committee agreement.

My friend and colleague from Arkansas, Senator, DALE BUMPERS, was quoted in the newspaper today saying that the omission of the capital gains tax cut from the Finance bill—which was only partially included in the President's plan to begin with—I quote my friend and colleague from Arkansas, "outrageous." And he's right, it is outrageous.

Mr. President, the Government cannot and should not create the jobs that we need in our economy, in our country. The private sector can and will create the jobs if we give them the opportunity and if we give them a few incentives to help make that happen.

We all talk so much around here about small business. I was thinking the other day that we rhetorically embrace small business but then we programmatically strangle small business. We say that small business is where the jobs are going to be created and that's right. Look at the last decade. Big businesses lost about 2 million jobs. The jobs that were created through the eighties, 10 million, were created in small businesses.

Small businesses need capital. A lot of them are still having trouble getting it from the banks. Small startup businesses that develop into the big businesses that create the jobs need the kind of investment that the targeted capital gains tax cut would have provided for. But it's out of the bill. And not only that, to add insult to injury, the capital gains tax rate that exists now is actually raised for wealthier taxpayers. I know people think that people of wealth can just keep paying and paying. But people of wealth, well it's the old Willy Sutton line. Why did he rob banks? Because that's where the money is.

Why do we want to create a tax system to encourage people of wealth to put their money into productive investments in our society instead of dropping it into passive investments that do not help us is because they have the money. And that's what the capital gains tax cut proposal is all about.

But the shortcomings on the investment side of the agreement announced yesterday do not stop there, I am afraid. They do not stop at the capital gains tax cut. They also knock out the empowerment zones, the enterprise zones which the administration proposed as a way to engage the energy and resources of the private sector to help revive some of the most desperate areas of our country, poor urban areas, poor rural areas, poor Indian reservations. And the judgment here, again going back to the premise that the Government can't and shouldn't do that, is that if you cut some taxes to create incentives, yes you deprive the Government of some revenues, but you leverage that investment that you are making many times over because you are bringing in private capital to create jobs for people in our poorest areas. That is gone from this bill. I think that's a terrible mistake.

Other incentives for the business community have been reduced. Small businesses in the House-approved measure were allowed to write off $25,000 of equipment purchases. That has been knocked back to $15,000. That will make it a little harder for small businesses that are trying to invest and create new jobs. The President recommended some reform of the alternative minimum tax. That's another way to create some funds to create some investment. That is reduced in this agreement.

The writeoffs to companies that acquire intangible assets and takeovers is still there, but again it is reduced from the House bill. The passive loss deductions for real estate professionals, this is all arcane and technical, but, Mr. President, it is the real estate industry that collapsed in States like mine in Connecticut that brought the rest of the economy down with it. Unless we can revive at least in part that real estate industry, the rest of the economy is going to have a hard time coming back.

So as I look at the program, I'm troubled by the absence of incentives for investment. Without those incentives, without those tax cuts, we are not going to have the economic recovery that we need. We get focused on getting a package passed, and that's understandable, that's our job, and I think the country will be happy if we get a package passed. But then, we have to ask ourselves the next question: Will it work? Not only will it reduce the deficit, but will it help the economy to recover and create and protect jobs?

I rose today to say that I am profoundly troubled, but I will go beyond that. I'd say that you would have to work hard to convince me that this package—which takes so much out of the economy and yet removes all of those tax cuts and incentives for investment and growth—will really work to do what we want it to do. It's like Government itself. Someone said to me the other day and it's true, we spend too much time worrying about what goes into the pipe, and not enough time worrying about what comes out, the results. That is the concern that I have about the agreement announced today.

As much as I appreciate the tremendous effort that was made by the

Democratic members of the Finance Committee, as much as I appreciate the difficult economic circumstances in which they are operating—no easy choices, all painful choices—and as much as I appreciate the fact that they did cut some of the tax increases and did cut some more spending, I say respectfully that I believe they erred in cutting out this wide range of incentives for investment in our economy. These incentives are designed to generate genuine economic growth and to create jobs.

That is why I look forward to working with Members of the Senate, both parties, to see that when this measure reaches the floor, we can, in a responsible way, understanding the fact that we're probably going to have to come up with some more spending cuts, put back in some of these tax incentives and tax cuts. I think that's our responsibility. It's also our opportunity.

The bottom line is this: We'd better do it if this program is not only going to pass, but if it's going to work.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONGRESSIONAL SPENDING LIMIT AND ELECTION REFORM ACT OF 1993

The Senate continued with the consideration of the bill.

Mr. DORGAN. Mr. President, I have listened to my friend from Kentucky on the subject of this campaign finance reform bill, most especially on the subject of the tax provision in it. I wanted to make a couple of comments, because I understand that he rather artfully describes it as "a tax on speech" when, in fact, it is nothing of the sort.

Before I respond to that, let me say that the core of this legislative proposal is to propose limits on campaign spending. The Senator from Kentucky indicated yesterday that he did not support limits on spending, and I understand that.

Mr. McCONNELL. If the Senator will yield on that point, the Senator knows, I assume, that the Supreme Court said that spending is speech; they are interchangeable.

Mr. DORGAN. I understand what the Supreme Court said in the case on this subject. The point I was making is that the Senator from Kentucky indicated, as a matter of philosophy, that he did not support spending limitations in campaigns. I point out that we are in a time in this town and in this body where the refrain that you hear from virtually every desk on all sides in this Chamber is that we ought to cut spending.

Cut spending, they say. Cut spending; spending is the problem. Cut spending. Cut Medicare. Cut Medicaid.

But then we talk about spending in political campaigns, where people say: Do not cut us. Do not cut spending; do not cut spending in political campaigns.

I think it is appropriate to describe the problem in American politics as too much spending and, therefore, we ought to impose spending limits which is, in effect, cutting spending in the area where I think it really counts.

Mr. McCONNELL. Mr. President, will the Senator yield?

Mr. DORGAN. I am happy to yield to my friend from Kentucky.

Mr. McCONNELL. Is the Senator aware spending in campaigns come from voluntary donations from individuals and PAC's, and not tax dollars?

Mr. DORGAN. Mr. President, I am quite aware of that.

The point is, if the problem is spending, as it is in the Federal budget, and the solution is to cut spending, I understand the chorus and I join the chorus. We are going to cut spending and, in fact, the reconciliation bill we are going to bring to the floor of the Senate is going to cut spending more than the President recommends.

If, in political campaigns, the problem is spending, it does not matter whose money you are spending, if it is out-of-control spending. Why not cut spending in political campaigns, if the problem is spending?

Why would we say the solution to spending in other areas is to cut spending, but the solution to excess spending in campaigns is to protect politicians by saying, "Do not cut us"?

There is a legitimate philosophical difference here on the question. Is there a problem with too much spending in campaigns, first of all? I think yes. Should we try to impose some limit, albeit a voluntary limit, on campaign spending in order to resolve this problem? I think yes.

The Senator from Kentucky says no, there is not a problem with spending. I was in the chair and heard the lengthy description of that, on which we disagree. I certainly respect the opinion of the Senator from Kentucky. I think he is wrong. I think if you go into a town meeting anyplace in this country and ask people what they think, they will tell you what they think. I think the people are right.

The fact is, spending in this country has mushroomed in campaigns. It is not unusual for millions of dollars to be spent in Senate campaigns, where only hundreds of thousands of dollars were spent previously.

We would do ourselves a service, we would do the country a service, and we would certainly do the political system a service in this country, in my judgment, if we began to impose some spending limits.

The Supreme Court says we cannot do that on a mandatory basis, even if we wanted to.

So we say let us find a way to provide incentives to do it on a voluntary basis, and we have done that.

One of the approaches in that piece of legislation is to say that those who do not accept the voluntary spending limits will not be granted a tax exemption. Political campaigns are tax exempt. That is something bestowed upon them by Federal law. It is not a right. It is not automatic. It is just that, currently, we say those activities are tax exempt.

This legislation simply says we will withdraw the tax exemption and subject the contributions to a tax of 34 percent on the contributions if one chooses not to accept spending limits.

The point is not to tax speech. The point is to say to those who want to spend more than the limits, to say only to those who are the big spenders in campaigns: You decide whether you want to tax yourselves. If you want to spend over the limit, you have chosen to embrace a tax on the contributions to your campaign. Your organization is going to have to bear that tax.

This is not a tax someone imposes on you. This is a tax you impose upon yourself by deciding not to accept spending limits.

I only rise to point that out because the Senator from Kentucky is, I think, a skilled debater, very artful in the way he described this as a tax on speech. In fact, it is nothing of the kind. It is not a tax on speech. It is simply to try to reinforce a desire to have voluntary spending limits from those of us who believe one of the major problems in campaign spending is there is too much money in American political campaigns.

If one believes there is not too much money floating around here in campaigns, then one would want to oppose this. If one thinks things are fine at this point, and let us not have changes, then one will want to oppose this.

If someone believes—as most American people understand—we have a serious problem, we have exponential increases in spending on American campaigns in our political system, especially for the House and the Senate, and it would be a constructive step to try to establish some kind of spending limits for House and Senate campaigns, then one would want to embrace the proposal as a reasonable proposal to advance towards a solution to deal with campaign finance reform.

I again say that I respect the Senator from Kentucky. I think he makes his case very well. I do not think he makes the case well when he says this proposal is a tax on speech.

I think the Senator from Kentucky could well revise that by saying this, in

fact, is an attempt by some of us who believe we ought to limit spending in campaigns and have found ways to do it that we think would be effective.

I will be happy to yield to my friend from Kentucky.

Mr. MCCONNELL. Mr. President, briefly, in response to my good friend from North Dakota, I did not make this up. The Supreme Court of the United States said spending was speech.

The ACLU, in a recent memorandum, said that the Supreme Court has long held that the Government cannot require the people to pay a tax for exercise of that which the first amendment has made a constitutional privilege.

This is not something the Senator from Kentucky sort of pulled out of thin air. We are talking about a well-established legal precedent.

The Supreme Court, in the Buckley case, and this is a direct quote, said:

> The mere growth in the cost of Federal election campaigns in and of itself provides no basis for Government restrictions on the quantity of campaign spending and the resulting limitation on the scope of Federal campaigns. The first amendment denies Government the power to determine that spending to promote one's political views is wasteful, excessive, or unwise.

Just one final sentence.

> In the free society ordained by our Constitution, it is not the Government, but the people, individually as citizens and candidates, and collectively as associations and political committees, who must retain control over the quantity and range of debate on public issues in a political campaign.

I understand what my friend from North Dakota is saying, and reasonable people can differ. All I am saying is I did not sort of just pull this out of the air, the observations I made about either the tax on speech or the Supreme Court's clear and unambiguous decision that spending was speech. The Court will get a chance to take a look at this again, and revisit the issue.

I understand the view the Senator from North Dakota has. If there is too much speech going on in these campaigns, that is the sort of thing——

Mr. DORGAN. Mr. President, if I may reclaim my time, it is not a discussion underway here about how much speech goes on in the campaign. Lord knows that political candidates in this country speak too much, run too long, bore the American people half to death. That is not the issue.

No one is suggesting there be a limit on speech. This proposal, incidentally, does not tax speech. I think the Senator from Kentucky understands that this proposal is a proposal that would simply withdraw a tax exemption that is now given not as a matter of right, it is a tax exemption that the legislative process has decided to bestow on these organizations, including political organizations.

The Supreme Court has repeatedly recognized that the tax exemption is a matter of legislative grace, and they have reasoned that Congress may impose whatever conditions it deemed appropriate on the award of that tax exemption as long as the limits are content neutral.

There is a 1983 ruling, Washington, versus Regan. The Court upheld the same sort of requirements.

The point I make to the Senator is that no one is saying if you speak, someone is going to tax you. That is not the issue, simply not the issue. It is not a tax on speech.

We are simply saying if you think it is productive to limit spending in campaigns—I happen to think it is—then why should we not create conditions under which it would be advantageous for candidates to accept some kind of spending limits?

One of the conditions under which we would do that is to say those who do not accept those limits probably ought not be given a basic tax exemption. That is the point I make.

I am here only because when I hear someone say that our side is proposing a tax on political speech, I say nonsense. No one has suggested anything of the kind. Our side is saying we would like to limit campaign spending.

I understand there is a lot of opposition to that, because some of you think it is healthy to go out and chase tens of millions of dollars, to be free to do that so you can conduct campaigns for 18 years.

Campaigns are too long. They need to be improved and shortened. It seems to me we would do the American people a service if we had some sort of limit. Buckly versus Valeo said we cannot do that. We cannot do it in a mandatory way.

So we have constructed a method by which we think we could do that in a voluntary way, that would probably persuade most people to accept it.

That is the only point I want to make.

I understand that the compromise which was reached last evening is not perfect. The Senator from Oklahoma, I think, did a masterful job, working with others in the Chamber, to perfect a compromise. There are parts of this I do not like. But, generally speaking, I think we are on the right track.

We think there is too much money in campaigns. We do not propose to tax speech. We propose to establish voluntary limits on campaign expenditures. Those who oppose that should vote against this. But those who believe, as we do, that there is too much money floating around and that we ought to try to establish some limits ought to support this.

I yield the floor.

Mr. BOREN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Mr. President, I know that my colleague from Kentucky wants to vote very soon. I do not want to delay that because we want to make sure we have a chance for a vote on his point of order and also a vote on the pending Nickles amendment before the hour of 2 o'clock arrives, so I will try to be brief on this matter.

First, let me address myself to the constitutional point of order about to be raised by my colleague from Kentucky.

There is no question that any legislation dealing with political campaigns and political speech involves delicate constitutional questions.

I understand those questions. In another life, I was a college professor and one of the courses I taught was constitutional law.

The Court, in Buckley versus Valeo, upheld restrictions on political contributions, but it ruled that Congress could not force a limit on how much an individual could spend, either for his or her own campaign or on independent expenditures.

But in the Buckley case, the Court also upheld the voluntary spending limits that are in place in Presidential campaigns. So the Court has never ruled that a system of inducements for voluntary compliance much like what we have in the Presidential system is unconstitutional. In fact, to the contrary, that has been allowed to go forward.

In writing this legislation, we have made great efforts to follow the Buckley decision and to construct a voluntary spending limits system that would pass constitutional muster. We have contacted constitutional scholars and legal experts. We have had the American law section of the Congressional Research Service prepare memorandums on constitutional questions to provide advice for us in the course of drafting this legislation and in the course of amending this legislation.

We believe, of course, that we have written these provisions within the context and within the constraints of the Buckley decision. And we believe that we have written it consistent with the requirements of the U.S. Constitution as they have been interpreted by the U.S. Supreme Court.

Of course, the legislative branch is not the branch of Government that will make the ultimate determination of this question.

And we have acceded yesterday to an amendment by the Senator from Kentucky that will allow the expeditious consideration of this matter by the Supreme Court. We feel confident that the Supreme Court will rule in favor of the validity of this legislation if it comes to the Court in its current form.

It is not our responsibility to make a final ruling on this issue. As interested as Members of this body are in the constitutional question, as much as we have tried to inform ourselves, as much as we have researched the issue, clearly

this is an issue that will ultimately be decided by the Supreme Court of the United States. And it is my hope that we will not use the constitutional argument, which must be decided ultimately by the Court, to prevent us from going forward on important campaign finance reform. That decision will be left to the Court ultimately.

And we have, as I say, a provision in bill providing for expedited Court review to determine the constitutionality of this legislation.

I know that the Senator from Kentucky has constitutional concerns. He has raised those questions. I know he has read the Buckley decision and he has researched it thoroughly and presented his point of view on it. But I think, while we could argue this at length, we feel we have devised a system that meets the test of the Buckley case.

Mr. President, I ask unanimous consent to have printed in the RECORD an article from the Brookings Review, entitled "Stopping the Buck Here, the Case for Campaign Spending Limits," by Jonathan Krasno and Donald Green, which goes to these constitutional points.

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

[From the Brookings Review, spring 1993]

STOPPING THE BUCK HERE: THE CASE FOR CAMPAIGN SPENDING LIMITS

(By Jonathan S. Krasno and Donald Philip Green)

Everybody—the public, members of Congress, campaign contributors, and, as always, Common Cause—seems to be dissatisfied with the way congressional campaigns are financed. The call for change is loud and steady. Campaign finance reform is such a prominent issue that all three presidential candidates featured it conspicuously in their campaigns last fall. Now that the days of gridlock are over and Democrats control both Congress and the presidency, supporters of reform are optimistic that this year something will actually get done.

The problem is what to do. Incumbents complain that the current system transforms them from legislators into fundraisers who constantly hunt for money out of the fear that their next opponent will be well-financed. Challengers have a different grievance: they claim that the system is stacked against them in that it allows incumbents to raise funds far more easily than they can. The image of politicians' endless chase for money, fueled by the inevitable articles about this PAC or that, makes an already cynical public even more critical of Congress. The charge that members trade votes for contributions, however, exaggerated, remains a serious concern.

There is a partisan twist to this issue, too. Because Democrats and Republicans raise money from different sources, any change in policy might affect one party more than the other. As a result, beyond agreeing that the existing system is a mess. Democrats and Republicans see eye to eye on little else. Republicans favor party campaign committees and individual contributors. Democrats want to preserve political action committees' and labor unions' role. But the fiercest point of contention is whether to slow the money chase by setting limits on the amount candidates can spend on their campaigns.

Democrats have long maintained that spending ceilings are an essential part of any campaign finance reform package. They claim that limits will both free candidates from the demands of constant fundraising and reduce the influence of monied interests. Republicans are viscerally opposed to spending limits, which they regard as a Democratic ploy that will guarantee the reelection of incumbents and, not coincidentally, a continued Democratic majority in Congress. That belief has derailed campaign finance legislation in the past, and it may prove strong enough to do it again in the current, 103rd Congress.

Last year a far-reaching campaign finance reform bill that included limits on campaign spending passed both the House and the Senate, only to be vetoed by George Bush. With Bill Clinton in the White House, the outlook for enactment will be different. But there is nothing automatic about the bill's prospects. Recent foot-dragging by the Democratic leadership suggests that some members who supported it last year did so knowing that Bush would veto it. The large turnover on Capitol Hill as a result of last fall's elections is another question mark.

The biggest hurdle for campaign reform this year, as in the past, will be the Republicans' conviction—buttressed by the preponderance of academic analysis—that a bill with spending limits is a virtual Incumbent Protection Act. But that view, which for years has stood in the way of campaign finance reform, is simply mistaken. Spending limits will not harm challengers' chances or make congressional elections less competitive.

THE REPUBLICAN CASE FOR UNLIMITED SPENDING

The case against spending limits, no matter who is making it, starts with the image of the almost invulnerable incumbent. And it is a fact that incumbents rarely lose—in the past 10 years, for example, more than 95 percent of House incumbents have won reelection. Among the reasons why are the familiar perquisites of office like the franking privilege, which allows incumbents to flood their constituents' mailboxes with self-serving missives, and the casework incumbents do to cut through government red tape and secure services for their constituents.

The result is an incumbent advantage in voter familiarity, approval, and even affection that is extremely difficult for challengers to overcome. That's where Republicans believe that money comes in. To defeat entrenched incumbents, they reason, challengers must outspend them. In fact, challengers must spend every dollar they can if they are to have any hope of overcoming their political handicap.

Are the Republicans right? Our analysis examines the impact of campaign spending and spending limits in 1,540 House races from 1976 to 1990. This set of races includes each contest in which an incumbent was opposed by a major party challenger in that particular election and in the previous election (we excluded 1982 because of redistricting). We focused our attention on these districts because our statistical analysis relies on historical voting patterns. (Because spending patterns in Senate elections vary so much as a result of population differences among states, we concentrate on House races, but ongoing research on Senate elections points to the same conclusions.)

As it turns out, money is essential for challengers, but they do not necessarily have to spend more of it than incumbents do. Winning challengers spent almost four times more money than the average challenger ($490,000, as compared with $130,000 in 1990 dollars). But among the 66 challengers who won (4.3 percent of the sample), fewer than half (46 percent) managed to outdo the incumbent. Republican conventional wisdom to the contrary, outspending incumbents does not seem to be essential for challengers.

What about all those challengers who lost? They usually ended up swamped in a sea of incumbent dollars. Incumbents outspent challengers by an average of more than $200,000. Designing a policy to protect the rights of the handful of challengers able to raise and spend more money than incumbents ignores the overwhelming majority of challengers who now cannot hope to raise money on that scale. If the Republican goal is to enhance competition, that is not the way to do it. Of course, one may hold out for some sort of system that will help challengers raise more money than incumbents. But hard as it is to imagine how that might be accomplished given the fund-raising advantages that come naturally to incumbents, it is even harder to imagine congressional incumbents passing a law to do it.

THE ACADEMIC ARGUMENT

Opposition to campaign spending limits is not confined to Republicans. Academic analysts of campaign finance, led by the Gary Jacobson of the University of California at San Diego, agree that spending limits would curtail challengers' ability to defeat incumbents. Jacobson has estimated the effects of campaign spending on election results using a model in which the vote is determined by four factors; incumbent spending, challenger spending, the challenger's percentage of votes in the past election, and national tides favoring one party or the other.

One of Jacobson's chief findings is that spending by incumbents has virtually no effect on the results. How can that be? The answer goes back to the image of the invulnerable incumbent. In Jacobson's view, incumbents' advantage in familiarity works against them as far as the productivity of their spending is concerned. Relatively well known to begin with, incumbents have already purchased by means of their other activities, the name recognition and favorable opinion that campaign dollars are meant to buy. By contrast, spending by challengers, who generally begin their campaigns in obscurity, has a substantial effect. As challengers gain prominence, the effect of their spending diminishes. Incumbents basically begin at the point of diminished returns as a result of their other activities.

In such a world, spending limits certainly would adversely affect challengers. Ceilings would restrict the amount they could spend—and the money they spend is the only money that influences the vote. Limits would have no consequences for incumbents, since their spending is essentially wasted.

LET'S TRY THAT AGAIN

Jacobson's view, of course, depends on Jacobson's numbers. Our numbers are different. As we see it, the effect of incumbent spending is substantial—in fact, many times larger than Jacobson estimates. Figure 1 shows the return from spending by incumbents and two types of challengers, a politically experienced one and a novice (the most common type of challenger). Both sorts of challengers receive more bang for their buck than incumbents, but incumbents are far from unable to influence election outcomes.

We reached this conclusion by using a model based on Jacobson's pioneering effort.

To his model we added a fifth variable, challenger quality, which measures the background characteristics of the challenger, such as political experience or celebrity status, that relate to political success. We also make allowances for the fact that politically experienced challengers are able to spend money more effectively than novices. Indeed, as figure 1 shows, challenger spending turns out to be most productive for high-quality challengers, those with the best product to sell.

Most important, our model solves one longstanding difficulty in accurately measuring the impact of incumbent spending. Incumbents are so good at raising money that they can simply raise and spend more when they feel it is necessary. The point at which they decide to spend more, of course, is the moment they sense that they are in some danger of losing. Thus, incumbents tend to spend more the worse they do—which makes it look as though their big spending has little effect on the election results.

We address the problem by using an incumbent's spending in the previous election as a gauge of his or her ability or taste for fundraising. Some representatives, such as Robert Dornan (R-CA) or former member Stephen Solarz (D-NY), are always on the list of top spenders, while William Natcher (D-KY) and Andrew Jacobs (D-IN), are always at the bottom. Compared with other members, these incumbents always spend a lot or a little, regardless of the opposition. By taking these tendencies into account, we can correct for that portion of incumbent spending that is a reaction to a surprisingly strong challenger. This adjustment reduces the number of cases in our analysis—as noted earlier—but the result is an estimate of incumbent spending effects that is sizable and sensible. Clearly, incumbent spending does influence election results, though, as figure 1 shows, its dollar-for-dollar effect is not as large as that of challenger spending. Our finding may come as no surprise to most incumbents, but it is a break from the accepted view among academics. How does it affect conclusions about the effect of spending limits?

WHAT WOULD LIMITS DO?

We can use our model not only to evaluate the effects of campaign spending in past elections, but to simulate what would have happened if spending limits had been introduced. We can, for example, posit a variety of spending ceilings, limit all candidates who spent in excess of the ceilings to those various dollar amounts, and then use our effect estimates to calculate the predicted vote in these 1,540 elections. What we find is that reasonable spending limits would not impair challengers' ability to win elections.

Our conclusion is such a departure from the conventional wisdom that a few words about its underlying logic are necessary. The essential fact about campaign spending in House elections is that incumbents almost always far outspend challengers. The result is that the net impact from incumbent spending is on par with the yield from challenger spending, despite the higher dollar-for-dollar productivity of challenger spending. In other words, when looking at figure 1, it is important to remember that we are not comparing the votes gained by incumbents and challengers at the same level of spending: incumbents usually spend several hundred thousand dollars more. Reasonable limits will aid most challengers by forcing economy on incumbents. Challengers themselves, who do not ordinarily spend beyond most ceilings seriously proposed, will be largely unaffected. To be sure, limits may slightly harm the tiny minority of challengers who can raise money above the spending ceiling, but this small cost is more than offset by improving the chances of other challengers as a result of greater financial parity with incumbents. Moreover, the loss of high-spending challengers is less than one might expect because of the diminishing marginal returns from spending shown in figure 1.

[Charts not reproducible in the RECORD.]

Figure 2 shows how spending limits would affect the vote in House elections. The horizontal gray line marks the predicted vote without limits—the status quo—and the red line is the predicted vote under various spending limits. With a $50,000 ceiling, the mean challenger vote peaks at 34.6 percent, a small gain in competitiveness over the existing system. But the most striking thing is that the average challenger is so badly outspent that even outlawing all campaign spending would be a slight improvement over the current system.

Of course, our concern is not primarily with "average" challengers, since victory remains so far from their grasp, but with challengers who might win. We measured the effect of spending limits on this group (figure 3) by calculating the number of challengers with more than 45 percent of the vote—a point marking the borderline of a close election—under various ceilings. Here low ceilings have adverse effects: limiting spending to less than $200,000 would reduce the number of close races to the number predicted without limits. However, limits at $200,000 or more produce as many or slightly more close races. And of the proposals seriously contemplated, none would set ceilings this low and thus none would impair the ability of challengers to compete against incumbents.

In a nutshell, reasonable limits would not make elections less competitive.

THE EFFECT OF PUBLIC FINANCING

Because of the 1976 Buckley v. Valeo Supreme Court ruling that mandatory campaign spending limits infringe on the right of free speech, spending limits, if enacted, will have to be combined with some sort of public financing to encourage candidates to abide by the limits voluntarily.

What effect does the combination of public subsidies and spending limits have on the prospects for challengers? We tested the impact of three different levels of public financing—outright grants of $100,000 and matching funds of up to $100,000 and $200,000—by adding the appropriate amount to each candidate's spending and calculating their predicted share of the vote. As others have argued, the electoral effect of public funding is unambiguous: challengers benefit enormously. What may be surprising is that sensible spending ceilings have no adverse impact on challengers in such a system.

As figure 4 shows, in terms of mean predicted vote, challengers benefit under all three types of public financing. Once again, challenger vote peaks at relatively low spending limits, then gently declines. At the higher levels contemplated by most lawmakers, challengers continue to do better than they do under the status quo.

Our particular interest, again, is with the top echelon of challengers—those who wage closely contested battles with incumbents. Spending subsidies substantially increase the number of serious challengers (figure 5). All the options yield more competitive challengers than the current system. Of course, surprising the current system is a small feat. What option creates the most competition? The outright grant of $100,000, by providing seed money for impoverished challenger campaigns, would do the best job. Challengers gain under the other subsidy plans as well. In short, the combination of public financing and reasonable spending limits makes for more competitive elections than does the existing system.

One might still imagine an argument against spending limits based on how they might affect each party. Republicans, after all, are convinced that spending limits will hurt them more than Democrats. To test for partisan differences in the effect of spending limits, we used our model to examine the plan passed by Congress and vetoed by Bush last year—$600,000 limits coupled with up to $200,000 in matching funds. As it turns out, both parties' challengers stand to gain from the reform: the number of close races involving Republican challengers increases from 119 to 140; the number involving Democratic challengers, from 69 to 85. Republicans may seize on that as evidence that such a system offers proportionately greater advantages to Democrats than to Republicans, but the difference is small and might be reversed by linking matching funds to individual contributions only and excluding PACs. In the end, it is clear that both parties' challengers would gain from the combination of spending limits and subsidies. Perhaps we should not write this where House incumbents might read it, but the combination of spending limits and subsidies passed by House incumbents last year would have reduced their chances for reelection.

It is important to stress that our findings probably underestimate the beneficial effects of these reforms for challengers. Campaign finance reform that includes public financing may well make it easier for challengers to raise funds from private sources. At the very least, the fact that public financing will help some challengers will inspire potential candidates to oppose incumbents. Currently, just one in seven House challengers has ever held elective office of any kind. Our study shows that not only do experienced candidates look more attractive to voters, they also spend money more effectively.

TOWARD MORE COMPETITIVE ELECTIONS

Insofar as the goal of campaign finance reform is to make elections more competitive, it is clear that reasonable campaign spending limits will not interfere. As usual, the devil is in the details. The cost of campaigning varies considerably across House districts (and far more so, of course, across Senate races). Most House candidates in Los Angeles cannot afford television, and so opt for mail and phone banks. In North Dakota television is relatively inexpensive. Such differences, naturally, could affect the influence of limits. Candidates in expensive districts might need more money than those in districts were it is relatively cheap to run for Congress. But the principles remain the same. Incumbents spend more than challengers, and their spending affects the vote. The financial equality promised by reasonable spending limits remains a step forward for most challengers, whether in Los Angeles or North Dakota. Adjustments might be made to the limits to account for these cost differences, or the pubic subsidies could be structured to allow candidates to take advantage of the mode of campaigning (television, telephoning, mail) that suits them best. This issue is resolvable.

Such complexities do not alter the fundamental fact revealed by our analysis: spending limits would not hinder challengers' ability to contest House elections. Of course, the best argument for spending

limits is based on congressional ethics, not electoral competition. And clearly, public financing would do far more to improve the odds for challengers than spending ceilings. The point is that the conventional wisdom that limits would hinder challengers is wrong. That leaves would-be reformers free to support campaign spending limits on the grounds that they would free candidates from the endless money chase, reduce potential conflicts of interest, and, best of all, help restore public faith in Congress.

(Mr. FEINGOLD assumed the chair.)

Mr. BOREN. Mr. President, let me also turn specifically to the question of a tax-exempt status. We have had discussion raised about the question of the tax that would be collected from campaign committees and whether or not we could grant a tax exemption to those complying candidates.

Let me say that is the issue—whether or not we are able to set conditions in granting special tax privileges or tax-exempt status to any particular organization.

I might say, Mr. President, that is the issue. We are not talking about taxing speech. We are not talking about taxing certain entities. We are talking about whether or not the Congress is empowered to grant a special status, a privileged status, a tax-exempt status to an organization.

The Supreme Court has repeatedly recognized that tax exemption is a matter of legislative grace. The Supreme Court has reasoned that Congress may impose whatever conditions it deems appropriate on the award of tax exemptions as long as the limits are content neutral.

Under a 1983 ruling on taxation without representation in Washington versus Regan, the Court upheld the requirement that to qualify for exemption as a 501(3)(c) organization, charitable organizations must restrain from substantial lobbying. While recognizing the organization's constitutional right to lobby, the Court held that Congress is not constitutionally required to subsidize that right through tax exemption.

So I think it is very clear that, while political organizations may have a constitutional right to make unlimited campaign expenditures, Congress is not constitutionally required to subsidize those expenditures through tax exemption.

And I point out this proposal does not discriminate among candidates on the basis of party affiliation or political beliefs. So it meets the test of neutrality. It meets the test under previous Court decisions, such as in the Regan case that I cite, that allow Congress the ability to decide what conditions should be imposed for the granting of special tax privileges.

Mr. President, I would like to turn now briefly from the point that has been raised in terms of the constitutionality that will be raised in the point of order shortly by my colleague from Kentucky to also talk for just a moment about the pending Nickles amendment, which would do away with the 50-percent discount for candidates under the bill in terms of broadcasting costs.

Let me say, we have been very careful to try not to go too far. And my colleagues will recall that when we have had provisions on the floor calling for free broadcast time, I have opposed those amendments because I think we should take this one step at a time in making sure that we are not being unfair to the broadcast industry. That is the reason we have held this to 50 percent, even though there have been proposals—the distinguished minority leader, Senator DOLE, and others who have argued at other times for totally free broadcast time—we have talked about a 50-percent discount in the lowest unit rate.

There is no question that we, again, have the right to do this. We grant a license to broadcasters. The people own the airwaves. The people grant that license to a particular broadcasting company. They are able to receive a substantial economic benefit by being given that exclusive license and, therefore, we have held for many, many years that we should have the right to impose conditions on the granting of those licenses. And, surely, one of the reasonable conditions would be to make sure that the American people, through the airwaves, are able to obtain information about candidates and issues in campaigns before they go to the polls to vote.

Mr. President, this issue strikes at the very heart of the bill before us. We all know that if we are to have spending limits in campaigns, if we are to stop the money chase in American politics, there must be sufficient incentives in place to induce candidates under the Supreme Court decision to voluntarily accept these spending limits.

This is perhaps the most critical of all of the benefits that would be conveyed to those candidates who accept spending limits. This is one of the most important, if not the most important, inducements to candidates to accept spending limits.

So, Mr. President, the issue with the Nickles amendment is the spending limits themselves.

As I have said over and over again, we have waited year after year after year to do something meaningful about campaign finance reform. We have waited year after year to stop the money chase in American politics. And as more and more money has flowed into campaigns—$300 million, $400 million, $600 million flowing into campaigns—more and more of it from special interest groups, more and more from political action committees, distorting the political process more and more, because the money goes to incumbents at the rate of 3 to 1 over challengers. And the American people see that, and the American people no longer believe that this institution belongs to them. They believe that it belongs to the special interests. They believe that it belongs to the special interests, and those who can pour the money into campaigns.

Mr. President, how long are we going to wait before we take action to stop the money chase in American politics and return Government back to the people again? This is our chance. We will have this chance this afternoon in a very few minutes, to cast a vote to finally begin to restore confidence in this institution, to restore American politics to being a contest between those who have ideas that will help solve the Nation's problems, a contest based on qualifications, a contest based upon a discussion of the issues related to the future of this country instead of a contest primarily based upon which candidate can raise the most money in a campaign.

Let us stop the money chase. Let us return integrity to the institution. Let us store the broken trust between the American people and the Congress of the United States. We are the trustees of this institution. We are the only people who have a vote on it.

Well over 80 percent of the American people say they want spending limits, they want to cut out the influence of so much money pouring into political campaigns. They do not have a vote today. We have a vote today. We are the trustees of this institution. We have a chance, speaking for the American people, acting for the American people, to put spending limits in place and to shut off the money chase in American politics. Let us not miss that opportunity. Let us not fail to meet our responsibility to the American people.

I urge my colleagues to vote down this amendment which would strike at the heart of our proposal to limit runaway spending in campaigns. I urge my colleagues to vote against the constitutional point of order that has been raised.

Let us take this important step in the right direction to bring reform, real reform to the American political system.

Mr. MCCONNELL. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending question is the Nickles amendment, amendment No. 465.

Mr. MCCONNELL. Mr. President, I ask unanimous consent the Nickles amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCONNELL. Mr. President, I earlier outlined all the constitutional flaws in the underlying bill which go to the heart of the bill and infect nearly every one of its major provisions. I now

raise a point of order against S. 3, as amended, on the ground it violates the first amendment of the U.S. Constitution, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MCCONNELL. Senator BOREN's citation of the Regan case is not on point, because the count was reviewing whether the Government could decide not to subsidize speech, as a general proposition. In that case, and particularly in Rust versus Sullivan, The Court made clear that if the Congress had made an affirmative decision to grant a tax exemption for speech-related activity, it could not then seek to use that exemption to restrict the scope or content of the speech itself. Justice O'Connor, writing in the Rust case, made it clear that if the title X funds in question had been appropriated for the purpose of subsidizing speech, instead of family planning services, she would be obliged to strike the content-based restrictions imposed by Federal regulations adopted during the Reagan administration.

The Exon-Durenberger tax without question imposes discriminatory tax treatment on campaign committees, based on candidates' constitutionally protected right to speak freely and without regard to Government-imposed speech spending limits. Unlike the denial of tax exemption involved in the Regan case, where the Government had decided as a general matter not to subsidize speech with a tax exemption, the Exon-Durenberger amendment represents a boldfaced attempt to coerce candidates to limit their speech—in violation of their constitutional rights—by selectively extending tax exemption only to those candidates who agree to surrender their first amendment freedom. Such obvious discriminatory treatment—aimed directly at the exercise of constitutionally protected freedoms—is blatantly hostile to the first amendment and cannot withstand constitutional scrutiny. The Regan case has no bearing in this case, because the Court already has signaled a constitutional distinction between a Government decision not to subsidize speech generically, and a Government decision to actively punish certain expressions of speech, based on its scope or content.

The PRESIDING OFFICER. Under the precedents and practices of the Senate, the Chair has no power or authority to pass on such a point of order. The Chair, therefore, under the precedents of the Senate, submits the question to the Senate. Is the point of order well taken?

The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. DOLE. Mr. President, I announce that the Senator from Wyoming [Mr. SIMPSON] is necessarily absent today due to the death of his father.

I also announce that the Senator from Pennsylvania [Mr. SPECTER] is absent due to illness.

I further announce that, if present and voting, the Senator from Wyoming [Mr. SIMPSON] would vote "yea."

The yeas and nays resulted—yeas 39, nays 59, as follows:

[Rollcall Vote No. 156 Leg.]

YEAS—39

Bennett	Gorton	Mack
Bond	Gramm	McConnell
Brown	Grassley	Murkowski
Burns	Gregg	Nickles
Coats	Hatch	Packwood
Cochran	Hatfield	Pressler
Coverdell	Heflin	Roth
Craig	Helms	Shelby
D'Amato	Hollings	Smith
Danforth	Hutchison	Stevens
Dole	Kempthorne	Thurmond
Domenici	Lott	Wallop
Faircloth	Lugar	Warner

NAYS—59

Akaka	Exon	McCain
Baucus	Feingold	Metzenbaum
Biden	Feinstein	Mikulski
Bingaman	Ford	Mitchell
Boren	Glenn	Moseley-Braun
Boxer	Graham	Moynihan
Bradley	Harkin	Murray
Breaux	Inouye	Nunn
Bryan	Jeffords	Pell
Bumpers	Johnston	Pryor
Byrd	Kassebaum	Reid
Campbell	Kennedy	Riegle
Chafee	Kerrey	Robb
Cohen	Kerry	Rockefeller
Conrad	Kohl	Sarbanes
Daschle	Lautenberg	Sasser
DeConcini	Leahy	Simon
Dodd	Levin	Wellstone
Dorgan	Lieberman	Wofford
Durenberger	Mathews	

NOT VOTING—2

Simpson	Specter

The PRESIDING OFFICER. The point of order is not sustained.

Mr. BOREN. Mr. President, I move to reconsider the vote.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 465

Mr. BOREN. Mr. President, I move to table the pending Nickles amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. BOREN. Mr. President, I request again the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DOLE. Mr. President, I announce that the Senator from Wyoming [Mr. SIMPSON], is necessarily absent today due to the death of his father.

I also announce that the Senator from Delaware [Mr. ROTH], is necessarily absent.

I further announce that the Senator from Pennsylvania [Mr. SPECTER], is absent due to illness.

I further announce that, if present and voting, the Senator from Wyoming [Mr. SIMPSON], would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 53, nays 44, as follows:

[Rollcall Vote No. 157 Leg.]

YEAS—53

Akaka	Feingold	Mikulski
Baucus	Feinstein	Mitchell
Biden	Ford	Moseley-Braun
Bingaman	Glenn	Moynihan
Boren	Graham	Murray
Boxer	Harkin	Nunn
Bradley	Inouye	Pell
Breaux	Jeffords	Pryor
Bumpers	Johnston	Riegle
Byrd	Kassebaum	Robb
Campbell	Kerrey	Rockefeller
Chafee	Kerry	Sarbanes
Cohen	Lautenberg	Sasser
Conrad	Leahy	Shelby
Daschle	Levin	Simon
Dodd	Lieberman	Wellstone
Dorgan	Mathews	Wofford
Durenberger	Metzenbaum	

NAYS—44

Bennett	Faircloth	Lugar
Bond	Gorton	Mack
Brown	Gramm	McCain
Bryan	Grassley	McConnell
Burns	Gregg	Murkowski
Coats	Hatch	Nickles
Cochran	Hatfield	Packwood
Coverdell	Heflin	Pressler
Craig	Helms	Reid
D'Amato	Hollings	Smith
Danforth	Hutchison	Stevens
DeConcini	Kempthorne	Thurmond
Dole	Kennedy	Wallop
Domenici	Kohl	Warner
Exon	Lott	

NOT VOTING—3

Roth	Simpson	Specter

So the motion to table the amendment (No. 465) was agreed to.

Mr. BOREN. Mr. President, I move to reconsider the vote.

Mr. MCCONNELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHAFEE. Mr. President, after spending nearly 3 weeks considering campaign finance reform legislation, we are about to pass a good bill. As you know, I believe the bill that was first brought before us had several serious problems. That is why I joined with Senators JEFFORDS, COHEN, DURENBERGER, and MCCAIN to try to solve some of those problems.

We set forth nine principles that we believed should be included in any package that is labeled campaign reform. Let me take a moment to review the nine points:

We were successful in our effort to ban, or at least to limit to $1,000, contributions from political action committees.

We insisted that the same rules must apply to both the House and the Senate. To accomplish this we made certain that the restrictions on contributions from PAC's are applied to both

bodies. Similarly, we have made restrictions on the use of the frank during election years, the same in both the House and Senate.

We have solved the very difficult and complex issue of soft money. Now, all money that is spent to influence the outcome of Federal elections will be reported to the Federal Elections Commission [FEC]. We were able to go one step further and to require advance notice to candidates when these soft-money activities were going to occur and give the candidates who would be affected some recourse to respond.

Unfortunately we were not able to get agreement on the amendment offered by Senators COHEN and DOMENICI that would require candidates to raise the bulk of their funds from in-State contributions. Perhaps that is an issue that will have better success in the House.

We were successful in prohibiting out-of-State fundraising except during the 2 years prior to a candidate's election. This should reduce the amount of time that is taken up by fundraising activities.

Our amendment on severability was not acceptable to the majority, but it is my hope that in conference the ambiguities that exist in the current bill will be worked out.

Senator MCCAIN's amendment to limit the amount of money that can be repaid to a candidate who makes loans to his or her own campaign was not accepted. But an amendment by Senator WELLSTONE to limit the amount of money a candidate can contribute, to his or her own campaign, to $25,000 may help to address that point.

The Durenberger-Exon amendment allowed us to avoid public financing except under the most restricted circumstances.

Finally, the Durenberger-Exon amendment includes a revenue source, the tax on non-complying campaign committees.

All in all, I would say that we started with a bill that failed to address some of the major problems with our current system of campaign financing and then asked the taxpayers to pick up the check. Now, we have legislation that limits the influence of special interest groups, closes the loopholes that allowed undisclosed and unregulated money to flow into the system, apply the same set of rules to candidates for both the House and the Senate, encourage us to do our fundraising at home, and minimizes the cost to taxpayers.

Finally, it is my hope that we will be able to come to some resolution on the issue of changing the composition of the Federal Election Commission that does not favor one party over another. This is a critical issue for many of my colleagues, and I believe a valid one. Certainly, the FEC should be able to act decisively in order fairly to enforce Federal campaign laws. However, I do not believe that either of the major political parties should be made the driving force for deciding FEC cases.

I hope that the House of Representatives takes our efforts here seriously. If a bill comes back to use from conference that fails to include the provisions that we have agreed to here, it would be highly unlikely that I would support the conference report.

Mr. DURENBERGER. Mr. President, I rise in support of S. 3, the campaign finance bill as amended.

Let me say at the outset, and I think it is well known, that I am not in love with this bill as it stands. That may put me in company with a large number of Senators.

The key objection that I, and others, raised to the bill as introduced was that it was not a campaign reform bill, as much as a taxpayer financed election bill. While some of my colleagues believe that taxpayer financing is a part of reform, I believe that a bill based on taxpayer financed election campaigns of the kind I have experienced would only serve to undermine further the confidence of the American people that we are here to serve their interests, rather than our own.

I went into this process looking for a better way.

My main goal was not the negative one of eliminating public financing. That was a detail. I entered this debate looking for two things: greater involvement in our campaigns by our constituents and a level playing field for our challengers.

With the current bill I think we take great strides to accomplish this.

First, we create strong incentives for candidates to accept reasonable spending limits. This provision will go as far as the Constitution allows to prevent someone from buying an election either with personal wealth or with the wealth conferred on incumbents by grateful interests.

Second, we greatly reduce the Washington money chase, an activity engaged in almost exclusively by incumbents, by eliminating PAC contributions, limiting contributions from lobbyists, and limiting fundraising out of the election cycle to our home States.

Third, we require disclosure of the so-called soft money. This provision recognizes the rights of groups and individuals to influence elections, but also recognizes the right of the voters to know who is doing the influencing.

Fourth, we place serious, unambiguous limits on the use by incumbents of the public money available only to us through the franking privilege. Henceforth the public will know that the money provided to incumbents to conduct legitimate business will not be used to give the incumbent an unfair electoral advantage.

The sum of these provisions is that the contributions of individual voters are enhanced at the expense of the contributions of special interest. The old saying of the political fundraiser is: "Money talks, early money shouts." Under the provisions of this bill, the small contributors become the loudest voice in campaign financing, that is as it should be.

So this bill meets my expectations about enhancing the role of the individual voter.

In addition, the sum of the provisions of this bill gives challengers a more level playing field. Incumbents will always have advantages in name recognition, experience, and campaign infrastructure. There is nothing we can do about that.

But this bill eliminates the incumbent advantages that come with the special interests in Washington, the use, and occasional misuse, of the taxpayer money that we all get to run our offices, and the head start that we, in the Senate, get during the 4 years out of the election cycle.

My second goal, then, of leveling the playing field, is accomplished in this bill.

I said that I am not in love with this bill. My principal problem with it is that it leaves open the door that in some rare cases, where a candidate has grossly exceeded spending limits, some tax money may find its way into the campaign coffers of his or her opponent. I think that is unnecessary spending limit reform, but it was necessary to get this bill passed. I am reluctantly accepting that compromise because I believe that under the provisions of this bill taxpayer financing of any of congressional campaigns will be extremely rare.

I am made more willing to accept this remote chance of a taxpayer subsidy of campaigns because we removed the prospect of enormous tax subsidies flowing into campaigns. As originally introduced, this bill would make the taxpayer—involuntarily—the largest contributor to our campaigns, to the tune of nearly $500 million every election. Had that survived, I believe the taxpayers of this country would have reacted strongly and negatively against the Senate for filling the campaign coffers at the expense of more worthwhile programs.

Under the bill, as amended, the public financing only occurs if one candidate chooses to grossly overspend, and even then, is less costly and partially funded by the tax on campaign committees. I believe this compromise was worth it to achieve the good parts of this bill.

My other regret over this bill is that the Senate did not accept the amendment of the Senators from Maine and New Mexico which would reduce the amount of money we can raise from out-of-State contributors. This practice, available much more widely to incumbents than to challengers, remains

as one of the principle incumbent advantages as well as a source of frustration for our constituents who can feel distant from an elected representative financed by people from other parts of the country. It is a great disappointment to me, and a serious flaw in this bill, that those amendments were not accepted.

Finally, I want to say a few words about the process from here out. When the President unveiled his campaign finance reform proposal, I was disappointed. I felt it was lukewarm reform. It was written by Democrats trying to accommodate differences among Democrats. It did not seriously limit special interest money, it created a confusing and unworkable set of rules different for the House than for the Senate. And it proposed to bill the American taxpayer for financing of campaigns.

There will be a strong temptation among interest groups to make drastic changes in this bill in the House and in the conference committee. I, of course, do not presume to tell our colleagues in the House how to vote. But I wish to serve notice on the Senate and particularly on Senate conferees that I have no qualms about withholding my support from the conference report if it does not accomplish the kinds of reform contained in this bill or if it relies on public subsidies of our campaigns.

If we focus on what the people want, rather than what is in our own personal, partisan, political best interest, we will have campaign reform worthy of the name.

Mr. LEVIN. Mr. President, this reform in the way congressional campaigns are financed is a critical step toward raising the American people's low confidence in the integrity of their elected officials and institutions. Yesterday's 12th vote in the last 6 years to bring an end to a filibuster was a critical breakthrough, and I am proud to have helped craft the final compromise this year that broke the deadlock.

We are now ready to enact major election law reforms which we have repeatedly proposed since the mid-1980's. They include curbing the money chase by setting limits on how much candidates can spend in campaigns, cutting back on special interest money in the form of PAC contributions, eliminating the unregulated soft money loophole, keeping lobbyists out of political fundraising, and strengthening enforcement by the Federal Election Commission.

Senator JIM EXON and I worked closely with Majority Leader GEORGE MITCHELL and floor manager Senator DAVID BOREN in developing a set of incentives for candidates to agree to spending limits. In campaign finance reform, the three most important factors are limits on spending, limits on spending, and limits on spending. The limits in this bill will cut the amount of spending by the average Senator running for reelection by over 30 percent, and greatly leveling the playing field for challengers, who rarely are able to match the incumbent's spending level.

I ask unanimous consent that I be allowed to insert tables which address the issue of whether challengers or incumbents will be affected more by this legislation. It has been charged by some that this legislation is an incumbent's protection act. But, let us look at the facts. In the 82 Senate races in the last 4 election cycles, 1986–92, in which the race was competitive, the incumbents would have been affected by these spending limits in 59 races or 72 percent of the time. A competitive race for the purposes of this table is one in which 1 candidate outspent the challenger by 10 times or more or in which the winning candidate won with 67 percent of the vote or more. During the same period, the challengers would have been affected by these spending limits in 18 races or 22 percent of the time. In fact, of those 18 races in which the challenger would have been affected by the spending limits, in all but 5 of them the incumbent spent even more than the challenger. In other words, in all but 5 of those 18 races the incumbent would have been hurt more than the challenger. To give a concrete example of how an incumbent could be affected more than a challenger, the spending limit under this legislation for my State of Michigan would be more than $3 million less than I spent in my last race in 1990, but higher than the amount my opponent was able to raise.

I cosponsored the leadership bill when it was first introduced this year and voted repeatedly for cloture on that bill. When those efforts failed, we brought forward our proposed mix of incentives. They include a system of backup public financing to help candidates who agree to abide by spending limits but face opponents who do not adhere to those limits or last-minute attacks by third parties. We also would deny a tax exemption for campaign receipts for candidates who refuse to abide by spending limits, and would eliminate the bill's proposal to provide up front Federal subsidies to campaigns. Our amendment won the support of enough Republican Senators so that on the third try we were able to win the 60 votes necessary to bring an end to debate and send the bill on to the House.

With President Clinton's leadership, I am more confident than I have ever been that this is the year we will see enactment of significant changes in the discredited way campaigns are financed in America.

This bill is our one best chance to make significant reforms and finally limit the money spent on campaigns and to limit the money chased for campaigns.

We must not squander the first real opportunity in a decade for change.

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

1986–92 SENATE RACES AND CAMPAIGN SPENDING

[By candidates and by political parties under 441(A)(D)]

Year	State	Dem. vote (percent)	Dem. candidate	Dem. spending	GOP candidate	GOP spending	S. 3 total allowed spending
			WINNING DEMOCRATIC CHALLENGERS [1]				
1992	CA	55	Feinstein	$9,375,962	Seymour	$9,299,760	$11,105,025
1986	FL	55	Graham	6,392,936	Hawkins	7,843,585	6,775,787
1986	NC	52	Sanford	4,514,408	Broyhill	5,591,765	3,999,461
1988	NE	57	Kerrey	3,564,322	Karnes	3,415,805	2,316,737
1986	SD	52	Daschle	3,543,078	Abdnor	3,493,695	2,241,717
1988	NV	50	Bryan	3,046,038	Hecht	3,632,354	2,296,702
1986	GA	51	Fowler	2,998,348	Mattingly	5,854,317	3,861,462
1988	CT	50	Lieberman	2,793,879	Weicker	2,907,544	2,469,738
1992	WI	53	Feingold	2,409,289	Kasten	6,397,326	3,136,214
1986	AL	50	Shelby	2,362,511	Denton	5,119,344	2,724,178
1986	WA	51	Adams	2,047,962	Gorton	4,042,083	3,180,267
1990	MN	52	Wellstone	1,470,708	Boschwitz	8,189,318	2,871,390
1986	ND	50	Conrad	976,444	Andrews	2,457,492	2,236,822
			Average of 13 races	3,499,683	Democratic challenger outspent in 10 of 13 races	5,249,568	
			WINNING REPUBLICAN CHALLENGERS [2]				
1992	GA	49	Fowler	$6,052,835	Coverdell	$4,264,988	$3,861,462
1992	NC	48	Sanford	5,197,154	Faircloth	3,514,886	3,999,461
1988	MT	48	Melcher	1,551,916	Burns	1,167,321	2,252,076
			Average of 3 races	4,267,302	Republican challenger outspent in 3 of 3 races	2,982,398	

1986–92 SENATE RACES AND CAMPAIGN SPENDING—Continued

[By candidates and by political parties under 441(A)(D)]

Year	State	Dem. vote (percent)	Dem. candidate	Dem. spending	GOP candidate	GOP spending	S. 3 total allowed spending
			LOSING DEMOCRATIC CHALLENGERS [3]				
1988	CA	44	McCarthy	$8,846,549	Wilson	$16,533,739	$11,105,025
1990	NC	48	Gantt	8,301,218	Helms	18,256,579	3,999,461
1992	NY	49	Abrams	7,901,762	D'Amato	13,063,501	8,577,259
1992	PA	49	Yeakel	5,863,822	Specter	11,463,695	6,157,954
1988	FL	50	MacKay	4,341,698	Mack	6,040,272	6,775,787
1986	PA	43	Edgar	4,180,517	Specter	7,234,715	6,157,954
1990	KY	48	Sloane	3,287,704	McConnell	5,676,964	2,549,411
1988	RI	45	Licht	2,968,750	Chafee	3,110,312	2,271,884
1992	OR	48	AuCoin	2,824,849	Packwood	8,277,176	2,435,700
1988	MN	41	Humphrey	2,762,853	Durenberger	7,167,590	2,871,390
1986	OK	45	Jones	2,657,352	Nickles	3,532,502	2,452,093
1988	DE	38	Woo	2,321,403	Roth	2,067,430	2,242,855
1986	ID	48	Evans	2,176,871	Symms	3,437,090	2,268,697
1990	CO	43	Heath	2,027,675	Brown	3,955,067	2,475,544
1986	NY	41	Green	1,818,531	D'Amato	9,865,827	8,577,259
1990	TX	38	Parmer	1,797,087	Gramm	13,565,272	7,903,213
1992	IN	42	Hogsett	1,786,678	Coats	4,255,592	3,455,648
1990	ME	39	Rolde	1,718,778	Cohen	1,734,182	2,289,757
1990	OR	46	Lonsdale	1,691,086	Hatfield	2,960,926	2,435,700
1992	OK	38	Lewis	1,542,147	Nickles	3,748,746	2,452,093
1986	WI	47	Garvey	1,528,756	Kasten	4,219,992	3,136,214
1990	SD	45	Muenster	1,423,460	Pressler	2,236,738	2,241,717
1992	MO	46	Rothman-Ser	1,416,674	Bond	5,439,745	3,250,115
1990	IN	46	Hill	1,179,247	Coats	3,984,516	3,455,648
1992	AK	38	Smith	1,016,531	Murkowski	2,021,239	2,229,650
1990	ID	39	Twilegar	643,477	Craig	1,752,804	2,268,697
1988	WY	50	Vinich	578,856	Wallop	1,542,997	2,221,340
1986	AK	44	Olds	474,121	Murkowski	1,600,306	2,229,650
1986	IA [4]	34	Roehrick	256,673	Grassley	2,944,228	2,420,560
1986	IN [4]	38	Long	127,187	Quayle	2,427,988	3,455,648
1986	OR [4]	36	Bauman	64,139	Packwood	7,491,360	2,435,700
1990	WY [4]	36	Helling	7,543	Simpson	1,527,743	2,221,340
1988	MO [4]	32	Nixon	962,046	Danforth	4,338,470	3,250,115
1988	PA [4]	32	Vignola	528,236	Heinz	6,043,105	6,157,954
1992	IA [4]	28	Lloyd-Jones	446,649	Grassley	2,714,613	2,420,560
1990	NH [4]	33	Durkin	419,179	Smith	1,520,731	2,278,601
1992	AZ [4]	32	Sargent	310,481	McCain	4,066,802	2,541,084
1988	IN [4]	32	Wickes	308,736	Lugar	3,412,601	3,205,656
1986	NH [4]	32	Peabody	307,760	Rudman	1,276,922	2,278,601
1992	KS [4]	32	O'Dell	285,393	Dole	3,542,989	2,393,921
1988	UT [4]	32	Moss	154,775	Hatch	4,206,995	2,315,941
1990	NM [4]	27	Benavides	38,510	Domenici	2,360,387	2,310,704
1986	UT [4]	27	Oliver	24,508	Garn	883,977	2,135,941
1990	KS [4]	26	Williams	16,627	Kassebaum	586,601	2,393,921
1990	SC [4]	34	Cunningham	6,232	Thurmond	2,592,438	2,486,587
			Average of 45 races	1,854,069		4,904,077	
			Average 28 compet. races	2,985,485		7,984,116	

[4] Indicates non-competitive: outspent by 10x or less than 33% of vote.

Dem. challenger outspent in 44 of 45 races.

			LOSING REPUBLICAN CHALLENGERS [3]				
1990	NJ	51	Bradley	$12,792,729	Whitman	$1,204,388	$8,763,866
1986	CA	50	Cranston	12,669,887	Zschau	13,443,398	11,105,025
1988	TX	59	Bentsen	9,895,941	Boulter	2,439,787	7,903,213
1990	IL	65	Simon	9,676,099	Martin	5,791,610	5,848,790
1988	OH	57	Metzenbaum	9,561,960	Voinovich	9,100,722	5,625,246
1988	NJ	54	Lautenberg	8,625,295	Dawkins	8,154,283	8,763,866
1990	MA	57	Kerry	8,540,095	Rappaport	5,637,963	3,720,268
1990	MI	58	Levin	7,362,323	Schuette	3,103,672	4,964,754
1990	LA	54	Johnston	5,954,105	Duke	2,615,267	2,722,926
1990	IA	54	Harkin	5,866,462	Tauke	5,272,879	2,420,560
1992	OH	55	Glenn	5,597,005	DeWine	3,950,196	5,625,246
1988	NY [4]	67	Moynihan	5,519,972	McMillan	753,908	8,577,259
1992	CT	61	Dodd	4,718,586	Johnson	2,674,444	2,469,738
1992	SC	51	Hollings	4,300,881	Hartnett	1,176,493	2,486,587
1988	NM	63	Bingaman	4,067,526	Valentine	756,573	2,310,704
1992	SD	66	Daschle	4,037,204	Haar	588,901	2,241,717
1992	MD [4]	71	Mikulski	3,636,992	Keyes	1,175,682	3,144,973
1990	AL	61	Heflin	3,606,293	Cabaniss	2,168,352	2,724,178
1988	MI	60	Riegle	3,596,180	Dunn	642,439	4,964,754
1992	HI	58	Inouye	3,527,878	Reed	438,851	2,282,585
1988	TN	65	Sasser	3,441,466	Andersen	944,453	3,190,732
1992	NV	52	Reid	3,368,763	Dahl	582,364	2,296,702
1992	FL [4]	66	Graham	3,319,129	Grant	245,577	6,775,787
1988	AZ	57	DeConcini	3,021,425	DeGreen	465,819	2,541,084
1988	MA	65	Kennedy	2,993,838	Malone	1,001,679	3,720,268
1992	AL [4]	66	Shelby	2,893,702	Sellers	149,578	2,724,178
1990	WV [4]	69	Rockefeller	2,822,799	Yoder	33,710	2,340,416
1990	DE	63	Biden	2,718,340	Brady	341,229	2,242,855
1986	CT	65	Dodd	2,689,385	Eddy	566,889	2,469,738
1986	IL	65	Dixon	2,659,194	Koehler	1,414,236	5,848,790
1990	MT [4]	70	Baucus	2,625,052	Kolstad	844,610	2,252,076
1990	NE	59	Exon	2,523,345	Daub	1,570,964	2,316,737
1990	RI	62	Pell	2,470,015	Schneider	2,156,797	2,271,884
1986	SC	63	Hollings	2,394,646	McMaster	795,844	2,486,586
1992	KY	64	Ford	2,329,469	Williams	336,304	2,549,411
1988	ND	59	Burdick	2,252,040	Strinden	998,405	2,236,822
1992	LA [4]	73	Breaux	2,017,203	Stockstill	20,000	2,722,926
1992	AR	60	Bumpers	2,016,268	Huckabee	1,103,110	2,385,497
1990	TN	70	Gore	1,984,872	Hawkins	6,510	3,190,732
1990	HI	54	Akaka	1,868,339	Saiki	2,499,521	2,282,585
1986	VT	63	Leahy	1,837,584	Snelling	1,589,506	2,232,496
1986	AR	62	Bumpers	1,800,828	Hutchinson	1,088,782	2,385,497
1990	OK [4]	83	Boren	1,610,921	Jones	140,912	2,452,093
1988	MD	62	Sarbanes	1,586,168	Keyes	976,855	3,144,973
1986	OH	62	Glenn	1,512,009	Kindness	1,279,173	5,625,246
1988	ME [4]	81	Mitchell	1,471,526	Wyman	239,884	2,289,757
1986	HI [4]	74	Inouye	1,415,484	Hutchinson	31,843	2,282,585
1986	KY [4]	75	Ford	1,321,029	Andrews	63,822	2,549,411

1988	WV	65	Byrd	1,282,846	Wolfe	244,505	2,340,416
1992	VT	56	Leahy	1,244,872	Douglas	307,035	2,232,496
1988	HI[4]	77	Matsunaga	790,710	Hustance	33,325	2,282,585
			Average of 51 races	3,957,582		1,826,728	
			Average 38 compet. races	4,505,211		2,353,258	
			OPEN SEATS WON BY DEMOCRATS				
1992	CA	48	Boxer	$11,997,706	Herschenso	$10,103,716	$11,105,025
1988	WI	52	Kohl	7,491,600	Engeleiter	3,179,452	3,136,214
1992	IL	55	Braun	7,036,442	Williamson	3,096,475	5,848,790
1986	CO	50	Wirth	3,845,699	Kramer	3,972,072	2,475,544
1986	LA	53	Breaux	3,040,813	Moore	6,239,172	2,722,926
1988	VA[4]	71	Robb	3,031,666	Dawkins	628,674	3,800,480
1986	MD	61	Mikulski	2,215,922	Chavez	1,892,760	3,144,973
1986	NV	50	Reid	2,068,173	Santini	2,751,561	2,296,702
1992	CO	55	Campbell	1,805,846	Considine	2,491,217	2,475,544
1992	WA	55	Murray	1,720,983	Chandler	2,913,341	3,180,267
1992	ND	60	Dorgan	1,714,327	Sydness	608,566	2,236,822
			Average of 11 races	4,129,925		3,443,374	
			Average 10 compet. races	3,343,147		2,777,329	
			OPEN SEATS WON BY REPUBLICANS				
1986	MO	47	Woods	$4,425,623	Bond	$5,718,653	$3,250,115
1988	MS	46	Dowdy	2,523,059	Lott	3,572,142	2,396,425
1988	WA	49	Lowry	2,496,279	Gorton	3,162,129	3,180,267
1992	UT	42	Owens	2,014,750	Bennett	4,148,862	2,315,941
1992	ID	43	Stallings	1,327,457	Kempthorne	1,414,872	2,268,697
1992	NH	48	Rauh	938,967	Gregg	986,154	2,278,601
1986	AZ	40	Kimball	597,698	McCain	2,576,939	2,541,084
1988	VT[4]	30	Gray	576,208	Jeffords	968,877	2,232,496
			Average of 8 races	1,862,505		2,819,829	
			Average 7 compet. races	2,046,262		3,084,250	
			Average of 19 open seats	3,175,222		3,180,823	
			Average 17 compet. races	2,740,057		2,867,910	
			INCUMBENT RACES WITHOUT CHALLENGERS OR UNFUNDED				
1990	GA[4]	100	Nunn	$1,245,052		$0	$3,861,462
1990	AR[4]	100	Pryor	850,503		0	2,385,497
1990	AK[4]	33	Beasley	455	Stevens	1,734,346	2,229,650
1990	VA[4]	0		0	Warner	1,397,548	3,800,480
1990	MS[4]	0		0	Cochran	693,907	2,396,425
1986	KS[4]	30	MacDonald	0	Dole	1,791,629	2,393,921
			Average of 137 races	2,962,794		3,336,433	
			Average of 99 competitive races[4]	2,918,390		3,824,053	

[1] Dem. challenger outspent in 10 of 13 races.
[2] Rep. challenger outspent in 3 of 3 races.
[3] Dem. challenger outspent in 44 of 45 races.
[4] Indicates non-competitive: Outspent by 10x or less than 33% of vote.

Note.—Of 112 challengers, 16 won; 4 of the 16 outspent incumbents; 3 of the 4 were Democrats. In 19 open seats, winner outspent loser in 13 races; of those 13, 6 were Democrats, 7 Republicans. 56 Democratic incumbents outspent their challengers by an average of $1,993,658 or 108 percent. 62 Republican incumbents outspent their challengers by an average of $2,672,674 or 129 percent.

Mrs. MURRAY. Mr. President, we have spent more than 4 weeks on this legislation. We have cast more than 50 votes. The majority leader has put a tremendous amount of his own time and effort into this bill.

Unfortunately, I think the American people will be disappointed that all this debate produced so little. It's like bringing your car into the shop for a 50,000-mile overhaul, and getting an oil change. What we have given the American people is only a small step toward campaign finance reform. Even if we had worked on this for another month, I am not sure we would have been able to do any better.

Under this bill, incumbents and opponents may choose to abide by voluntary spending limits. For a Senate race in the State of Washington, this amount is about $2.5 million. But a candidate does not have to adhere to the voluntary limits. He or she can choose to raise as much money as possible, just like we do today. And although PAC's may no longer contribute to candidates, a wealthy individual can still assure his big check gets into his candidate's warchest.

The only real disincentive to ignoring the voluntary limits is that your campaign will be taxed at the highest corporate rate and that money will go to your opponent to help make up the difference. How this will work in the real world is impossible to figure out. When the final expenses for phones and consultants and rent are not received until weeks after the election is over, how does one know if the limits have been exceeded? Victorious candidates sometimes find their consultants remember expenses for which they had not billed the candidate. Should we require the phone company or the office building to bill campaigns on a daily basis? How will a candidate know if or when her opponent has exceeded the voluntary spending limits? What will she be able to do about it? Suppose a candidate exceeds the limits, but contests the IRS ruling? Does his opponent get any extra funding at all? Who really knows?

For the American people, campaign finance reform is not about setting limits on spending or giving out vouchers for television time. It is about not having to watch all those negative television ads in the final weeks of an election. It means not coming home each evening to a mailbox jammed with campaign trash. Dirty campaigns will not be eliminated by institutional changes, but by the candidates themselves. This bill offers incremental reform. It takes us one step forward. And even one step toward reform is better than staying where we are.

Finally, a word about EMILY's List. When I announced to run for the Senate I was, in a competitive sense, an unknown. When EMILY's List endorsed my candidacy it gave me a boost that was more important than money. It gave me credibility, which political, business and labor people and the general public all understood. Certainly, the money it raised in mostly $100 checks also helped. EMILY's List is an extremely important factor in changing the face of this institution and should be allowed to continue. To take away the opportunity for women and minority candidates to run would not be reform.

Ms. MIKULSKI. Mr. President, the goal we are seeking with campaign reform is a goal I have fought for all my life—empowering people. I believe that the way to empower our voters is reduce the influence of big money fundraising and prove to the people who elected us that we work for them. Campaign reform should make votes count, not influence.

When I first ran for office I challenged two political machines.

I won by using 110 percent of my own energy and 110 pairs of shoes. I beat those political machines by going door-to-door and I did it for a reason. I wanted to win for those who had been left out and left behind.

Mr. President, I am still using sweat equity. I have made a pledge this year to be in every county in Maryland before the Fourth of July. That is how I get in touch with my constituents. It is how I get the chance to listen to their concerns and then take their concerns and turn them into public policy.

I believe in working with and working for the people who elected me. And I do not think that it is a democracy when only those with golden Rolodexes have the resources to get into office.

That is why I support this bill. I am for spending limits. And I am for campaign reform.

That is also why we need organizations like EMILY's List. I am concerned that some plans that have been labeled reform would mean the end of EMILY's List. That kind of reform does not empower. It disempowers and disenfranchises. And that is especially true for women.

Every one of the Democratic women Senators here today faced enormous obstacles in their election bid.

They faced those obstacles because of who they were—not because of what they stood for. To pretend that this is no longer true is to be naive. EMILY's List helped them.

I know how important help can be. Twenty years ago I held my first fundraiser. It was a polka party for $3 a ticket. My supporters were men and women who had to budget carefully to contribute to my city council bid. For them to organize an event was a big deal in their life. It was unknown territory for many of them. It was stepping out of the roles they had traditionally filled. It was a little bit frightening but also exciting. Because it gave them a chance to have a say about what happened to their own lives, to make their voice heard for a candidate.

Other contributions came to me from people who really wanted to see a good government person in office at city hall. I remember one woman who invited her friends to hear me at a get together in the living room of her home.

It was the kind of neighborhood where women belonged to the garden club and did volunteer work. They were civic minded and responsible citizens. I gave a rousing speech on how to save Baltimore through the activism of neighborhood coalition. And when I finished that woman asked for $25 or $50 contributions and then collected checks from each of the guests.

I think of her as sort of the forerunner of Ellen Malcolm who founded EMILY's List. So I ask myself—did that woman buy me? Was that influence?

Those first events enabled me to get going. And the political base I put together of one small check here and one small check there is how I still campaign.

When I ran for Senate for my second term—we had fundraisers called Baseball for Barb, where we ate hot dogs and sat in the stands together rooting for the Orioles.

And Senator MITCHELL joined me when we did Be-bop for Barb in a dance hall in Glen Burnie. We did everything except bungee jumping for Barb.

We did what we could to encourage grassroots participation and small donor fund raising. That is what EMILY's List is all about too. That is real reform, bringing mainstream people back into the mainstream of political participation. And that is why I want to see EMILY's List continue to raise small donor funds for those who have started small and are ready to grow.

I do not make this argument on behalf of my own campaign or any of my colleagues. As incumbents, we have the same capability to raise campaign funds as our colleagues. EMILY's List is not designed for incumbents. Last year 98 percent of the money raised went to nonincumbents.

Mr. President, I stand here today on behalf of future candidates. The next generation. Women who will need the networks of support that have proved so valuable for those of us who have already won our elections.

This is not about special treatment. This is about acknowledging that fact that women have historically been excluded from access to financing. It is about the fact that women have different career paths. Different networks of support. And different fundraising strategies.

I want real reform. I want to return politics to the people. Real reform makes it easier for outsiders to come into the political system. Real reform encourages grassroots participation and small donor fund raising.

I know of no organization that does this better than EMILY's List. It is a model for the type of empowerment that campaign reform should bring about.

Mr. President it is time to improve our election laws. It is time to return political influence to the people who cast their votes, those who will prosper or suffer as a result of the laws we pass. That is the kind of campaign reform I am ready to fight for.

Mr. FORD. Mr. President, I rise in strong support of S. 3, the Congressional Spending Limit and Election Reform Act, and urge my colleagues to support its final passage.

I wish to compliment all of my colleagues who have contributed to this debate and made efforts to improve this legislation. I believe we have made great strides on this issue, and have made important changes to broaden the support for this measure. The bipartisan initiative adopted yesterday represents a true compromise at a time when we needed it most. We have stricken the communications vouchers and up-front public financing in order to remove some objections to this bill. We have changed the funding mechanism in order to remove other objections. We have reduced the threshold contribution requirement. Mr. President, I believe all of the changes we have made are important, and many of them constitute improvements in the bill.

We now have a solid compromise proposal. I believe we should support it. And I also hope it represents the kind of compromise effort we will begin to see more of on this floor.

Americans are generally very tolerant. They understand that many of our problems are extremely complex, and will not be solved overnight. But on some issues, Mr. President, they are running out of patience. Balancing the budget cannot be done immediately, but a great deal of political reform can be. Solving the health care crisis will not happen in 1 month or even 1 year, but changing the way we do business can. As I have said before, Mr. President, every time we delay on the issue of controlling campaign spending, we are fueling voter discontent. Every time we fail to control the money chase, we are helping proposals like term limits. The American people have sent a pretty clear message that if we cannot reach an agreement to control ourselves, they will take action for us.

So it seems to me we have a very clear choice before us today. We cannot begin to solve our most complex problems until we change the way we conduct problem solving. We must change the process before we can expect the process to work. Americans perceive that special interests have unusual access to our political process and influence over it because of their campaign contributions. Americans perceive that we spend an unhealthy and increasing amount of our time raising money and soliciting contributions. And they are right. We must give them the spending limits they so strongly support.

I believe the choice is quite clear. It is a choice between chasing money or capping money; a choice between term limits or spending limits; and a choice between gridlock or compromise. I hope my colleagues will make the right choice and support the compromise campaign spending reform proposal before us today.

Mr. President, I yield the floor.

Mr. DOLE. Mr. President, last month, five of my Republican colleagues—Senators CHAFEE, COHEN, DURENBERGER, JEFFORDS, and MCCAIN—outlined a set of nine principles that they argued must be followed before lending their support to any campaign reform bill.

During the course of this debate, and through the amendment process, many of these principles have been met.

This debate may have seemed like the local, rather than the express train, but perhaps that is the price of progress.

I am pleased that my colleagues on the other side of the aisle have followed the Republican lead by banning all PAC contributions. From day one, a complete PAC-ban has been a key element in the Republican approach to campaign reform.

Unfortunately, the administration proposal had originally adopted a status quo approach to PAC's, lowering the PAC contribution limit modestly to $2,500 for Senate candidates and retaining the current $5,000 limit for House candidates.

In the end, the Senate had its say and a complete PAC-ban was adopted. This is a big step in the right direction.

I am also pleased that the Senate embraced the amendment offered by my colleague from Vermont, Senator JEFFORDS, requiring the disclosure of nonparty soft money expenditures and allowing the political parties to respond to these expenditures in kind.

This amendment will help level the political playing field and will shine some sunlight on the millions of labor union contributions that are pumped each year into the campaign finance pipeline.

But, Mr. President, I was disappointed that the amendment offered by my distinguished colleagues, Senators MCCONNELL and SHELBY, which would have removed the multimillion dollar public-financing provisions from the bill, was defeated—largely along partisan lines.

Without a doubt, the Shelby-McConnell amendment was the cleanest, clearest, and most sensible approach to ensuring that this bill will not end up establishing a taxpayer-financed entitlement program for politicians. It should have passed.

Mr. President, we have been around the campaign finance reform track for several years now. We have debated this bill for nearly 3 weeks.

And, no doubt, many of us have learned a simple lesson by now—that congress is probably the very last place to go, if you're looking to draft a neutral, nonpartisan plan for campaign finance reform.

The pressures of partisan politics can weigh in heavily indeed. And more often than not, these pressures will prevail as they have with this bill and its restrictive, anticompetitive limits on campaign spending.

Now, Mr. President, don't get me wrong; I do not blame my colleagues on the other side of the aisle for acting in their own self-interest. If I were in their shoes, if my colleagues on this side of the aisle were in the majority, we too would try to pass a one-sided bill that would help Republicans to the detriment of Democrats. That is just the way it is. This is politics.

And that is why I intend to introduce a bill later this month that will take the responsibility of untying the Gordion knot of campaign reform away from Congress and invest it elsewhere—in a bipartisan, blue-ribbon commission.

The Commission will have 1 year to draft a reform proposal, and Congress will have a few months either to pass the proposal or reject it.

No amendments. A limitation on debate. And an up or down vote—take the Commission's proposal or leave it behind.

Let me add that if the Senate receives a conference report that differs in large, perhaps even small, ways from the bill passed by the Senate today—on the PAC-ban issue, on public financing, on the issue of establishing the same rules for the House and the Senate—then I hope my Republican colleagues will be prepared to stand united and prevent that bill from reaching the President's desk.

Finally, Mr. President, I want to thank and congratulate my distinguished colleague from Kentucky, Senator MCCONNELL, for the free education he has provided, not only for those of us in the Senate, but also for those who may have watched the Senate these past few weeks on television.

Through sheer hard work and his considerable intellect, Senator MCCONNELL has proven that he is Congress', and perhaps even the country's, foremost expert on campaign finance reform. Wherever we may stand on this issue, Senator MCCONNELL deserves our gratitude for enriching this debate.

NEIGHBORHOOD SECURITY

Mr. DOLE. Mr. President, the American people vote on 2 days each year: on election day and on tax day, April-15.

Last year, taxpayer financing of campaigns was a landslide loser. A whopping 82 percent of all taxpayers voted "no" to sending $1 to the Presidential election campaign fund, the Government program that hands out tax dollars to Presidential candidates.

Let us face it: At a time when the American people are reeling from the tax and spend proposals coming out of Washington, they are in no mood to establish a new entitlement program for politicians.

But, when all is said and done, that is exactly what this bill was, and may still be, even after the amendment offered yesterday by my distinguished colleague from Minnesota, Senator DURENBERGER. According to a conservative estimate by the Congressional Budget Office, the original version of this bill would have cost the taxpayers $350 million. The Senate Republican Policy Committee estimates that the bill would have cost the taxpayers even more—nearly $1 billion over a 6-year period.

GETTING OUR PRIORITIES STRAIGHT

Mr. President, we need to get our priorities straight.

Instead of debating whether to pump tax dollars into political campaigns, we ought to be debating how to pump tax dollars into campaigns to rid our streets of crime.

Today, sadly, the American people live in fear—fear for their personal safety, fear for their neighborhoods, and fear for their children who have entered a world where violence is the tragic rule, rather than the exception.

Too often, we read or see the gruesome accounts of gruesome crimes, and our response is simply to shrug it off.

Some of us shrug it off as the price we pay for living in a free society. Others take comfort in a deceptive security that says, "Oh, that won't happen to me."

Crime, like a very hot shower, can become very comfortable. The more we experience it, the more we accept it. It becomes normal, even routine. In the end, we lose our outrage and begin tolerating the intolerable.

Well, Mr. President, it is time to regain our sense of outrage, and start showing some intolerance toward the vicious thugs and other predators who rule our streets.

The citizens of Los Angeles are leading the way, electing a new mayor who ran a campaign to turn L.A. around with a "no excuses, no holds-barred" approach to crime, an approach those of us in Washington seem to have forgotten in our little world of cloture petitions and tabling motions.

The American people are not very interested in debates about spending limits and communications vouchers, and they certainly do not want their tax dollars used to finance politicians and our own reelection efforts.

But the American people do want more security, more police, not just for themselves, but more importantly, for their children.

It is time to stop the bloodshed on the streets of America and start the hard work of getting done what really counts—making our country a better, safer, more secure place for every citizen.

THE NEIGHBORHOOD SECURITY FUND

Mr. President, if cloture had not been involved, we could have begun this process today.

I had intended to offer an amendment that would have established within the U.S. Treasury a trust fund called the neighborhood security fund. The fund would be administered by the Attorney General, acting through the Director of the Bureau of Justice Assistance.

Under the amendment, money that would have been spent on the so-called communications vouchers—the key element in the public-financing scheme in the bill—would instead be diverted to the neighborhood security fund.

Money in the fund would be available to assist our local communities in hiring new police officers who would be employed, not at a desk job, but where it counts—out on the streets fighting crime. In order to receive Federal assistance, a local government would have to certify that it has allocated funds sufficient to cover 50 percent of the salary of a first-year officer. The Federal Government, acting through the fund, would match the local effort by picking up the tab for the remaining 50 percent of the salary.

Mr. President, it is no secret that more police means more deterrence and less crime. During the recent Rodney King civil rights trial, crime in Los Angeles dropped by nearly 30 percent as the LAPD was out in force to prevent a second outbreak of violence. Obviously, the criminals thought twice before they picked on the innocent citizens of Los Angeles.

This lesson is an important one. Although my amendment would not have created an army of young, vigorous police officers, it certainly would have extended a helping hand to some of our local communities who need to supplement their crime-fighting efforts with some new officers.

POLICE OR POLITICIANS?

Finally, Mr. President, this amendment was about priorities: Is our priority the police or is it politicians? Is our priority saving lives on the streets of America? Or saving our own political lives in the Halls of Congress? More money for neighborhood security? Or more money for the political security of politicians?

As far as this Senator is concerned, the choice was—and still is—crystal clear.

Mr. President, I ask unanimous consent that the full text of my amendment be inserted in the RECORD.

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

AMENDMENT

On page 7, line 7, strike "by—" and all that follows through "(II)" on line 10 and insert "by".

On page 17, add "and" and the end of line 14.

On page 17, beginning with line 17, strike all through page 23, line 19, and insert:

"(d) WAIVER OF EXPENDITURE AND CONTRIBUTION LIMITS.—(1)(A) An eligible Senate candidate who receives benefits under this section may make expenditures for the general election without regard to clause (i) of section 501(c)(1)(D) or subsection (a) or (b) of section 502 if any one of the eligible Senate candidate's opponents who is not an eligible Senate candidate either raises aggregate contributions, or makes or becomes obligated to make aggregate expenditures, for the general election that exceed the general election expenditure limit applicable to the eligible Senate candidate under section 502(b).

"(B) The amount of the expenditures which may be made by reason of subparagraph (A) shall not exceed 200 percent of the general election expenditure limit under section 502(b).

"(2)(A) A candidate who receives benefits under this section may receive contributions for the general election without regard to clause (iii) of section 501(c)(1)(D) if—

"(i) a major party candidate in the same general election is not an eligible Senate candidate; or

"(ii) any other candidate in the same general election who is not an eligible Senate candidate raises aggregate contributions, or makes or becomes obligated to make aggregate expenditures, for the general election that exceed 75 percent of the general election expenditure limit applicable to such other candidate under section 502(b).

"(B) The amount of the expenditures which may be made by reason of subparagraph (A) shall not exceed 200 percent of the general election expenditure limit under section 502(b).

On page 23, line 21, strike "(1)".

One page 24, strike lines 3 through 20.

On page 26, strike lines 3 through 14, and redesignate accordingly.

On page 32, beginning with line 15, strike all through page 36, line 7.

At the appropriate place in the amendment, insert he following new section:

SEC. . PRESIDENTIAL ELECTION CAMPAIGN FUND REPLACED BY NEIGHBORHOOD SECURITY FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

"SEC. 9512. NEIGHBORHOOD SECURITY FUND.

"(a) CREATION.—There is established in the Treasury of the United States a trust fund to be known as the Neighborhood Security Fund, consisting of such amounts as may be credited or paid to such Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO FUND.—There are hereby appropriated to the Neighborhood Security Fund each fiscal year an amount equal to the funds in the Treasury which the Secretary estimates would have been expended on voter communication vouchers if such vouchers had been included in the Congressional Campaign Spending Limit and Election Reform Act of 1993.

"(c) USE OF FUND.—Amounts in the Neighborhood Security Fund shall be available, as provided in appropriation Acts, for use by the Attorney General, acting through the Director of the Bureau of Justice Assistance, for the purpose of making grants to the States to be distributed to units of local government to be used to pay 50 percent of the first year's compensation of newly hired law enforcement officers who are assigned (or will be assigned after training) to neighborhood police patrols. No grants shall be made to a unit of local government under this subsection unless such government certifies that—

"(1) any newly hired law enforcement officer with respect to whom funds are received under this subsection represents a net increase in the number of officers or neighborhood police patrol (and does not replace an officer who has been assigned to desk or other duties), and

"(2) funds have been allocated by the State or units of local government for the payment of the other 50 percent of the first year's compensation of newly hired law enforcement officers to which this subsection applies."

(b) CONFORMING AMENDMENT.—The table of sections for subchapter A of chapter 98 is amended by adding at the end of the following new item:

"Sec. 9512. Neighborhood Security Fund."

Mr. BIDEN. Mr. President, yesterday, the Senate approved the Exon-Durenberger amendment to the campaign finance reform bill. And, shortly, we will vote on final passage of the legislation. I voted for the Exon-Durenberger amendment, and I will vote for the bill. However, I cast both votes reluctantly, and I want to take a few minutes to explain why.

For 20 years, I have held one fundamental, consistent, and unwavering position on campaign finance reform. True reform means comprehensive reform—and that means public funding of congressional campaigns.

As I have said on numerous occasions—and I was not the first to say it: "Moderate reform is like moderate chastity." There is no such thing. Yet, the campaign finance reform bill before us now is still another attempt at so-called moderate reform.

Even before the Exon-Durenberger amendment was adopted, I had concerns about the piecemeal nature of this legislation. The public funding in the bill was limited in scope—it was only broadcast vouchers, and it only amounted to 25 percent of the combined primary and general election spending limits. But, perhaps more importantly, the public funding in the bill was designed only for one purpose: To allow us to establish spending limits, which the Supreme Court ruled in Buckley versus Valeo that Congress cannot do without providing incentives.

Spending limits are an important reform, but public funding is also important—and not just as a means to an end. Public funding is important for its own sake—for getting money out of the process. That is why I joined Senators KERRY and BRADLEY in offering an amendment to provide true public funding—90 percent of the general election spending limit. Our amendment would have eliminated the special interest money from the process and would have leveled the playing field between incumbents and challengers. Unfortunately, that amendment failed.

And, unfortunately, the Exon-Durenberger amendment stripped what little public funding there already was in the bill completely out of the bill. Instead of providing public funding to candidates who voluntarily accepted the spending limits, the Exon-Durenberger amendment provides public funding to a candidate only when his or her opponent exceeds the spending limit.

The truth is, we needed more public funding than was in the bill, not less. However, the reality is that the Republicans were engaged in yet another filibuster. And the choice facing the Senate was a campaign finance reform bill with no public funding—but with some important changes—or no campaign finance reform bill at all.

This bill does not provide public funding. But, it does establish spending

limits. It does end the soft—or sewer—money that is used to avoid all campaign finance laws. It does ban contributions from political action committees. And it does prohibit the practice of bundling campaign contributions, a means to skirt the individual and PAC contribution limits.

Therefore, to move forward with these important changes—despite my strong support of public funding and my strong distaste for moderate reform—I voted for the Exon-Durenberger amendment, and I will vote for the bill.

But, let's not kid ourselves or the American people about what we are doing here. This bill is not a complete solution. History shows that moderate reform only encourages immodest loopholes. And, if the past provides any prologue to the future, the reforms embodied in this bill will only create new problems that will have to be fixed with new reforms. Perhaps one day the Senate will learn that the way to stop repeated reform is to enact real reform.

So, Mr. President, I will vote for this moderate reform, but I will not settle for moderate reform. I will be back. I will be back next year, and the year after that, and the year after that. And, for as long as I have the privilege of serving the people of the State of Delaware in the U.S. Senate, I will continue to fight for the only real, comprehensive campaign finance reform: public funding of congressional campaigns.

I yield the floor.

Ms. MOSELEY-BRAUN. Mr. President, I have been a strong supporter of campaign finance reform for a long tme. I worked for campaign finance reform when I was in State government. And campaign finance reform was a cornerstone of my campaign for the U.S. Senate. I told the people of Illinois that achieving meaningful campaign finance reform would be a top priority of mine—and I keep my promises. That is why one of the first bills I cosponsored in the Senate was S. 3.

The reason campaign finance reform is so needed is very simple—to ensure that voters, and not money, determines election results. Voters know what we all should know. They know the money chase has gotten out of control, and they know that big money stifles the kind of competitive elections that are essential to our democracy. And voters know that the effort to raise the money needed to run for election ends up making it more difficult to make needed reforms in a whole range of areas.

Ordinary people believe that the current system makes Government too distant from them. They want—and deserve—Government that is responsive to their needs and their problems. They fear that because Senators and Representatives have to spend so much of their time raising money for campaigns, they will not have the time necessary to fully meet their obligations to all of their constituents.

I am a new Member of this body, but I know that all of the Members of the Senate take their obligations to their constituents very, very seriously. I also have firsthand experience, however, with the demands of fundraising, and I think it is long past time to enact real reform, and to put a brake on the costs of campaigning.

The way to do that is through spending limits. Spending limits fundamentally change our system, and make it more open and competitive. And spending limits will help focus elections more on issues, instead of on who can run the most slickly packaged negative TV commercials.

Tough spending limits are the cornerstone of reform. It is vitally important, however, as we take the first major step towards enactment of reform legislation, that we keep a couple of fundamental principles closely in mind.

First, it must not limit the ability of minorities, or women, or anyone, to participate in our political system. Reform must open our system, not close it in any way. It must not entrench incumbents, and it must not create a tilt in the playing field that advantages some at the expense of others.

Second, the interests of ordinary Americans must be the top priority of reform. Our objective must be to make our system more democratic. Reform must be designed to ensure that every American is free to participate, that every American has a chance to participate, that the election system is fair, simple, and understandable, and that every American is able to feel confident that the system can work for them.

In a recent article in the Washington Post, David Broder argued that many of the populist reforms now being discussed that resonate strongly with the public

> Have a common characteristic: They would all increase the power of the economic and social elite that most vociferously advocates them. And they might well reduce the influence of the mass of voters in whose name they are being urged.

I think we need to take Mr. Broder's warning to heart, Mr. President. We must be sure that, at the end of the day, the bill we enact is a provoter bill, and not a proelites bill. With that criteria in mind, there are at least two areas of the bill that need another look.

The first is the treatment of unions. As the bill now stands, union members cannot pool their money through a political action committee, or through any other means, to make contributions to candidates. Currently, each individual union member makes very small contributions; in fact, monthly contributions range from as little as a few cents to a high of a few dollars. Union members, however, have a real appreciation of the benefits of collective action, and they know that their voices are heard much clearly when they act collectively.

Further, the average union member, like most other Americans, has to concentrate on making ends meet and on helping their families. Often, they have neither the time nor the financial resources to be able to make a major commitment of time or money to a political campaign. That means that their ability to act collectively is even more important.

Similarly, EMILY's List provides a different kind of mechanism that enables women to do what union members do—act collectively.

EMILY's List has helped bring women into politics. It played an important role in my campaign, and I think the efforts of EMILY's List is one of the main reasons there are now five Democratic women Senators instead of just one.

EMILY's List helps challengers; 98 percent of the contributions its members made in the last election cycle went to challengers. Even more important, however, is the fact that EMILY's List has energized women, that it has given more women a way to participate in our political system—women who have never participated before.

I think that kind of activity should be encouraged, and not artificially limited. EMILY's List has helped open up our system; it has showed more women that the system can work for them. I think EMILY's List is American democracy in its purest form. EMILY's List should be applauded and encouraged, and not terminated.

I know the argument that letting EMILY's List continue to function means creating a loophole that special interests might be able to walk through. In my view, however, we cannot afford to end this kind of prowoman, pro-democracy, pro-openness activity.

We want to further encourage women, and union members, and other ordinary Americans to participate in our system. I think that any practical problems in these areas can and must be resolved. Our priority must be to ensure that our political system, and that includes our system of campaign finance, encourages participation by ordinary Americans. Our priority must be to ensure that our political system encourages openness to every American.

I am voting today to take the next step and to send this bill to the House of Representatives. I do not believe this is a perfect bill, but I do think its flaws are correctable.

I urge my colleagues, therefore, to improve the bill where improvements are needed, and to return to the Senate the kind of reform bill of which we can all be proud.

Mr. President, I ask unanimous consent that a copy of the David Broder article be printed in the RECORD.

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

WHY THE NEW "REFORM" REALLY SERVES THE ELITES

(By David S. Broder)

From coast to coast an army of reformers, waving the banner of populist protest against the special interests, is mobilizing to enact a host of remedies for the ills of American democracy.

Term-limits, campaign finance reform and curbs on lobbying in particular are gathering support as cures for a system the reformers say is overrun with careerism, insider influence and financial corruption. If enacted, their remedies would without doubt change the nature of the American republic: The structure and operations of government would be recast and power would be substantially redistributed.

Yet paradoxically, the "populist" reforms, many of which are pushed by "good government" groups like Common Cause and the League of Women Voters, have a common characteristic: They would all increase the power of the economic and social elite that most vociferously advocates them. And they might well reduce the influence of the mass of voters in whose name they are being urged.

Even so, the reform agenda resonates powerfully with the public. Billionaire businessman Ross Perot, a one-fifth of the popular vote for president espousing these themes and now has built a massive grass-roots organization to promote them. Poll after poll shows broad support for all these measures.

One would expect that such sweeping changes would occasion great debate. But in many of the major marketplaces of ideas—TV talk shows and commentaries—the "debate" is remarkably one-sided. The reformers ground against the hacks, crooks and influence-peddlers. Who wants to defend perks and privileges, political action committees and the brigade of Gucci-shod lobbyists?

As Perot told me in an interview last month, "If there's someone out there who thinks our future would look better if we had more foreign lobbyists, let 'em speak up."

I'm not foolhardy enough to accept Perot's dare, but I do want to argue that the missing side of this debate needs to be heard, not because the reformers are entirely wrong in their criticisms—they are not—but because they have an agenda that is not as innocuous or disinterested as they pretend.

Reformers couch their proposals in terms of eliminating pernicious influences on politics and government, but they rarely acknowledge that the process changes they push would also redistribute power—in the direction of themselves and their social-economic peers. What they would do with this power remains unclear from their manifestos. But historically, regimes that have been dominated by social and economic elites frequently have failed to respond to the needs of the lower classes. Often, they have seeded true people's movements that have taken an ugly turn.

This is not a new phenomenon in American history. Richard Hofstadter, in his book "The Age of Reform," linked the "progressivism" of the first two decades of this century to the offense taken by the established, largely Protestant elites as waves of fresh immigrants swelled the cities and provided votes for political bosses who controlled jobs, contracts and municipal graft. The reformers did not like the bosses and they did not care much for the immigrants either. So they set out to cleanse the cities of both political corruption and moral turpitude. Prohibition and anti-prostitution drives were in their armory, as well as calls for civil service, nonpartisan election and professional city managers.

Their allies in this enterprise were the newspapers and magazines, and the "muckraking" tradition of that era continues today as the dominant ethic in newsrooms and editorial offices. Now, as then, journalists, academics and reformers have disproportionate confidence in their own moral judgments and disproportionate influence in the places where these issues are discussed.

At the root of this debate are two different conceptions of democracy. One puts democracy out in the forum and marketplace. The other enshrines it in the temple.

The first sees the workings of representative government—especially in a big, diverse and complex nation like this one—as an inherently messy brawl of competing egos, ambitions, factions and interests. Its adherents welcome efforts by individuals and groups of all kinds to mobilize mass support and to threaten reprisal on public officials who do not heed them. They want only a few rules, rooted in the Constitution, to keep the game from becoming unseemly.

The second concept envisages a government of selfless, public-spirited leaders, who need to be kept immune from the corrupting influence of the surging mobs of favor-seekers who would defile the temple of democracy. Its proponents would prefer that the voice of the voters be heard only in elections conducted under strict and complex rules, and those chosen to hold office should then be guided, as Edmund Burke argued, by conscience and immunized from pressure groups.

Though today's reformers have appropriated the rhetoric of "temple guardians," their preferred remedies for "cleansing" the system are remarkably similar to actions that would enhance their own power and influence. Take their three favorites:

TERM LIMITS

Almost 10 years ago, Alan Ehrenhalt, then of Congressional Quarterly and now of Governing magazine, documented how the legislatures of America were losing their long-time majorities of lawyers, farmers, insurance and real estate agents and small businessmen, who found a short stay in the state capital and enjoyable diversion for their everyday work. Into their seats, in many cases, came teachers, former legislative aides and other political "junkies" who looked on the legislature not as a part-time sideline but as a career.

To hear term-limits advocates tell it, these "career politicians" have damn near ruined the legislatures and Congress. They have loaded up on staff who then spend every waking hour finding new ways to spend or waste public money. Because their livelihoods depend on staying in office, the newcomers have escalated political warfare, building mini-machines and shaking down lobbyists for contributions. In return, the lobbyists have imposed their expensive private-interest agendas on what was the parsimonious, public-spirited government of the good old days.

There is an element of truth in this, but it's far from the whole story. In the "good old days," many legislatures looked like that in my adopted Virginia. There the General Assembly and the state Senate were filled with junior partners in leading law firms, which "carried" them for the duration of the legislative sessions. This practice perhaps was intended as a contribution to good government, but it also guaranteed a sympathetic ear for a client's problems when a piece of legislation happened to come before the partner's committee.

Now, when term-limits advocates urge that we return to the days when "good citizens" gave a few years to serving in political office, I wonder who will take them up on the invitation. Who is more likely to interrupt her career for six years of low pay as a state legislator—a librarian or a junior partner in a local law firm? A day-laborer or the owner of his construction company? A dental assistant or a doctor's spouse?

When you change politics from a career to a part-time avocation, you change the motivation for people to seek office. And the impact is not felt randomly across the population. Part-time politics works very well for members of the social-economic elite. But for people without the advantages of leisure time and financial resources, the hard work of politics makes little sense if it offers no long-term opportunities and rewards.

CAMPAIGN FINANCE

The same tilt can be discerned in proposals for campaign-finance reform offered by Common Cause and other "good-government" groups. The changes they want are complex, but almost all aim to reduce the influence of money—especially money collected through political action committees (PACs) or "bundled" contributions.

The reformers offer many rationales for these changes: Senators and representatives spend too much time fundraising. They are driven into compromisingly close relationships with their financial supporters. They cannot deal disinterestedly with issues because the same lobbyists who twist their arms on legislation line their pockets at campaign time.

Implicit in these arguments is the "temple" model of democracy—the appealing but unreal notion that lawmakers should be like high priests, untouched by personal, private or political relations with those affected by the laws they pass. But legislators and mayors and governors and presidents do not live in a vacuum; they are subjected to all kinds of influence, including, ultimately, the sanction of voter approval or disapproval.

By focusing their wrath on money influence, the reformers divert attention from other kinds of access and influence—the very kind wielded most effectively by people like themselves. Think of this: If I am a member of a trade union or a gun owners' group, or a flower-growers' association, and I give money to its PAC, which is then handed to a candidate or officeholder, I am, in the lexicon of reformers, a corrupting influence on our politics and should be strictly regulated—or maybe banned. But if I am a volunteer who walks a precinct for my candidate or stuffs envelopes at headquarters or writes a position paper for her, then I am a public-spirited citizen making our democracy strong and vital.

Now, who has the money, the time, the skills to gain access and influence by being a position-paper writer or even a humble envelope-stuffer? Not the typical NRA or UAW member. Rather, I would guess that you would find an amazing overlap between these certified "public-spirited" citizens and the kinds of people who belong to the League of Women Voters, Common Cause and similar groups.

Taking money out of politics will clearly reduce the influence of the average union or

anti-abortion group member, but it won't touch the access the typical Yale Law School or Kennedy School of Government graduate enjoys. So tell me: Which side in this debate represents elitist influence, and which represents populism?

LOBBYING CONTROLS

The third piece of this reform triad—the cry for further controls on lobbyists—is of the same character as the other two. It is an elitist impulse disguised as a populist measure.

Here the facts of the matter are pretty obvious: If lobbying were outlawed or severely curbed, who would lose influence—the average small employer who belongs to the Chamber of Commerce or Ross Perot, the famous advocate of lobbying controls?

If that strikes you as a loaded comparison, try this. Generally speaking, what sort of people do you think hire lobbyists: those who already have access to government decision-makers or those who believe that otherwise they would not have access? My guess is the same as yours. They're the people who fear they would not get their foot in the door without a lobbyist.

Who are the people who have access to government decision-makers without having to pay to secure it? Well, bless me, in most instances they are the decision-makers' pals, their social and financial peers, the folks they see when they go home for weekends.

In a world without paid lobbyists, access and influence would still exist. But they would be distributed very differently. And the winners, at least in my view, would once again be the elite.

That's not to say that there aren't measures that would truly improve the workers of our government. Limiting tenure of committee chairmen, providing more resources to challengers for House and legislative seats, improving disclosure of lobbying and financing arrangements across the board all make sense. But real caution is needed when it comes to the current "reform" agenda, which tilts power strongly to the elite and away from the mass of voters.

Behind all these specific issues is the larger question of how comfortable Americans are with what it takes to make representative government work. In their heyday, political parties were the most efficient device ever invented for energizing democracy and making election results more representative of the needs and desires of the mass of voters. The bad old big-city machines turned out the Democratic vote, and so did many less celebrated rural and small-town Republican machines. The process was not always pretty. Corruption could be found.

In the flush of affluence after World War II, a large portion of the electorate—especially in the higher income and education classes—decided that this country could be governed quite well without political parties. They proudly proclaimed their liberation from partisanship by saying, "I vote for the person, not the party" Inevitably, the turnout in elections declined—but not across the board. The wealthy and the educated continued to show up to vote; the poor and less educated dropped out. That decline continued for 30 years, until it was modestly arrested last November.

Now the reformers are out to cripple the political parties still further in their vital mobilization effort. Both parties pay for their registration and voter-turnout drives with "soft money" contributions, which the present law allows in larger sums than contributions directly to federal candidates.

The New York Times editorial page calls it "sewer money," a usage adopted by many reform organizations. The snobbism of that term is marvelous. Taking money in big chunks from corporations, unions or individuals and using it to register and turn out people who are not nearly as motivated as your average editorial writer or Common Cause board member is exactly the kind of dirty work you would expect—ugh—politicians to be engaged in. So let's us high-minded purists stop them from such work.

But many reformers are not content with driving the parties out of politics; they want to get rid of the politicians as well. That is the unstated agenda of the term-limits movement. It will, if it succeeds, make public office once again a socially acceptable place for amateurs and dilettantes, people with far better things to do than to grub about for long in the gritty business of government.

One likely effect of shortening the tenure of elected officials would be to increase the power of their unelected staff members. That change would serve the interests of the elite. The ranks of congressional and legislative staffs are filled by the educated young. The House Ways and Means Committee may be chaired by a rough-hewn street politician like Dan Rostenkowski, but the staff work is done by lawyers and economists from the elite universities. Remove Rosty, along with his knowledge of why and how certain provisions were written the way they were, and the bright-scrubbed staffers will have their way.

Finally, suppose we let the reformers take the lobbyists out of the picture, regulate them like the lepers they are and deny anyone a tax break for hiring them. You can be assured that the new amateur officeholders and their well-educated staffs will be approached only by those who already know them: their fellow members of the elite.

It is a perfect circle. And the fact that it is being sold—and bought—as a populist movement designed to eliminate corruption and special interest influence just shows how clever our new ruling class will be.

But if it succeeds, history strongly suggests, its victory will not be permanent. Sooner or later, voters will figure out that they have been bamboozled. and when that moment comes, you will see a *genuine* populist revolt. If we are lucky, it will revive the kind of vigorous, open, competitive and gamy representative government we saw with the New Deal but now seem to be shunning. If we are not so lucky, history does not lack in populist demagogues who have overthrown elites—and then ruled by means not comforting to recall.

Mr. BROWN. Mr. President, I rise in opposition to final passage of S. 3, the Congressional Spending Limit and Election Reform Act of 1983. I oppose this bill because it is not true reform, Mr. President, it is incumbent protection. Furthermore, we should not be calling on the taxpayers of this country to finance this incumbent protection package at a time when huge sacrifices are being asked of them to address our budget deficit. True reform of our campaign finance system can come with term limits and not by putting unfair hurdles in the path of challengers.

This measure has created a new entitlement program for politicians. Under this bill, incumbents receive taxpayer-financed food stamps in the form of broadcast and newspaper ad vouchers, preferential mail and broadcast rates, extra payments if an opponent exceeds the spending limits, and extra payments if an independent group runs an ad campaign against them.

The sponsors of this legislation have apparently recognized the deficiencies inherent in taxpayer financing of campaigns because they have accepted amendments scaling back the scope of public financing. Under the bill as proposed by President Clinton, the bill would have provided public funding to those abiding by the spending limits in the form of communication vouchers for advertising or mailings.

But under a compromise, complying candidates would not receive vouchers unless their opponents refused to abide by the spending ceilings or received the help of independent expenditures from outside groups. In such cases, a candidate could receive up to the full amount of the spending ceiling for his or her State.

Funds for this incumbent subsidy would come from taxpayers, in the form of imposition of the top corporate tax rate, now 34 percent, on contributions to noncomplying candidates. If that tax failed to cover the necessary amount, or is declared unconstitutional in court, the money would come from repeal of the deduction that businesses can take for lobbying expenses.

These funding mechanisms are another taxpayer ripoff. The revenue saved by this tax increase does not go to pay down the debt, reduce the deficit, or lower taxes for other Americans. Instead, it goes toward more new Government spending, this time for political campaigns.

This is not true reform. And Americans know it. In poll after poll Americans have made clear to their elected officials their opposition to public financing. For example, in a recent Fabrizio McLaughlin & Associates poll, Americans were asked, "Would you favor or oppose campaign finance reform legislation that includes a provision for taxpayer financing of congressional campaigns?" A clear majority of those responding indicated they opposed public financing.

The Senate could have done the right thing and stripped all public financing from the bill, and in so doing effectuate the will of the people. However, an amendment to do just that, which was offered by Democratic Senator RICHARD SHELBY from Alabama and Republican Senator MITCH MCCONNELL from Kentucky, was defeated by a vote of 53 to 44.

The American people do know what true reform of our campaign system requires—and that is term limits for their elected officials. In the same Fabrizio McLaughlin & Associates poll, Americans were asked whether they favored term limits for Members of Congress. Over 75 percent of those polled said "yes." And when asked whether

they favored or opposed campaign finance reform legislation that included a provision to limit congressional terms, 70 percent said "yes" and only 17 percent said "no."

That is why, Mr. President, I offered an amendment to the campaign finance reform bill to require Senate and House candidates who received public financing to serve no more than 12 years. After serving 12 years, Members of Congress would be ineligible to receive further public financing.

The amendment was defeated 39 to 57. However, the Senate came 9 votes closer to effectuating the will of the people. A similar amendment offered by me 2 years ago during consideration of the last campaign finance bill received 30 votes.

Mr. President, President Clinton was elected on a platform of change. This bill unfortunately does not represent true change but only more of the same. Incumbent protection is not change. Subsidizing political campaigns with taxpayer money is not change.

Necessary and true change—that is, political reform that strikes at the heart of fiscal irresponsibility—can come about only through a balanced budget amendment, a line-item veto and term limits.

Passage of the balanced budget amendment would signal a fundamental change aimed at reducing the debt. Similarly, the line-item veto is an effective tool to control spending and eradicate waste.

And finally no mechanism short of term limits can limit irresponsible spending by nailing the lid shut on pork barrel spending.

All three constitutional amendments are supported by the American people. All are opposed by the current leadership.

Term limits, and with them the line-item veto and the balanced budget amendment, are the tools to dismantle a bloated Federal Government. They are the mechanisms which will return to the people and to the States, the social, economic, and political powers that are rightfully theirs.

It is my belief that the injection of robust competition back into the political process will produce better results for the American people. However, that effort is frustrated by S. 3's key provisions designed to maintain the advantages of incumbency.

TAXPAYER FINANCED CAMPAIGN FINANCE REFORM IS NOT THE ANSWER

Mr. KEMPTHORNE. Mr. President, during my recent campaign for the U.S. Senate, the people of the State of Idaho convinced me that they are tired of politics as usual in Washington, DC, and they are demanding a change. They dislike abuses of power and privilege. They feel that we in Washington, DC have lost touch with America. They feel we have not addressed the real issues facing America like spending and the deficit.

The people of Idaho did not once suggest to me that they should be taxed to contribute to campaigns across the country. As a matter of fact, I cannot remember a single incident where anyone asked me to tax them more at all.

We had the opportunity to respond to that demand for change and enact real campaign reform. But that reform was not present in the legislation before us today. As long as we look to pad our own pockets at the expense of the American taxpayers we cannot call it meaningful campaign finance reform.

These last few weeks, there has been a great deal of talk about reforming campaign laws. And quite frankly, Mr. President, that is all it has been—a lot of talk. The people of this country want action, and I believe they want action that does not dip further into their pockets. The people of America hate the idea of financing elections. S. 3 would be financed, but only in part, through a system of voluntary checkoffs. Well, in my State of Idaho only 9 percent of all taxpayer filings included a campaign checkoff.

I was an original cosponsor of S. 7, the Comprehensive Campaign Finance Reform Act of 1993. This was a plan that accomplished, what I believe, are the important elements of campaign reform—and it would not have cost the taxpayers a dime.

In addition to eliminating soft money, the Republican campaign reform proposal banned contribution bundling; closed the millionaire's loophole; strengthened reporting requirements; and provided party seed money for challengers—to increase electoral competition.

S. 7 eliminated all taxpayer financed mass mailings, reduced out-of-State contributions by 50 percent and best of all, no taxpayer funds would be used to fund the system.

This plan for taxpayer-financed campaigns is the ultimate perk—an entitlement program for politicians. And I agree with those who have also spoken on the floor—what we need is real campaign reform, not a sham that amounts to handouts for politicians.

S. 3 is advertised as having, in the words of the New York Times, "eliminated most of the public financing * * * ." The problem however, Mr. President, is that S. 3 still retains significant public financing. If any candidate exceeds the spending limits in the bill, then his opponent receives taxpayers' dollars to match that amount. This is a massive subsidy for politicians. I have pledged that I would not support any campaign finance legislation that lines a politician's pockets with taxpayers' moneys.

S. 3 is, according to even the ACLU, unconstitutional. It raises taxes on no less a constitutional right than free speech in direct contravention to the U.S. Supreme Court in Buckley versus Valeo.

The American people have sent a message to this Congress: Cut spending first. I submit to you that S. 3, is designed to pad the pockets of politicians, is a new program and new spending which the American people simply will not tolerate.

Why are we even talking about a new way to put politicians in the public's wallets?

Any politician who does not feel that he or she should take the taxpayers' money for a campaign would be labeled by this bill with a "scarlet letter"—a statement that the candidate has not agreed to voluntary spending limits.

Instead let me suggest that any candidate who took this money should have been required to state that, "This candidate has chosen to be funded by the taxpayers instead of independent supporters."

We are in danger of taking the political process away from the American people and handing it over to a bureaucracy.

Mr. President, we have come to a fork in the road, and it is time for us to make a decision on campaign finance reform. We had the opportunity to support S. 7, a simple and effective piece of legislation that would have brought about real reform without any of the funding—without any of the coercion.

Mr. President, the latter course, is the prudent course. It accomplishes the campaign reform that is needed, and it does not cost the taxpayers a dime.

Mr. HARKIN. Mr. President, I rise in support of the campaign finance reform bill we will vote on today. This legislation is a step forward in restoring the public's trust in the political process. The American people are fed up with high spending campaigns paid for by fat cat big spenders and Gucci-shoed lobbyists. The public overwhelmingly supports reforms, and in this bill, they will get them.

The major advantage of this bill is the imposition of spending caps, that will stop the out-of-control spiral of campaign spending. The pattern of recent years has been that the candidate spending the most money almost always wins—and that has generally been the incumbent, with the fundraising advantages and contacts that being in office provides. By capping spending, we will make races more competitive.

Although I support this bill, I would have gone significantly further in making reforms. We should have at least halved the limit on individual campaign contributions by adopting Senator WELLSTONE'S amendment. By leaving the limits at $2,000 per election cycle, and at the same time eliminating organized campaigns of smaller donors such as bundling and political action committee [PAC] contributions, we may be tilting the election process even more toward the interests of those who have too much influence in

Washington already—the moneyed interests that use their wallets as a doorstop on their Senator's inner chamber.

I also question the wisdom of a 33-percent excise tax on all campaigns to coerce voluntary compliance with this legislation. I would have supported a system that provided more real incentives. I thought that the bill as introduced, and as passed in the last Congress, and as in the President's proposal, struck a reasonable balance to allow candidates to decide whether to comply with the spending limits voluntarily, as required by Supreme Court rulings on this issue.

Further, we need clean money to flush the special interest money out of the system. The only way to do that is to provide additional public financing, and I am sorry that the relatively small public financing provisions in this bill were reduced even further to allow this legislation's passage. These funds came from a voluntary checkoff, and by the elimination of the deduction for lobbying expenses. Keeping these provisions would be an investment in good government, and in giving challengers a chance. Providing the communications vouchers would have helped level the playing field.

Despite these misgivings, Mr. President, I feel that this legislation is better than the alternative of no reform at all. The limits on campaign spending will help end the continual money chase. Reforms concerning the acceptance of soft money closes a significant loophole that invites abuse. And discounted mail and broadcast rates will give challengers a boost that can help them get their message out. Despite my concerns, therefore, I will vote for passage of this legislation.

Mrs. BOXER. Mr. President, I rise today in support of the Congressional Spending Limit and Election Reform Act of 1993. I support this legislation because I believe it will help reduce the influence of special interest groups in the electoral process. Although I strongly support a Senate electoral system modeled after the Presidential system—with all money removed from general elections—I still believe that this bill is a step in the right direction.

I am concerned, however, that some provisions of this bill may have unfortunate and unintended consequences for grassroots organizations like EMILY's List.

Groups like EMILY's List operate by distributing information about candidates to their members. If members wish to support a particular candidate, they write checks payable to the campaign committee and forward them to the organization's headquarters. The organization then presents the contributions to the candidate.

Mr. President, this kind of grassroots activism is a far cry from the influence peddling that this legislation rightfully seeks to eliminate. Groups like EMILY's List do not lobby and have no financial interest in legislation pending before Congress. Members of these groups contribute the vast majority of their funds to challengers—unlike virtually every PAC in existence today. Therefore, Mr. President, I do not believe that groups like EMILY's List are part of the problem. I believe they are part of the solution.

EXPLANATION OF ABSENCE AND POSITIONS ON VOTES

Mr. BAUCUS. Mr. President, from May 27 through June 9 of this year, due to the sudden illness and subsequent death of my father, John Baucus, I missed a number of votes. While my vote would not have been decisive in any of the decisions, I feel that it is important that my constituents know how I feel about these issues. Therefore, Mr. President, I submit the following statement explaining how I would have voted on each of these amendments to S. 3, the campaign finance reform bill:

THURSDAY, MAY 27, 1993

1. The Hollings Sense of the Senate Amendment to limit campaign expenditures. I would have voted in favor.

2. The Kerry-Biden-Bradley Amendment that would have provided general election public funding of 90 percent of general election spending limit for candidates who achieve a threshold of 10 percent of the general election spending limit in contributions of $250 or less. I would have voted in favor.

3. The Graham Amendment to require a candidate who mails a campaign advertisement that refers to an opponent to file an exact copy of the mailing the Federal Election Commission and with the Secretary of State of the candidate's State on the same day of the mailing. I would have voted in favor.

4. The Graham Amendment to make it a condition of eligibility to receive benefits that a Senate candidate agree to participate in at least one debate. I would have voted against.

FRIDAY, MAY 28, 1993

5. The DeConcini Amendment which would have lowered the primary spending limit to 50 percent of the general election limit and lowered the general election minimum spending limit to $900,000. I would have voted against.

TUESDAY, JUNE 9, 1993

6. The Graham Amendment that sought to authorize the FEC to make grants to states to fund the preparation and mailing of voter information pamphlets. I would have voted against.

7. The Graham Amendment that would have made broadcast discounts available to candidates for state and local offices who abide by reasonable state-established spending limits. I would have voted against.

8. The McConnell Amendment which would have eliminated the inflation adjustment for the public financing allotment in the bill. I would have voted to table.

9. The McCain Amendment which makes the provisions of S. 3 effective for the 1994 election cycle. I would have voted in favor.

10. The Boren Amendment in the nature of a substitute to the Gregg Amendment which provides that revenues derived from the elimination of deduction for lobbying expenses shall be used to reduce the deficit and reduce the role of special interest in congressional election campaigns. I would have voted in favor.

WEDNESDAY, JUNE 9, 1993

11. The Bennett Amendment which sought to limit the use of public funding by a candidate to no more than two general elections. I would have voted to table.

12. The McConnell Amendment which would have required disclosure of payment made on communications when paid for by public funding. I would have voted to table.

13. The Bennett Amendment which would have limited public financing to challengers only. I would have voted to table.

14. The McConnell Amendment which sought to strike the provision exempting legal and accounting compliance costs from campaign spending limits. I would have voted to table.

Mr. MCCAIN. Mr. President, as the Senate has now completed action on the campaign finance reform bill, I want to take this opportunity to state for the RECORD what will guide my decisionmaking as the bill continues throughout the legislative process.

I have long supported campaign finance and election reform: strong, fair legislation that curbs the money chase that the public despises. At the outset of this year's debate four of my colleagues and myself set forth nine principles that we stated would guide our decisions on campaign finance reform. Those principles are: First, that political action committees, PAC's, must be subject to further limitation or eliminated; second, the House and Senate must adopt the same rules; third, all soft money must be disclosed; fourth, in-state contributions should be favored over out-of-State contributions; fifth severability; sixth campaign fundraising should be limited to the actual election cycle; seventh, campaign committee should not be allowed to pay back loans that candidates make to their own campaigns; eight, public financing should be avoided; and ninth, any bill that provides for public financing must be paid for.

These principles did not favor any party. They were designed to bring fairness to the current system and truly level the playing field for elections.

Acceptance of these points was crucial to my supporting this bill. I was pleased that eight of these points were adopted by the Senate. Although I was disappointed that the Senate did not accept language mandating that in-State contributions be favored over out-of-State contributions, I hope that this issue can yet be addressed.

Moreover, I sought to improve and strengthen the bill, offering amendments to prohibit politicians from using campaign funds for personal purposes and to apply the bill to 1994 elections rather than 1996 elections.

The Senate unanimously adopted the first of the amendments forbidding any candidate from using campaign funds for personal use. Adoption of this amendment was crucial in order to ensure the integrity of campaigns.

The Senate also voted 85 to 7 to adopt my amendment to apply the provisions of this legislation to 1994 elections. Mr. President, there is no reason to postpone implementation of this bill. If campaign reform is needed—and I agree with the American public that it is—then it is needed now, not years from now.

Let me clarify this point. This legislation must apply to all campaign activities immediately upon the bill being signed into law. If the enactment date is postponed, then the public will have a clear message that incumbent Members of Congress are doing nothing more here than protecting their seat.

I believe that this bill has been significantly improved over the legislation that was initially forwarded by President Clinton. It addresses many of the abuses that exist in the current system, and goes a long way toward leveling the playing field between incumbents and their challengers.

While improved, however, the bill is not perfect. For example, I am not completely satisfied with the resolution of the public financing issue. While I would have preferred that the legislation avoid any public financing, I believe the compromise that was struck is a reasonable approach to this issue.

All the issues I have just addressed must be included, as the Senate passed them, in any legislation that would be sent to the President.

Should the House of Representatives or a House-Senate Conference Committee report out legislation that creates different standards between the bodies, fails to address any of the nine original principles I have just outlined, or does not include my two amendments which were overwhelmingly adopted by the Senate, I reserve the right to take any step necessary to prevent this bill from becoming law.

Mr. President, passage of good, fair campaign finance reform is an issue we can all agree upon. I would hope we later have that opportunity.

However, legislation that is not balanced or contains mechanisms to help unfairly protect incumbents is wrong, and it should not be passed. I would hope that my good friends in the House of Representatives would not try to perpetrate such a sham on the American public.

I remain committed to meaningful campaign finance reform, and I remain committed to the principles I outlined at the beginning of this debate. As long as these goals are met, I will be leading efforts to seek final passage of this legislation.

I yield the floor.

Mr. RIEGLE. Mr. President, I would like to lay out some of the reasons why I feel that campaign finance reform is urgently needed. One of the strongest messages we are hearing from the people of this country is that they are disillusioned with their Government.

Much of the disenchantment is directed at the Congress, the body that is supposed to carry out the will of the people of this country. I believe that much of this frustration is directly related to the need for campaign finance reform.

Over the last decade, the cost of running for federal office has increased dramatically. The need to raise increasing sums of money has several negative consequences. It discourages people of modest means from running for public office, and it can create the impression that Members of Congress are more concerned with raising money than addressing the issues that face this country.

The trends in campaign spending over the last several years are deeply troubling. The average cost of winning a seat in the Senate in 1976 was $600,000. That figure has now risen to more than $4 million. This gives a great advantage to candidates with enormous personal wealth; many Members of the U.S. Senate today are able to draw on large personal resources for their campaigns. Those who have access to this kind of money have a much greater opportunity to run for the Senate and in many cases to be elected. But for most Americans who do not have access to those kinds of special assets, the prospect of running for the U.S. Senate has been moving steadily out of reach.

When I first entered politics in 1966, I did not come from a wealthy background, but I was able to defeat a sitting Member of Congress. Now it has become prohibitively expensive to run for office, for both challengers and incumbents. I am one of the few in the Senate today who is not a millionaire.

Campaign spending reform is needed to encourage broader participation in our legislative system and to make it possible for challengers to have a fair chance of winning, regardless of their personal economic circumstances. There has been a lot of debate about whether voluntary limits hurt or help challengers. But the facts show that incumbents outspend challengers in the vast majority of cases. In the 1990 election, incumbents outspent challengers 3 to 1. And incumbents' ability to raise large amounts of money actually scares off challengers. The truth is that reasonable spending limits will encourage competition by making it possible for challengers to compete on a more equal footing with incumbents, and it will open the possibility of running for office to more citizens.

Campaign finance reform is also needed to make sure that Senators' time and effort can be devoted to solving our Nation's problems. Because elections are so costly, Members of Congress must spend an increasing amount of time raising funds to finance their reelection campaigns. A Senator today has to raise an average of $13,000 or more a week in order to run for reelection. That task is an enormous drain on one's time and energy. It's not a task I relish, yet under our current system it must be done in order to have access to the media and be prepared to address any potential negative campaigns that might be launched against you.

I have been a strong and consistent supporter of efforts over the last few years to make fundamental changes in our campaign financing system. I believe the ultimate solution is to provide public funding for campaigns because that reform would reduce the advantage for wealthy candidates, eliminate the potential for conflicts of interest—real or perceived—attaching to the vast sums of money needed for contemporary campaigns, and end the need to spend time to raise money for political campaigns. Despite this clear virtue, I understand that many people do not support this position.

I strongly support the bill that is before us because it takes several much needed steps to reform the campaign financing including establishing voluntary limits on spending, reinforced with incentives for compliance and ending soft money and bundling practices.

While we are grappling with the difficult questions of campaign financing, we should also look at the larger picture of campaigns in general, and the impact they have on people's confidence in our electoral system. There has been a great deal of discussion over the last few years about negative campaigning and the shortcoming of the 30 second sound bite. As we are all aware, advertising techniques have been moving toward harsh attack images aimed at putting candidates on the defensive, rather than encouraging real debate on the key issues facing this country.

Provisions in this legislation to provide vouchers for broadcast advertising and to reduce the cost of advertising will reduce the overall costs of campaigns, and marks a small step toward encouraging candidates to discuss the issues in greater detail.

In addition to supporting these changes in the law, I have adopted my own personal guidelines for my own fundraising efforts. I have pledged that, regardless of whether campaign finance reform legislation is enacted or not, I will accept no PAC contributions from any company whose principal business is under the jurisdiction of any committee or subcommittee which I Chair and I will not accept any personal contributions from individuals who are CEO's or officers of these companies or any sponsorship by them of campaign reelection fundraising events.

Mr. President, we have one of the greatest legislative systems in the world—one that has been admired and copied by other nations. One of the most important strengths of our system is that it is based on the principle

of inclusion. But the escalating demands of raising large sums of money to run for public office is putting serious strains on our system of citizen Government. We must make sure that our Government is reflective of all Americans, not just the wealthy or a privileged few. Campaign finance reform must be enacted if we are to restore fair competition and true representation to our political campaigns.

Mr. GLENN. Mr. President, I have heard that money is the mothers' milk of politics. If that is true I think it's time for the EPA, FDA, FTC, and FEC, to declare it unsafe for public consumption.

The chase is on for money and ever more money, whether soft, hard, bundled, or independent. Candidates need it to pay for an explosion of campaign expenses. We raise it in an endless string of dinners, receptions, cross-country trips, and telephone calls. How else can we effectively express our views on important issues?

The Senator from Oklahoma [Mr. BOREN] first brought the necessity of campaign finance reform to the attention of the Senate in 1985. He has continued to lead this effort through all the difficulties and I commend him for his work.

Nothing is more important to our system of representative Government than the guarantee of free and fair elections. Many citizens believe that the credibility of our electoral process has been eroded by election campaigns whose costs have skyrocketed and whose public purposes are paid by private dollars. I believe that the bill before the Senate brings vast improvement to our current system. It will provide many of the improvements we brought to Presidential elections in the 1970's.

In my early campaigns, less money was raised and spent, political action committees were few, contributions were almost unrestricted, and reporting requirements were all but nonexistent. Today, millions are raised through direct mail, PAC's, and endless dinners, receptions, and telephone calls.

Once raised, extraordinary amounts of money are spent on consultants, polling, computerized demographic analyses of constituencies, and television advertising.

We all remember the Watergate era that led to the current campaign finance rules. Reform was long overdue at that time. Now, we again confront the question of money in politics. In the 1970's we sought to reduce the impact of special interests by limiting contributions. The rise of PAC's, bundling, and soft money, has seriously eroded the credibility of past reform.

Campaigns are too expensive and fundraising detracts from the main purpose of the campaign. Fundraising detracts from our ability to effectively confront the need for more jobs, to reduce the national deficit, to provide for adequate health care, and to promote quality education for our children. Let us restrict campaign spending through voluntary limits. No meaningful reform can be enacted without campaign spending limits.

Political action committees [PAC's] play too large a role in campaigns. Let us reduce the role of PAC's. This legislation would eliminate political action committee contributions to Senate campaigns.

Soft money and bundling have undermined reporting requirements and allowed large contributions to go unreported. Let us eliminate these loopholes.

This bill is a major overhaul of the way in which candidates for the U.S. Senate and House of Representatives raise and spend money for election campaigns. In the 102d Congress both Houses passed a bill only to have it vetoed by the President. This year we have a great opportunity. We now have a President willing to sign a bill and yet we have taken a step backward in the Senate.

It is important that these reforms will be voluntary. Senate candidates who do not wish to comply will not be forced to do so, nor will they benefit from the advantages of the bill. Incumbents and challengers who voluntarily agree to abide by the limits will be eligible to receive reduced rates and vouchers for broadcast advertising. The costs of this legislation will be offset by the establishment of a new gross receipts tax on political campaigns or through the elimination of the deduction for lobbying expenses.

I supported making this legislation even stronger. We should bring to congressional campaigns the system we have seen in Presidential campaigns—public funding contributed voluntarily by taxpayers through the checkoff on tax returns. No question could be raised about the source of campaign funds when taxpayers voluntarily choose to contribute. Although this amendment was unsuccessful some public support is provided through reduced broadcast and postal rates.

Our current campaign finance structure is flawed. It encourages suspicion. It distracts candidates and voters from the issues that are truly important in a campaign. Mr. President, it is past time to act. Public confidence in our electoral process has been seriously damaged. Let us correct those shortcomings through the passage of this bill.

Mr. BOREN. Mr. President, if I could have the attention of my colleagues, we will go to a vote on final passage here in a brief period. The two leaders may want to speak briefly. In light of the discussion last night about enforcement provisions for the Federal Election Commission, several of us have been working all morning trying to come to an agreement on a substitute amendment for the original provision in the bill for a mechanism for breaking the tie at the Federal Election Commission, if a tie results in inaction.

We had basically agreed on an approach which would have the four leaders, two Democrats and two Republicans, of the two Houses, appoint a group of four who would select an administrative law judge to make the decision as to whether or not there would be an appeal to a court for a trial de novo in case of a tie.

There was very broad agreement, I might say, among our colleagues on both sides of the aisle who participated in these negotiations, that that would be a fair and impartial way. You would have the two Republican leaders and two Democratic leaders have an equal say in doing that.

I understand that, because we have been so short of time to have a full discussion with all Members on both sides about that provision, there would be objection to offering that amendment at this time. So I will not attempt to do so.

I would like to engage my colleague from Maine, Senator COHEN, in particular, and Senator JEFFORDS, in a brief discussion of this matter just to ascertain from them if they think we have made progress, and that perhaps this is the kind of concept we can work on in conference and try to refine in conference a way that we might be able to make the FEC more effective.

Mr. President, I wonder if I might yield for a brief comment in response to my question to my colleague from Maine and my colleague from Vermont, who participated in these discussions.

The PRESIDING OFFICER (Mr. REID). The Senator from Maine is recognized.

Mr. COHEN. Mr. President, I think the Senator from Oklahoma correctly characterizes the effort that was underway this morning. There were several of us—three, plus the staffs of several others—who were present to explore ways in which we might propose for adoption an enforcement mechanism that would meet with bipartisan support.

We have recommended one approach. It has not been circulated with the entirety of the group of the seven of us who were involved in late negotiations over the last several days.

Nonetheless, I think the Senator from Oklahoma properly characterized it as a good-faith effort to come to at least some sort of approach to a resolution on the subject.

It has not been approved by the minority leader. It has not been circulated with the other Members on this side. So it would be premature for us to try to move forward now.

I think it at least has a foundation for either refinement or modification

of this approach in the future as far as the conference is concerned. I could not commit our side to agreeing to it other than to say it was a good-faith undertaking and hopefully we can make improvement upon it.

Mr. JEFFORDS. Mr. President, I would just add to what the colleague from Maine said but also state that the offensive language which was causing the problem requiring the concurrence from the general counsel into such a mechanism would be stricken so that it would only be the three commissioners going through the ALJ and then on to the district court in the event people felt it was necessary.

Mr. MCCAIN. Mr. President, let me add I am one of the seven. I have not seen it, and I oppose it.

Mr. BOREN. Mr. President, the staff member of the Senator from Arizona was in the meeting.

Mr. MCCAIN. I still oppose it.

Mr. BOREN. Mr. President, let me just say what we did provide was to take the general counsel out. I know the Senator from Arizona knows that. It is taking the general counsel out of the process and working toward the possibility of the administrative law judge selected, in essence, by Senator DOLE, Mr. MICHEL, Speaker FOLEY, and Senator MITCHELL or their representatives, and that is the consent we are looking toward then with the ultimate judicial determination.

I think we have had a good discussion of this matter. Obviously, we cannot resolve it in 60 seconds on the floor at this point.

All I hope is our colleagues continue good-faith efforts between now and the conference to come up with a genuinely partisan proposal on this matter.

Mr. President, I yield the floor, I think, for a unanimous-consent request for the majority leader.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Republican leader be recognized for 3 minutes and that following his remarks I be recognized for 3 minutes prior to the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask unanimous consent to amend that request to the effect that the Senator from Kentucky [Mr. MCCONNELL] have 2 minutes before the Republican leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCONNELL. Mr. President, I thank the Republican leader. I probably will not take 2 minutes.

I express great appreciation to those who have fought the good fight over the last 3 weeks and stayed the course, including most of the people on our side of the aisle and the Senator from Alabama [Mr. SHELBY].

This has been a fascinating debate. We have had terrific staff work.

I thank Steven Law, Tamara Somerville, Kurt Branham, Dennis Shea of Senator DOLE'S staff, Lincoln Oliphant of the Republican Policy Committee, Elizabeth Greene, Howard Greene; Tom Young and Kathy Casey from Senator SHELBY'S office, and Michael Hess and Tom Josephiak of the RNC.

Let me say this is not the end of this issue to those of you who care about it. This is not the end of it. It still has to clear the House. And it is fraught with questionable constitutional provisions.

I want to thank all of you for sticking with me during this debate. I guarantee you that this will be decided ultimately in the U.S. Supreme Court.

I also thank the Republican leader for his continued support during this debate. This is an issue that affects all of us. It affects the right of people out there to participate in our campaigns and our right to speak. These are important first amendment concerns, and they will not be finally determined by the majority today.

So I thank my colleagues for their support.

The PRESIDING OFFICER. The Senator's time has expired.

The minority leader is recognized for 3 minutes.

Mr. DOLE. Mr. President, let me first thank my colleague, the Senator from Kentucky [Mr. MCCONNELL], for his untiring efforts to bring about meaningful campaign reform, neutral campaign reform.

We did not prevail, but it was not because he did not give it his best effort and with the help of a great majority of our colleagues.

Let me also compliment the Senator from Oklahoma [Mr. BOREN]. I do not agree with the final product, but I certainly agree he expended a great deal of time and energy and reached the result and at least got the process started.

I have mixed feelings as this bill leaves the Chamber and goes to the House. I think maybe the House Democrats have been in the Democratic Cloakroom cheering Republicans on, hoping this bill might be defeated.

We have the opportunity now to face up to some of these problems. We do not have any PAC money in this bill. We now have a provision that is going to put a little sunshine on the millions of dollars organized labor pours in the campaign, soft money. That was the Jeffords amendment.

There have been improvements. The one amendment that should have been adopted is the McConnell-Shelby amendment. If that were adopted, we would wrap this up fairly quickly, probably with a little more bipartisan support.

The bottom line is it is very difficult to be totally neutral in this particular issue. As we said, if we were in charge, we would try to gain the advantage just as Democrats gained the advantage of this bill.

We understand the editors of the New York Times do not understand things like that, but we understand things like that.

It is not neutral. It probably never could be neutral unless we had a total nonpartisan outside group come up with some plan.

I will propose at the appropriate time to introduce such a plan. We will be compelled after about 9 months. We will have eight members of that Commission and they will be compelled to give us a package. We would have to vote it up or down, pretty much like the Base Closure Commission.

If everything else fails, there is a way to get campaign reform. Everyone supports campaign reform if it is neutral. I do not suggest there was not an effort to make it totally neutral, but it is hard to do. It is difficult to do, probably impossible to do. It would not have happened if we had been in charge. If we had the majority, we probably would have had a little thing that might have benefited us, and I know there are a quite a few little things that benefit the Democrats and incumbents in this particular package.

For all the reasons I lay out in my statement, I oppose the bill.

I again thank my colleague from Kentucky, Senator MCCONNELL, for an extraordinary job.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, and Members of the Senate, the Senate has considered for 3 weeks and is now about to vote on a very important bill.

If enacted, it will help to restore the American people's confidence in this institution and in our system of government.

It will reduce the role of money in Federal election campaigns. It will enable Government to better serve the national interest rather than the special interests.

As with most compromises, this bill does not please everyone. It does not include every provision I personally would have preferred. But it represents fundamental reform of the way we elect Members of Congress. It will make elections more competitive.

This legislation includes the essential element of true campaign finance reform, a cap on the amount of money that can be spent in campaigns.

Every Senator, every candidate for office, every American knows that American political campaigns are too long and too expensive. This legislation, for the first time, will do something about that.

The bill strengthens the abilities of challengers to mount effective campaigns, and that is really the source of opposition to this bill, because this bill will help challengers by restraining incumbent spending, reducing the advantage typically enjoyed by the incumbents.

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The statistics are striking. Of the 27 challengers in the last Senate election, only 2 spent more than the limits in this bill. By contrast, 20 of the incumbents spent more than the limits in this bill—on average nearly $2 million more apiece.

That is why this bill is opposed, because this will level the playing field to some extent. It provides significant incentives to encourage compliance with voluntary spending limits, but it remains a voluntary system.

It is important that all Americans understand that this puts into effect a voluntary system. No candidate will be required to limit campaign spending if he or she chooses not to do so. There are incentives to participate, but there is no legal enforcement. Anybody can go out of the system if they want to do so.

Mr. President, this is an important bill.

I commend all of those who have led the way and persevered in reaching this point, particularly the distinguished Senator from Oklahoma [Mr. BOREN], and the distinguished Senator from Kentucky, the chairman of the Rules Committee, Senator FORD. I thank them very much for their leadership.

I urge my colleagues to vote for this bill.

Mr. BOREN. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Without objection, the substitute amendment, numbered 366, as amended, is agreed to, and the bill is considered read a third time.

The question is on final passage of the bill, as amended.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DOLE. Mr. President, I announce that the Senator from Wyoming [Mr. SIMPSON] is necessarily absent today due to the death of his father.

I also announce that the Senator from Pennsylvania [Mr. SPECTER] is absent due to illness.

I further announce that, if present and voting, the Senator from Wyoming [Mr. SIMPSON] would vote "nay."

The VICE PRESIDENT. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 60, nays 38, as follows:

[Rollcall Vote No. 158 Leg.]

YEAS—60

Akaka	Breaux	Conrad
Baucus	Bryan	Daschle
Biden	Bumpers	DeConcini
Bingaman	Byrd	Dodd
Boren	Campbell	Dorgan
Boxer	Chafee	Durenberger
Bradley	Cohen	Exon
Feingold	Kohl	Nunn
Feinstein	Lautenberg	Pell
Ford	Leahy	Pressler
Glenn	Levin	Pryor
Graham	Lieberman	Reid
Harkin	Mathews	Riegle
Inouye	McCain	Robb
Jeffords	Metzenbaum	Rockefeller
Johnston	Mikulski	Sarbanes
Kassebaum	Mitchell	Sasser
Kennedy	Moseley-Braun	Simon
Kerrey	Moynihan	Wellstone
Kerry	Murray	Wofford

NAYS—38

Bennett	Gorton	Mack
Bond	Gramm	McConnell
Brown	Grassley	Murkowski
Burns	Gregg	Nickles
Coats	Hatch	Packwood
Cochran	Hatfield	Roth
Coverdell	Heflin	Shelby
Craig	Helms	Smith
D'Amato	Hollings	Stevens
Danforth	Hutchison	Thurmond
Dole	Kempthorne	Wallop
Domenici	Lott	Warner
Faircloth	Lugar	

NOT VOTING—2

Simpson	Specter

So the bill (S. 3), as amended, was passed, 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; AMENDMENT OF CAMPAIGN ACT; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Congressional Campaign Spending Limit and Election Reform Act of 1993".

(b) AMENDMENT OF FECA.—When used in this Act, the term "FECA" means the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.).

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; amendment of Campaign Act; table of contents.

TITLE I—CONTROL OF CONGRESSIONAL CAMPAIGN SPENDING

Subtitle A—Senate Election Campaign Spending Limits and Benefits

Sec. 101. Senate spending limits and benefits.
Sec. 102. Ban on activities of political action committees in Federal elections.
Sec. 103. Reporting requirements.
Sec. 104. Disclosure by noneligible candidates.
Sec. 105. Excess campaign funds of Senate candidates.
Sec. 106. Restrictions on use of camaign funds.

Subtitle B—General Provisions

Sec. 131. Broadcast rates and preemption.
Sec. 132. Extension of reduced third-class mailing rates to eligible Senate candidates.
Sec. 133. Reporting requirements for certain independent expenditures.
Sec. 134. Campaign advertising amendments.
Sec. 135. Definitions.
Sec. 136. Provisions relating to franked mass mailings.

TITLE II—INDEPENDENT EXPENDITURES

Sec. 201. Clarification of definitions relating to independent expenditures.
Sec. 202. Equal broadcast time.

TITLE III—EXPENDITURES

Subtitle A—Personal Loans; Credit

Sec. 301. Personal contributions and loans.
Sec. 302. Extensions of credit.

Subtitle B—Provisions Relating to Soft Money of Political Parties

Sec. 311. Definitions.
Sec. 312. Contributions to political party committees.
Sec. 313. Provisions relating to national, State, and local party committees.
Sec. 314. Restrictions on fundraising by candidates and officeholders.
Sec. 315. Reporting requirements.

Subtitle C—Soft Money of Persons Other Than Political Parties

Sec. 321. Soft money of persons other than political parties.

TITLE IV—CONTRIBUTIONS

Sec. 401. Contributions through intermediaries and conduits; prohibition on certain contributions by lobbyists.
Sec. 402. Contributions by dependents not of voting age.
Sec. 403. Contributions to candidates from State and local committees of political parties to be aggregated.
Sec. 404. Contributions and expenditures using money secured by physical force or other intimidation.
Sec. 405. Prohibition of acceptance by a candidate of cash contributions from any one person aggregating more than $100.
Sec. 406. Out-of-State fundraising.

TITLE V—REPORTING REQUIREMENTS

Sec. 501. Change in certain reporting from a calendar year basis to an election cycle basis.
Sec. 502. Personal and consulting services.
Sec. 503. Computerized indices of contributions.
Sec. 504. Filing of reports using computers and facsimile machines.
Sec. 505. Political committees.

TITLE VI—FEDERAL ELECTION COMMISSION

Sec. 601. Use of candidates' names.
Sec. 602. Reporting requirements.
Sec. 603. Provisions relating to the general counsel of the Commission.
Sec. 604. Penalties.
Sec. 605. Audits.
Sec. 606. Prohibition of false representation to solicit contributions.
Sec. 607. Regulations relating to use of non-Federal money.
Sec. 608. Simultaneous registration of candidate and candidate's principal campaign committee.
Sec. 609. Reimbursement fund.
Sec. 610. Insolvent political committees.

TITLE VII—MISCELLANEOUS

Sec. 701. Prohibition of leadership committees.
Sec. 702. Polling data contributed to candidates.
Sec. 703. Debates by general election candidates who receive amounts from the Presidential Election Campaign Fund.
Sec. 704. Telephone voting by persons with disabilities.
Sec. 705. Provisions relating to Presidential primary elections.
Sec. 706. Certain tax-exempt organizations not subject to corporate limits.
Sec. 707. Aiding and abetting violations of FECA.
Sec. 708. Deposit of repayments of excess payments from the Presidential Election Campaign Fund.
Sec. 709. Disqualification from receiving public funding for Presidential election campaigns.

Sec. 710. Prohibition of contributions to Presidential candidates who receive public funding in the general election campaign.
Sec. 711. Application of increased revenues to reduce the deficit.
Sec. 712. Sense of the Senate that Congress should adopt a joint resolution proposing an amendment to the Constitution that would empower Congress and the States to set reasonable limits on campaign expenditures.
Sec. 713. Sense of the Senate.
Sec. 714. Campaign advertising that refers to an opponent.
Sec. 715. Limit on congressional use of the franking privilege.

TITLE VIII—EFFECTIVE DATES; AUTHORIZATIONS

Sec. 801. Effective date.
Sec. 802. Budget neutrality.
Sec. 803. Severability.
Sec. 804. Expedited review of constitutional issues.
Sec. 805. Regulations.

TITLE I—CONTROL OF CONGRESSIONAL CAMPAIGN SPENDING

Subtitle A—Senate Election Campaign Spending Limits and Benefits

SEC. 101. SENATE SPENDING LIMITS AND BENEFITS.

(a) IN GENERAL.—FECA is amended by adding at the end thereof the following new title:

"TITLE V—SPENDING LIMITS AND BENEFITS FOR SENATE ELECTION CAMPAIGNS

"SEC. 501. CANDIDATES ELIGIBLE TO RECEIVE BENEFITS.

"(a) IN GENERAL.—For purposes of this title, a candidate is an eligible Senate candidate if the candidate—

"(1) meets the primary and general election filing requirements of subsections (b) and (c);

"(2) meets the primary and runoff election expenditure limits of subsection (d); and

"(3) meets the threshold contribution requirements of subsection (e).

"(b) PRIMARY FILING REQUIREMENTS.—(1) The requirements of this subsection are met if the candidate files with the Secretary of the Senate a declaration that—

"(A) the candidate and the candidate's authorized committees—

"(i) will meet the primary and runoff election expenditure limits of subsection (d); and

"(ii) will only accept contributions for the primary and runoff elections which do not exceed such limits;

"(B) the candidate and the candidate's authorized committees will meet the general election expenditure limit under section 502(b);

"(C) the candidate and the candidate's authorized committees will meet the limitation on expenditures from personal funds under section 502(a); and

"(D) the candidate and the candidate's authorized committees will meet the closed captioning requirements of section 509.

"(2) The declaration under paragraph (1) shall be filed not later than the date the candidate files as a candidate for the primary election.

"(c) GENERAL ELECTION FILING REQUIREMENTS.—(1) The requirements of this subsection are met if the candidate certifies to the Secretary of the Senate, under penalty of perjury, that—

"(A) the candidate and the candidate's authorized committees—

"(i) met the primary and runoff election expenditure limits under subsection (d); and

"(ii) did not accept contributions for the primary or runoff election in excess of the primary or runoff expenditure limit under subsection (d), whichever is applicable, reduced by any amounts transferred to this election cycle from a preceding election cycle;

"(B) the candidate met the threshold contribution requirement under subsection (e), and that only allowable contributions were taken into account in meeting such requirement;

"(C) at least one other candidate has qualified for the same general election ballot under the law of the State involved;

"(D) such candidate and the authorized committees of such candidate—

"(i) except as otherwise provided by this title, will not make expenditures which exceed the general election expenditure limit under section 502(b);

"(ii) will not accept any contributions in violation of section 315;

"(iii) except as otherwise provided by this title, will not accept any contribution for the general election involved to the extent that such contribution would cause the aggregate amount of such contributions to exceed the sum of the amount of the general election expenditure limit under section 502(b) and the amounts described in subsections (c), (d), and (e) of section 502, reduced by any amounts transferred to this election cycle from a previous election cycle and not taken into account under subparagraph (A)(ii);

"(iv) will deposit all payments received under this title in an account insured by the Federal Deposit Insurance Corporation from which funds may be withdrawn by check or similar means of payment to third parties;

"(v) will furnish campaign records, evidence of contributions, and other appropriate information to the Commission;

"(vi) will cooperate in the case of any audit and examination by the Commission under section 505 and will pay any amounts required to be paid under that section; and

"(vii) will meet the closed captioning requirements of section 509; and

"(E) the candidate intends to make use of the benefits provided under section 503.

"(2) The certification under paragraph (1) shall be filed not later than 7 days after the earlier of—

"(A) the date the candidate qualifies for the general election ballot under State law; or

"(B) if, under State law, a primary or runoff election to qualify for the general election ballot occurs after September 1, the date the candidate wins the primary or runoff election.

"(d) PRIMARY AND RUNOFF EXPENDITURE LIMITS.—(1) The requirements of this subsection are met if:

"(A) The candidate or the candidate's authorized committees did not make expenditures for the primary election in excess of the lesser of—

"(i) 67 percent of the general election expenditure limit under section 502(b); or

"(ii) $2,750,000.

"(B) The candidate and the candidate's authorized committees did not make expenditures for any runoff election in excess of 20 percent of the general election expenditure limit under section 502(b).

"(2) The limitations under subparagraphs (A) and (B) of paragraph (1) with respect to any candidate shall be increased by the aggregate amount of independent expenditures in opposition to, or on behalf of any opponent of, such candidate during the primary or runoff election period, whichever is applicable, which are required to be reported to the Secretary of the Senate or to the Commission with respect to such period under section 304.

"(3)(A) If the contributions received by the candidate or the candidate's authorized committees for the primary election or runoff election exceed the expenditures for either such election, such excess contributions shall be treated as contributions for the general election and expenditures for the general election may be made from such excess contributions.

"(B) Subparagraph (A) shall not apply to the extent that such treatment of excess contributions—

"(i) would result in the violation of any limitation under section 315; or

"(ii) would cause the aggregate contributions received for the general election to exceed the limits under subsection (c)(1)(D)(iii).

"(e) THRESHOLD CONTRIBUTION REQUIREMENTS.—(1) The requirements of this subsection are met if the candidate and the candidate's authorized committees have received allowable contributions during the applicable period in an amount at least equal to 5 percent of the general election expenditure limit under section 502(b).

"(2) For purposes of this section and subsections (b) and (c) of section 503—

"(A) The term 'allowable contributions' means contributions which are made as gifts of money by an individual pursuant to a written instrument identifying such individual as the contributor.

"(B) The term 'allowable contributions' shall not include—

"(i) contributions made directly or indirectly through an intermediary or conduit which are treated as made by such intermediary or conduit under section 315(a)(8)(B);

"(ii) contributions from any individual during the applicable period to the extent such contributions exceed $250; or

"(iii) contributions from individuals residing outside the candidate's State.

Clauses (ii) and (iii) shall not apply for purposes of section 503(b).

"(3) For purposes of this subsection and subsections (b) and (c) of section 503, the term 'applicable period' means—

"(A) the period beginning on January 1 of the calendar year preceding the calendar year of the general election involved and ending on—

"(i) the date on which the certification under subsection (c) is filed by the candidate; or

"(ii) for purposes of subsections (b) and (c) of section 503, the date of such general election; or

"(B) in the case of a special election for the office of United States Senator, the period beginning on the date the vacancy in such office occurs and ending on the date of the general election involved.

"(f) INDEXING.—The $2,750,000 amount under subsection (d)(1) shall be increased as of the beginning of each calendar year based on the increase in the price index determined under section 315(c), except that, for purposes of subsection (d)(1) and section 502(b)(3), the base period shall be calendar year 1996.

"SEC. 502. LIMITATIONS ON EXPENDITURES.

"(a) LIMITATION ON USE OF PERSONAL FUNDS.—(1) The aggregate amount of expenditures which may be made during an election

cycle by an eligible Senate candidate or such candidate's authorized committees from the sources described in paragraph (2) shall not exceed $25,000.

"(2) A source is described in this paragraph if it is—

"(A) personal funds of the candidate and members of the candidate's immediate family; or

"(B) personal debt incurred by the candidate and members of the candidate's immediate family.

"(b) GENERAL ELECTION EXPENDITURE LIMIT.—(1) Except as otherwise provided in this title, the aggregate amount of expenditures for a general election by an eligible Senate candidate and the candidate's authorized committees shall not exceed the lesser of—

"(A) $5,500,000; or

"(B) the greater of—

"(i) $1,200,000; or

"(ii) $400,000; plus

"(I) 30 cents multiplied by the voting age population not in excess of 4,000,000; and

"(II) 25 cents multiplied by the voting age population in excess of 4,000,000.

"(2) In the case of an eligible Senate candidate in a State which has no more than 1 transmitter for a commercial Very High Frequency (VHF) television station licensed to operate in that State, paragraph (1)(B)(ii) shall be applied by substituting—

"(A) '80 cents' for '30 cents' in subclause (I); and

"(B) '70 cents' for '25 cents' in subclause (II).

"(3) The amount otherwise determined under paragraph (1) for any calendar year shall be increased by the same percentage as the percentage increase for such calendar year under section 501(f) (relating to indexing).

"(c) LEGAL AND ACCOUNTING COMPLIANCE FUND.—(1) The limitation under subsection (b) shall not apply to qualified legal and accounting expenditures made by a candidate or the candidate's authorized committees or a Federal officeholder from a legal and accounting compliance fund meeting the requirements of paragraph (2).

"(2) A legal and accounting compliance fund meets the requirements of this paragraph if—

"(A) the fund is established with respect to qualified legal and accounting expenditures incurred with respect to a particular general election;

"(B) the only amounts transferred to the fund are amounts received in accordance with the limitations, prohibitions, and reporting requirements of this Act;

"(C) the aggregate amounts transferred to, and expenditures made from, the fund with respect to the election cycle do not exceed the sum of—

"(i) the lesser of—

"(I) 15 percent of the general election expenditure limit under subsection (b) for the general election for which the fund was established; or

"(II) $300,000; plus

"(ii) the amount determined under paragraph (4); and

"(D) no funds received by the candidate pursuant to section 503(a)(3) may be transferred to the fund.

"(3) For purposes of this subsection, the term 'qualified legal and accounting expenditures' means the following:

"(A) Any expenditures for costs of legal and accounting services provided in connection with—

"(i) any administrative or court proceeding initiated pursuant to this Act for the general election for which the legal and accounting fund was established; or

"(ii) the preparation of any documents or reports required by this Act or the Commission.

"(B) Any expenditures for legal and accounting services provided in connection with the general election for which the legal and accounting compliance fund was established to ensure compliance with this Act with respect to the election cycle for such general election.

"(4)(A) If, after a general election, a candidate determines that the qualified legal and accounting expenditures will exceed the limitation under paragraph (2)(C)(i), the candidate may petition the Commission by filing with the Secretary of the Senate a request for an increase in such limitation. The Commission shall authorize an increase in such limitation in the amount (if any) by which the Commission determines the qualified legal and accounting expenditures exceed such limitation. Such determination shall be subject to judicial review under section 506.

"(B) Except as provided in section 315, any contribution received or expenditure made pursuant to this paragraph shall not be taken into account for any contribution or expenditure limit applicable to the candidate under this title.

"(5) Any funds in a legal and accounting compliance fund shall be treated for purposes of this Act as a separate segregated fund, except that any portion of the fund not used to pay qualified legal and accounting expenditures, and not transferred to a legal and accounting compliance fund for the election cycle for the next general election, shall be treated in the same manner as other campaign funds for purposes of section 313(b).

"(d) PAYMENT OF TAXES ON EARNINGS.—The limitation under subsection (b) shall not apply to any expenditure for Federal, State, or local income taxes on the earnings of a candidate's authorized committees.

"(e) CERTAIN EXPENSES.—In the case of an eligible Senate candidate who holds a Federal office, the limitation under subsection (b) shall not apply to ordinary and necessary expenses of travel of such individual and the individual's spouse and children between Washington, D.C. and the individual's State in connection with the individual's activities as a holder of Federal office.

"(f) EXPENDITURES.—For purposes of this title, the term 'expenditure' has the meaning given such term by section 301(9), except that in determining any expenditures made by, or on behalf of, a candidate or a candidate's authorized committees, section 301(9)(B) shall be applied without regard to clause (ii) thereof.

"SEC. 503. BENEFITS ELIGIBLE CANDIDATE ENTITLED TO RECEIVE.

"(a) IN GENERAL.—An eligible Senate candidate shall be entitled to—

"(1) the broadcast media rates provided under section 315(b) of the Communications Act of 1934;

"(2) the mailing rates provided in section 3626(e) of title 39, United States Code; and

"(3) payments from the Senate Election Campaign fund in an amount equal to—

"(A) the excess expenditure amount determined under subsection (b); and

"(B) the independent expenditure amount determined under subsection (c).

"(b) EXCESS EXPENDITURE AMOUNT.—(1) For purposes of subsection (a)(3)(A), except as provided in section 510(d), the amount determined under this subsection is, in the case of an eligible Senate candidate who has an opponent in the general election who receives contributions, or makes (or obligates to make) expenditures, for such election in excess of the general election expenditure limit under section 502(b), the excess expenditure amount.

"(2) For purposes of paragraph (1), the excess expenditure amount is the amount determined as follows:

"(A) In the case of a major party candidate, an amount equal to the sum of—

"(i) if the excess described in paragraph (1) is less than 133⅓ percent of the general election expenditure limit under section 502(b), an amount equal to one-third of such limit applicable to the eligible Senate candidate for the election; plus

"(ii) if such excess equals or exceeds 133⅓ percent but is less than 166⅔ percent of such limit, an amount equal to one-third of such limit; plus

"(iii) if such excess equals or exceeds 166⅔ percent of such limit, an amount equal to one-third of such limit.

"(B) In the case of an eligible Senate candidate who is not a major party candidate, an amount equal to the least of the following:

"(i) The allowable contributions of the eligible Senate candidate during the applicable period in excess of the threshold contribution requirement under section 501(e).

"(ii) 50 percent of the general election expenditure limit applicable to the eligible Senate candidate under section 502(b).

"(iii) The excess described in paragraph (1).

"(c) INDEPENDENT EXPENDITURE AMOUNT.—For purposes of subsection (a)(3)(B), the amount determined under this subsection is the total amount of independent expenditures made, or obligated to be made, during the general election period by 1 or more persons in opposition to, or on behalf of an opponent of, an eligible Senate candidate which are required to be reported by such persons under section 304(c) with respect to the general election period and are certified by the Commission under section 304(c).

"(d) WAIVER OF EXPENDITURE AND CONTRIBUTION LIMITS.—(1)(A) An eligible Senate candidate who receives payments under subsection (a)(3) may make expenditures from such payments to defray expenditures for the general election without regard to the general election expenditure limit under section 502(b).

"(B) In the case of an eligible Senate candidate who is not a major party candidate, the general election expenditure limit under section 502(b) with respect to such candidate shall be increased by the amount (if any) by which the excess described in subsection (b)(1) exceeds the amount determined under subsection (b)(2)(B) with respect to such candidate.

"(2)(A) An eligible Senate candidate who receives benefits under this section may make expenditures for the general election without regard to clause (i) of section 501(c)(1)(D) or subsection (a) or (b) of section 502 if any one of the eligible Senate candidate's opponents who is not an eligible Senate candidate either raises aggregate contributions, or makes or becomes obligated to make aggregate expenditures, for the general election that exceed 200 percent of the general election expenditure limit applicable to the eligible Senate candidate under section 502(b).

"(B) The amount of the expenditures which may be made by reason of subparagraph (A) shall not exceed 100 percent of the general election expenditure limit under section 502(b).

"(3)(A) A candidate who receives benefits under this section may receive contributions for the general election without regard to clause (iii) of section 501(c)(1)(D) if—

"(i) a major party candidate in the same general election is not an eligible Senate candidate; or

"(ii) any other candidate in the same general election who is not an eligible Senate candidate raises aggregate contributions, or makes or becomes obligated to make aggregate expenditures, for the general election that exceed 75 percent of the general election expenditure limit applicable to such other candidate under section 502(b).

"(B) The amount of contributions which may be received by reason of subparagraph (A) shall not exceed 100 percent of the general election expenditure limit under section 502(b).

"(e) USE OF PAYMENTS.—Payments received by a candidate under subsection (a)(3) shall be used to defray expenditures incurred with respect to the general election period for the candidate. Such payments shall not be used—

"(1) except as provided in paragraph (4), to make any payments, directly or indirectly, to such candidate or to any member of the immediate family of such candidate;

"(2) to make any expenditure other than expenditures to further the general election of such candidate;

"(3) to make any expenditures which constitute a violation of any law of the United States or of the State in which the expenditure is made; or

"(4) subject to the provisions of section 315(j), to repay any loan to any person except to the extent the proceeds of such loan were used to further the general election of such candidate.

"SEC. 504. CERTIFICATION BY COMMISSION.

"(a) IN GENERAL.—(1) The Commission shall certify to any candidate meeting the requirements of section 501 that such candidate is an eligible Senate candidate entitled to benefits under this title. The Commission shall revoke such certification if it determines a candidate fails to continue to meet such requirements.

"(2) No later than 48 hours after an eligible Senate candidate files a request with the Secretary of the Senate to receive benefits under section 503, the Commission shall issue a certification stating whether such candidate is eligible for payments under this title from the Senate Election Campaign Fund and the amount of such payments to which such candidate is entitled. The request referred to in the preceding sentence shall contain—

"(A) such information and be made in accordance with such procedures as the Commission may provide by regulation; and

"(B) a verification signed by the candidate and the treasurer of the principal campaign committee of such candidate stating that the information furnished in support of the request, to the best of their knowledge, is correct and fully satisfies the requirements of this title.

"(b) DETERMINATIONS BY COMMISSION.—All determinations (including certifications under subsection (a)) made by the Commission under this title shall be final and conclusive, except to the extent that they are subject to examination and audit by the Commission under section 505 and judicial review under section 506.

"SEC. 505. EXAMINATION AND AUDITS; REPAYMENTS; CIVIL PENALTIES.

"(a) EXAMINATION AND AUDITS.—(1) The Commission shall conduct an examination and audit of the campaign account of each eligible Senate candidate who accepted benefits under this title to determine, among other things, whether the candidate has complied with the expenditure limits and conditions of eligibility of this title, and other requirements of this Act.

"(2) The Commission may conduct an examination and audit of the campaign accounts of any candidate in a general election for the office of United States Senator if the Commission determines that there exists reason to believe that such candidate may have violated any provision of this title.

"(b) EXCESS PAYMENTS; REVOCATION OF STATUS.—(1) If the Commission determines that payments were made to an eligible Senate candidate under this title in excess of the aggregate amounts to which such candidate was entitled, the Commission shall so notify such candidate, and such candidate shall pay an amount equal to the excess.

"(2) If the Commission revokes the certification of a candidate as an eligible Senate candidate under section 504(a)(1), the Commission shall notify the candidate, and the candidate shall pay an amount equal to the payments received under this title.

"(c) MISUSE OF BENEFITS.—If the Commission determines that any amount of any benefit made available to an eligible Senate candidate under this title was not used as provided for in this title, the Commission shall so notify such candidate and such candidate shall pay the amount of such benefit.

"(d) EXCESS EXPENDITURES.—If the Commission determines that any eligible Senate candidate who has received benefits under this title has made expenditures which in the aggregate exceed—

"(1) the primary or runoff expenditure limit under section 501(d); or

"(2) the general election expenditure limit under section 502(b),

the Commission shall so notify such candidate and such candidate shall pay an amount equal to the amount of the excess expenditures.

"(e) CIVIL PENALTIES.—(1) If the Commission determines that a candidate has committed a violation described in subsection (c), the Commission may assess a civil penalty against such candidate in an amount not greater than 200 percent of the amount involved.

"(2)(A) LOW AMOUNT OF EXCESS EXPENDITURES.—Any eligible Senate candidate who makes expenditures that exceed any limitation described in paragraph (1) or (2) of subsection (d) by 2.5 percent or less shall pay an amount equal to the amount of the excess expenditures.

"(B) MEDIUM AMOUNT OF EXCESS EXPENDITURES.—Any eligible Senate candidate who makes expenditures that exceed any limitation described in paragraph (1) or (2) of subsection (d) by more than 2.5 percent and less than 5 percent shall pay an amount equal to three times the amount of the excess expenditures.

"(C) LARGE AMOUNT OF EXCESS EXPENDITURES.—Any eligible Senate candidate who makes expenditures that exceed any limitation described in paragraph (1) or (2) of subsection (d) by 5 percent or more shall pay an amount equal to the sum of—

"(i) three times the amount of the excess expenditures plus an additional amount determined by the Commission, plus

"(ii) if the Commission determines such excess expenditures were willful, an amount equal to the benefits the candidate received under this title.

"(f) UNEXPENDED FUNDS.—Any amount received by an eligible Senate candidate under this title and not expended on or before the date of the general election shall be repaid within 30 days of the election, except that a reasonable amount may be retained for a period not exceeding 120 days after the date of the general election for the liquidation of all obligations to pay expenditures for the general election incurred during the general election period. At the end of such 120-day period, any unexpended funds received under this title shall be promptly repaid.

"(g) PAYMENTS RETURNED TO SOURCE.—Any payment, repayment, or civil penalty required by this section shall be paid to the entity from which benefits under this title were paid to the eligible Senate candidate.

"(h) LIMIT ON PERIOD FOR NOTIFICATION.—No notification shall be made by the Commission under this section with respect to an election more than three years after the date of such election.

"SEC. 506. JUDICIAL REVIEW.

"(a) JUDICIAL REVIEW.—Any agency action by the Commission made under the provisions of this title shall be subject to review by the United States Court of Appeals for the District of Columbia Circuit upon petition filed in such court within thirty days after the agency action by the Commission for which review is sought. It shall be the duty of the Court of Appeals, ahead of all matters not filed under this title, to advance on the docket and expeditiously take action on all petitions filed pursuant to this title.

"(b) APPLICATION OF TITLE 5.—The provisions of chapter 7 of title 5, United States Code, shall apply to judicial review of any agency action by the Commission.

"(c) AGENCY ACTION.—For purposes of this section, the term 'agency action' has the meaning given such term by section 551(13) of title 5, United States Code.

"SEC. 507. PARTICIPATION BY COMMISSION IN JUDICIAL PROCEEDINGS.

"(a) APPEARANCES.—The Commission is authorized to appear in and defend against any action instituted under this section and under section 506 either by attorneys employed in its office or by counsel whom it may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title.

"(b) INSTITUTION OF ACTIONS.—The Commission is authorized, through attorneys and counsel described in subsection (a), to institute actions in the district courts of the United States to seek recovery of any amounts determined under this title to be payable to any entity from which benefits under this title were paid.

"(c) INJUNCTIVE RELIEF.—The Commission is authorized, through attorneys and counsel described in subsection (a), to petition the courts of the United States for such injunctive relief as is appropriate in order to implement any provision of this title.

"(d) APPEALS.—The Commission is authorized on behalf of the United States to appeal from, and to petition the Supreme Court for certiorari to review, judgments or decrees entered with respect to actions in which it appears pursuant to the authority provided in this section.

"SEC. 508. REPORTS TO CONGRESS; REGULATIONS.

"(a) REPORTS.—The Commission shall, as soon as practicable after each election, submit a full report to the Senate setting forth—

"(1) the expenditures (shown in such detail as the Commission determines appropriate)

made by each eligible Senate candidate and the authorized committees of such candidate;

"(2) the amounts certified by the Commission under section 504 as benefits available to each eligible Senate candidate;

"(3) the amount of repayments, if any, required under section 505 and the reasons for each repayment required; and

"(4) the balance in the Senate Election Campaign Fund (and any account thereof).

Each report submitted pursuant to this section shall be printed as a Senate document.

"(b) RULES AND REGULATIONS.—The Commission is authorized to prescribe (in accordance with the provisions of subsection (c)) such rules and regulations, to conduct such examinations and investigations, and to require the keeping and submission of such books, records, and information, as it deems necessary to carry out the functions and duties imposed on it by this title.

"(c) STATEMENT TO SENATE.—Thirty days before prescribing any rule or regulation under subsection (b), the Commission shall transmit to the Senate a statement setting forth the proposed rule or regulation and containing a detailed explanation and justification of such rule or regulation.

"SEC. 509. CLOSED CAPTIONING REQUIREMENT FOR TELEVISION COMMERCIALS OF ELIGIBLE SENATE CANDIDATES.

"No eligible Senate candidate may receive amounts under section 503(a)(3) under section 503(a)(4) unless such candidate has certified that any television commercial prepared or distributed by the candidate will be prepared in a manner that contains, is accompanied by, or otherwise readily permits closed captioning of the oral content of the commercial to be broadcast by way of line 21 of the vertical blanking interval, or by way of comparable successor technologies.

"SEC. 510. SENATE ELECTION CAMPAIGN FUND.

"(a) ESTABLISHMENT OF CAMPAIGN FUND.—(1) There is hereby established on the books of the Treasury of the United States a special fund to be known as the Senate Election Campaign Fund (hereafter in this section referred to as 'the Fund').

"(2) There are hereby appropriated to the Fund the following amounts:

"(A) Amounts received in the Treasury which are equivalent to the increase in Federal revenues by reason of the repeal of the exempt function income exclusion under section 527 of the Internal Revenue Code of 1986 for authorized committees, and the graduated rates under such section for the principal campaign committee, of any candidate who does not abide by the campaign expenditure limits under this title, but only to the extent such amounts do not exceed the amount certified by the Commission as necessary to carry out the purposes of this title.

"(B) Amounts received in the Treasury which are equivalent to the increase in Federal revenues by reason of the disallowance of deductions for lobbying expenditures, but only to the extent such amounts do not exceed the amount certified by the Commission under subparagraph (A) reduced by amounts appropriated to the Fund under subparagraph (A).

"(C) Amounts transferred to the Fund under any provision of this Act.

"(D) Amounts credited to the Fund under paragraph (3).

"(3) The Secretary of the Treasury shall transfer amounts to, and manage, the Fund in the manner provided under subchapter B of chapter 98 of the Internal Revenue Code of 1986.

"(4) Amounts in the Fund shall, subject to the availability of appropriations, be available only for the purposes of—

"(A) providing benefits under this title; and

"(B) making expenditures in connection with the administration of the Fund.

"(5) The Secretary shall maintain such accounts in the Fund as may be required by this title or which the Secretary determines to be necessary to carry out the provisions of this title.

"(b) PAYMENTS UPON CERTIFICATION.—Upon receipt of a certification from the Commission under section 504, except as provided in subsection (c), the Secretary shall, subject to the availability of appropriations, promptly pay the amount certified by the Commission to the candidate out of the Fund.

"(c) REDUCTIONS IN PAYMENTS IF FUNDS INSUFFICIENT.—(1) If, at the time of a certification by the Commission under section 504 for payment to an eligible candidate, the Secretary determines that the monies in the Fund are not, or may not be, sufficient to satisfy the full entitlement of all eligible candidates, the Secretary shall withhold from the amount of such payment or voucher such amount as the Secretary determines to be necessary to assure that each eligible candidate will receive the same pro rata share of such candidate's full entitlement.

"(2) Amounts withheld under paragraph (1) shall be paid when the Secretary determines that there are sufficient monies in the Fund to pay all, or a portion thereof, to all eligible candidates from whom amounts have been withheld, except that if only a portion is to be paid, it shall be paid in such manner that each eligible candidate receives an equal pro rata share of such portion.

"(3)(A) Not later than December 31 of any calendar year preceding a calendar year in which there is a regularly scheduled general election, the Secretary, after consultation with the Commission, shall make an estimate of—

"(i) the amount of monies in the Fund which will be available to make payments required by this title in the succeeding calendar year; and

"(ii) the amount of expenditures which will be required under this title in such calendar year.

"(B) If the Secretary determines that there will be insufficient monies in the Fund to make the expenditures required by this title for any calendar year, the Secretary shall notify each candidate on January 1 of such calendar year (or, if later, the date on which an individual becomes a candidate) of the amount which the Secretary estimates will be the pro rata reduction in each eligible candidate's payments under this subsection. Such notice shall be by registered mail.

"(C) The amount of the eligible candidate's contribution limit under section 501(c)(1)(D)(iii) shall be increased by the amount of the estimated pro rata reduction.

"(4) The Secretary shall notify the Commission and each eligible candidate by registered mail of any actual reduction in the amount of any payment by reason of this subsection. If the amount of the reduction exceeds the amount estimated under paragraph (3), the candidate's contribution limit under section 501(c)(1)(D)(iii) shall be increased by the amount of such excess.".

(b) EFFECTIVE DATES.—(1) Except as provided in this subsection, the amendment made by subsection (a) shall apply to elections occurring after December 31, 1994.

(2) For purposes of any expenditure or contribution limit imposed by the amendment made by subsection (a)—

(A) no expenditure made before January 1, 1994, shall be taken into account, except that there shall be taken into account any such expenditure for goods or services to be provided after such date; and

(B) all cash, cash items, and Government securities on hand as of January 1, 1994, shall be taken into account in determining whether the contribution limit is met, except that there shall not be taken into account amounts used during the 60-day period beginning on January 1, 1994, to pay for expenditures which were incurred (but unpaid) before such date.

(c) EFFECT OF INVALIDITY ON OTHER PROVISIONS OF ACT.—If section 501, 502, or 503 of title V of FECA (as added by this section), or any part thereof, is held to be invalid, all provisions of, and amendments made by, this Act shall be treated as invalid.

SEC. 102. BAN ON ACTIVITIES OF POLITICAL ACTION COMMITTEES IN FEDERAL ELECTIONS.

(a) IN GENERAL.—Title III of FECA (2 U.S.C. 431 et seq.), as amended by section 404, is amended by adding at the end thereof the following new section:

"BAN ON FEDERAL ELECTION ACTIVITIES BY POLITICAL ACTION COMMITTEES

"SEC. 327. (a) Notwithstanding any other provision of this Act, no person other than an individual or a political committee may make contributions, solicit or receive contributions, or make expenditures for the purpose of influencing an election for Federal office.

"(b) In the case of individuals who are executive or administrative personnel of an employer—

"(1) no contributions may be made by such individuals—

"(A) to any political committees established and maintained by any political party; or

"(B) to any candidate for nomination for election, or election, to Federal office or the candidate's authorized committees,

unless such contributions are not being made at the direction of, or otherwise controlled or influenced by, the employer; and

"(2) the aggregate amount of such contributions by all such individuals in any calendar year shall not exceed—

"(A) $20,000 in the case of such political committees; and

"(B) $5,000 in the case of any such candidate and the candidate's authorized committees.".

(b) DEFINITION OF POLITICAL COMMITTEE.—(1) Paragraph (4) of section 301 of FECA (2 U.S.C. 431(4)) is amended to read as follows:

"(4) The term 'political committee' means—

"(A) the principal campaign committee of a candidate;

"(B) any national, State, or district committee of a political party, including any subordinate committee thereof; and

"(C) any local committee of a political party which—

"(i) receives contributions aggregating in excess of $5,000 during a calendar year;

"(ii) makes payments exempted from the definition of contribution or expenditure under paragraph (8) or (9) aggregating in excess of $5,000 during a calendar year;

"(iii) makes contributions or expenditures aggregating in excess of $1,000 during a calendar year; or

"(D) any committee described in section 315(a)(8)(D)(i)(III).".

(2) Section 316(b)(2) of FECA (2 U.S.C. 441b(b)(2)) is amended by striking subparagraph (C).

(c) CANDIDATE'S COMMITTEES.—(1) Section 315(a) of FECA (2 U.S.C. 441a(a)) is amended

by adding at the end thereof the following new paragraph:

"(9) For the purposes of the limitations provided by paragraphs (1) and (2), any political committee which is established or financed or maintained or controlled by any candidate or Federal officeholder shall be deemed to be an authorized committee of such candidate or officeholder. Nothing in this paragraph shall be construed to permit the establishment, financing, maintenance, or control of any committee which is prohibited by paragraph (3) or (6) of section 302(e).".

(2) Section 302(e)(3) of FECA (2 U.S.C. 432) is amended to read as follows:

"(3) No political committee that supports or has supported more than one candidate may be designated as an authorized committee, except that—

"(A) a candidate for the office of President nominated by a political party may designate the national committee of such political party as the candidate's principal campaign committee, but only if that national committee maintains separate books of account with respect to its functions as a principal campaign committee; and

"(B) a candidate may designate a political committee established solely for the purpose of joint fundraising by such candidates as an authorized committee.".

(d) RULES APPLICABLE WHEN BAN NOT IN EFFECT.—For purposes of the Federal Election Campaign Act of 1971, during any period beginning after the effective date in which the limitation under section 327 of such Act (as added by subsection (a)) is not in effect—

(1) the amendments made by subsections (a), (b), and (c) shall not be in effect;

(2) in the case of a candidate for election, or nomination for election, to Federal office (and such candidate's authorized committees), section 315(a)(2)(A) of FECA (2 U.S.C. 441a(a)(2)(A)) shall be applied by substituting "$1,000" for "$5,000";

(3) it shall be unlawful for a multicandidate political committee to make a contribution to a candidate for election, or nomination for election, to Federal office (or an authorized committee) to the extent that the making or accepting of the contribution will cause the amount of contributions received by the candidate and the candidate's authorized committees from multicandidate political committees to exceed the lesser of—

(A) $825,000; or

(B) 20 percent of the aggregate Federal election spending limits applicable to the candidate for the election cycle.

The $825,000 amount in paragraph (3) shall be increased as of the beginning of each calendar year based on the increase in the price index determined under section 315(c) of FECA, except that for purposes of paragraph (3), the base period shall be the calendar year 1996. A candidate or authorized committee that receives a contribution from a multicandidate political committee in excess of the amount allowed under paragraph (3) shall return the amount of such excess contribution to the contributor.

(e) RULE ENSURING PROHIBITION ON DIRECT CORPORATE AND LABOR SPENDING.—If section 316(a) of the Federal Election Campaign Act of 1971 is held to be invalid by reason of the amendments made by this section, then the amendments made by subsections (a), (b), and (c) of this section shall not apply to contributions by any political committee that is directly or indirectly established, administered, or supported by a connected organization which is a bank, corporation, or other organization described in such section 316(a).

(f) RESTRICTIONS ON CONTRIBUTIONS TO POLITICAL COMMITTEES.—Paragraphs (1)(D) and (2)(D) of section 315(a) of FECA (2 U.S.C. 441a(a) (1)(D) and (2)(D)), as redesignated by section 312, are each amended by striking "$5,000" and inserting "$1,000".

(g) EFFECTIVE DATES.—(1) Except as provided in paragraph (2), the amendments made by this section shall apply to elections (and the election cycles relating thereto) occurring after December 31, 1994.

(2) In applying the amendments made by this section, there shall not be taken into account—

(A) contributions made or received before January 1, 1994; or

(B) contributions made to, or received by, a candidate on or after January 1, 1994, to the extent such contributions are not greater than the excess (if any) of—

(i) such contributions received by any opponent of the candidate before January 1, 1994, over

(ii) such contributions received by the candidate before January 1, 1994.

SEC. 103. REPORTING REQUIREMENTS.

Title III of FECA is amended by adding after section 304 the following new section:

"REPORTING REQUIREMENTS FOR SENATE CANDIDATES

"SEC. 304A. (a) CANDIDATE OTHER THAN ELIGIBLE SENATE CANDIDATE.—(1) Each candidate for the office of United States Senator who does not file a certification with the Secretary of the Senate under section 501(c) shall file with the Secretary of the Senate a declaration as to whether such candidate intends to make expenditures for the general election in excess of the general election expenditure limit applicable to an eligible Senate candidate under section 502(b). Such declaration shall be filed at the time provided in section 501(c)(2).

"(2) Any candidate for the United States Senate who qualifies for the ballot for a general election—

"(A) who is not an eligible Senate candidate under section 501; and

"(B) who either raises aggregate contributions, or makes or obligates to make aggregate expenditures, for the general election which exceed 75 percent of the general election expenditure limit applicable to an eligible Senate candidate under section 502(b),

shall file a report with the Secretary of the Senate within 2 business days after such contributions have been raised or such expenditures have been made or obligated to be made (or, if later, within 2 business days after the date of qualification for the general election ballot), setting forth the candidate's total contributions and total expenditures for such election as of such date. Thereafter, such candidate shall file additional reports (until such contributions or expenditures exceed 200 percent of such limit) with the Secretary of the Senate within 2 business days after each time additional contributions are raised, or expenditures are made or are obligated to be made, which in the aggregate exceed an amount equal to 10 percent of such limit and after the total contributions or expenditures exceed 100, 133⅓, 166⅔, and 200 percent of such limit.

"(3) The Commission—

"(A) shall, within 2 business days of receipt of a declaration or report under paragraph (1) or (2), notify each eligible Senate candidate in the election involved about such declaration or report; and

"(B) if an opposing candidate has raised aggregate contributions, or made or has obligated to make aggregate expenditures, in excess of the applicable general election expenditure limit under section 502(b), shall certify, pursuant to the provisions of subsection (d), such eligibility for payment of any amount to which such eligible Senate candidate is entitled under section 503(a).

"(4) Notwithstanding the reporting requirements under this subsection, the Commission may make its own determination that a candidate in a general election who is not an eligible Senate candidate has raised aggregate contributions, or made or has obligated to make aggregate expenditures, in the amounts which would require a report under paragraph (2). The Commission shall, within 2 business days after making each such determination, notify each eligible Senate candidate in the general election involved about such determination, and shall, when such contributions or expenditures exceed the general election expenditure limit under section 502(b), certify (pursuant to the provisions of subsection (d)) such candidate's eligibility for payment of any amount under section 503(a).

"(b) REPORTS ON PERSONAL FUNDS.—(1) Any candidate for the United States Senate who during the election cycle expends more than the limitation under section 502(a) during the election cycle from his personal funds, the funds of his immediate family, and personal loans incurred by the candidate and the candidate's immediate family shall file a report with the Secretary of the Senate within 2 business days after such expenditures have been made or loans incurred.

"(2) The Commission within 2 business days after a report has been filed under paragraph (1) shall notify each eligible Senate candidate in the election involved about each such report.

"(3) Notwithstanding the reporting requirements under this subsection, the Commission may make its own determination that a candidate for the United States Senate has made expenditures in excess of the amount under paragraph (1). The Commission within 2 business days after making such determination shall notify each eligible Senate candidate in the general election involved about each such determination.

"(c) CANDIDATES FOR OTHER OFFICES.—(1) Each individual—

"(A) who becomes a candidate for the office of United States Senator;

"(B) who, during the election cycle for such office, held any other Federal, State, or local office or was a candidate for such other office; and

"(C) who expended any amount during such election cycle before becoming a candidate for the office of United States Senator which would have been treated as an expenditure if such individual had been such a candidate, including amounts for activities to promote the image or name recognition of such individual,

shall, within 7 days of becoming a candidate for the office of United States Senator, report to the Secretary of the Senate the amount and nature of such expenditures.

"(2) Paragraph (1) shall not apply to any expenditures in connection with a Federal, State, or local election which has been held before the individual becomes a candidate for the office of United States Senator.

"(3) The Commission shall, as soon as practicable, make a determination as to whether the amounts included in the report under paragraph (1) were made for purposes of influencing the election of the individual to the office of United States Senator.

"(4) The Commission shall certify to the individual and such individual's opponents

the amounts the Commission determines to be described in paragraph (3) and such amounts shall be treated as expenditures for purposes of this Act.

"(d) CERTIFICATIONS.—Notwithstanding section 504(a), the certification required by this section shall be made by the Commission on the basis of reports filed in accordance with the provisions of this Act, or on the basis of the Commission's own investigation or determination.

"(e) SHORTER PERIODS FOR REPORTS AND NOTICES DURING ELECTION WEEK.—Any report, determination, or notice required by reason of an event occurring during the 7-day period ending with the general election shall be made within 24 hours (rather than 2 business days) of the event.

"(f) COPIES OF REPORTS AND PUBLIC INSPECTION.—The Secretary of the Senate shall transmit a copy of any report or filing received under this section or under title V as soon as possible (but no later than 4 working hours of the Commission) after receipt of such report or filing, and shall make such report or filing available for public inspection and copying in the same manner as the Commission under section 311(a)(4), and shall preserve such reports and filings in the same manner as the Commission under section 311(a)(5).

"(g) DEFINITIONS.—For purposes of this section, any term used in this section which is used in title V shall have the same meaning as when used in title V.".

SEC. 104. DISCLOSURE BY NONELIGIBLE CANDIDATES.

Section 318 of FECA (2 U.S.C. 441d), as amended by section 134, is amended by adding at the end thereof the following:

"(f) If a broadcast, cablecast, or other communication is paid for or authorized by a candidate in the general election for the office of United States Senator who is not an eligible Senate candidate, or the authorized committee of such candidate, such communication shall contain the following sentence: 'This candidate has not agreed to voluntary campaign spending limits.'.".

SEC. 105. EXCESS CAMPAIGN FUNDS OF SENATE CANDIDATES.

Section 313 of FECA (2 U.S.C. 439a) is amended—

(1) by inserting "(a) IN GENERAL.—" before "Amounts"; and

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

"(b) RETURN OF EXCESS CAMPAIGN FUNDS.—(1) Except as provided in paragraph (2), and notwithstanding subsection (a), if a candidate for the Senate has amounts in excess of amounts necessary to defray campaign expenditures for any election cycle, including any fines or penalties relating thereto, such candidate shall, not later than 1 year after the date of the general election for such cycle, expend such excess in the manner described in subsection (a) or transfer it to the Senate Election Campaign Fund established under section 510.

"(2) Paragraph (1) shall not apply to any amounts—

"(A) transferred to a legal and accounting compliance fund established under section 502(c); or

"(B) transferred for use in the next election cycle to the extent such amounts do not exceed 20 percent of the sum of the primary election expenditure limit under section 501(d)(1)(A) and the general election expenditure limit under section 502(b) for the election cycle from which the amounts are being transferred.".

SEC. 106. RESTRICTIONS ON USE OF CAMPAIGN FUNDS.

(a) RESTRICTIONS ON USE OF CAMPAIGN FUNDS.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following new section:

"SEC. 327. (a) An individual who receives contributions as a candidate for Federal office—

"(1) may use such contributions only for legitimate and verifiable campaign expenses; and

"(2) may not use such contributions for any inherently personal purpose.

"(b) As used in this subsection—

"(1) the term 'campaign expenses' means expenses attributable solely to bona fide campaign purposes; and

"(2) the term 'inherently personal purpose' means a purpose that, by its nature, confers a personal benefit, and such term includes, but is not limited to, a home mortgage payment, clothing purchase, noncampaign automobile expense, country club membership, vacations or trips of a non-campaign nature, and any other inherently personal living expense as determined under the regulations mandated by section 106(b) of the Congressional Campaign Spending Limit and Election Reform Act of 1993.".

(b) REGULATIONS.—For the purposes of subsection (a), the Federal Election Commission shall, not later than 90 days after the date of enactment of subsection (a), prescribe regulations to implement the subsection. Such regulations shall apply to all contributions possessed by an individual at the time of implementation of this section.

Subtitle B—General Provisions

SEC. 131. BROADCAST RATES AND PREEMPTION.

(a) BROADCAST RATES.—Section 315(b) of the Communications Act of 1934 (47 U.S.C. 315(b)) is amended—

(1) in paragraph (1)—

(A) by striking "forty-five" and inserting "30"; and

(B) by striking "lowest unit charge of the station for the same class and amount of time for the same period" and inserting "lowest charge of the station for the same amount of time for the same period on the same date"; and

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

"In the case of an eligible Senate candidate (as defined in section 301(19) of the Federal Election Campaign Act of 1971), the charges for the use of a television broadcasting station during the 60-day period referred to in paragraph (1) shall not exceed 50 percent of the lowest charge described in paragraph (1), except that this sentence shall not apply to broadcasts which are to be paid by vouchers which are received under section 503(c)(4) by reason of the independent expenditure amount.".

(b) PREEMPTION; ACCESS.—Section 315 of such Act (47 U.S.C. 315) is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting immediately after subsection (b) the following new subsection:

"(c)(1) Except as provided in paragraph (2), a licensee shall not preempt the use, during any period specified in subsection (b)(1), of a broadcasting station by a legally qualified candidate for public office who has purchased and paid for such use pursuant to the provisions of subsection (b)(1).

"(2) If a program to be broadcast by a broadcasting station is preempted because of circumstances beyond the control of the broadcasting station, any candidate advertising spot scheduled to be broadcast during that program may also be preempted.".

(c) REVOCATION OF LICENSE FOR FAILURE TO PERMIT ACCESS.—Section 312(a)(7) of such Act (47 U.S.C. 312(a)(7)) is amended—

(1) by striking "or repeated";

(2) by inserting "or cable system" after "broadcasting station"; and

(3) by striking "his candidacy" and inserting "his or her candidacy, under the same terms, conditions, and business practices as apply to its most favored advertiser".

SEC. 132. EXTENSION OF REDUCED THIRD-CLASS MAILING RATES TO ELIGIBLE SENATE CANDIDATES.

Section 3626(e) of title 39, United States Code, is amended—

(1) in paragraph (2)(A)—

(A) by striking "and the National" and inserting "the National"; and

(B) by striking "Committee;" and inserting "Committee, and, subject to paragraph (3), the principal campaign committee of an eligible Senate candidate;";

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

(3) in paragraph (2)(C), by striking the period and inserting "; and";

(4) by adding after paragraph (2)(C) the following new subparagraph:

"(D) the terms 'eligible Senate candidate' and 'principal campaign committee' have the meanings given those terms in section 301 of the Federal Election Campaign Act of 1971."; and

(5) by adding after paragraph (2) the following new paragraph:

"(3) The rate made available under this subsection with respect to an eligible Senate candidate shall apply only to—

"(A) the general election period (as defined in section 301 of the Federal Election Campaign Act of 1971); and

"(B) that number of pieces of mail equal to 2 times the number of individuals in the voting age population (as certified under section 315(e) of such Act) of the State.".

SEC. 133. REPORTING REQUIREMENTS FOR CERTAIN INDEPENDENT EXPENDITURES.

(a) IN GENERAL.—Section 304 of FECA (2 U.S.C. 434) is amended by adding at the end the following new subsection:

"(d) TIME FOR REPORTING CERTAIN EXPENDITURES.—(1) Any person making independent expenditures aggregating $1,000 or more after the 20th day, but more than 24 hours, before any election shall file a report of such expenditures within 24 hours after such expenditures are made.

"(2) Any person making independent expenditures aggregating $10,000 or more at any time up to and including the 20th day before any election shall file a report within 48 hours after such expenditures are made. An additional statement shall be filed each time independent expenditures aggregating $10,000 are made with respect to the same election as the initial statement filed under this section.

"(3) Any statement under this subsection shall be filed with the Secretary of the Senate or the Commission, and the Secretary of State of the State involved, as appropriate, and shall contain the information required by subsection (b)(6)(B)(iii) of this section, including whether the independent expenditure is in support of, or in opposition to, the candidate involved. The Secretary of the Senate shall as soon as possible (but not later than 4 working hours of the Commission) after receipt of a statement transmit it to the Commission. Not later than 48 hours after the Commission receives a report, the Commission shall transmit a copy of the report to

each candidate seeking nomination or election to that office.

"(4) For purposes of this subsection, an expenditure shall be treated as made when it is made or obligated to be made.

"(5)(A) If any person intends to make independent expenditures totaling $5,000 or more during the 20 days before an election, such person shall file a statement no later than the 20th day before the election.

"(B) Any statement under subparagraph (A) shall be filed with the Secretary of the Senate or the Commission, and the Secretary of State of the State involved, as appropriate, and shall identify each candidate whom the expenditure will support or oppose. The Secretary of the Senate shall as soon as possible (but not later than 4 working hours of the Commission) after receipt of a statement transmit it to the Commission. Not later than 48 hours after the Commission receives a statement under this paragraph, the Commission shall transmit a copy of the statement to each candidate identified.

"(6) The Commission may make its own determination that a person has made, or has incurred obligations to make, independent expenditures with respect to any Federal election which in the aggregate exceed the applicable amounts under paragraph (1) or (2). The Commission shall notify each candidate in such election of such determination within 24 hours of making it.

"(7) At the same time as a candidate is notified under paragraph (3), (5), or (6) with respect to expenditures during a general election period, the Commission shall certify eligibility to receive benefits under section 503(a).

"(8) The Secretary of the Senate shall make any statement received under this subsection available for public inspection and copying in the same manner as the Commission under section 311(a)(4), and shall preserve such statements in the same manner as the Commission under section 311(a)(5).".

(b) CONFORMING AMENDMENT.—Section 304(c)(2) of FECA (2 U.S.C. 434(c)(2)) is amended by striking the undesignated matter after subparagraph (C).

SEC. 134. CAMPAIGN ADVERTISING AMENDMENTS.

Section 318 of FECA (2 U.S.C. 441d) is amended—

(1) in the matter before paragraph (1) of subsection (a), by striking "Whenever" and inserting "Whenever a political committee makes a disbursement for the purpose of financing any communication through any broadcasting station, newspaper, magazine, outdoor advertising facility, mailing, or any other type of general public political advertising, or whenever";

(2) in the matter before paragraph (1) of subsection (a), by striking "an expenditure" and inserting "a disbursement";

(3) in the matter before paragraph (1) of subsection (a), by striking "direct";

(4) in paragraph (3) of subsection (a), by inserting after "name" the following "and permanent street address"; and

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

"(c) Any printed communication described in subsection (a) shall be—

"(1) of sufficient type size to be clearly readable by the recipient of the communication;

"(2) contained in a printed box set apart from the other contents of the communication; and

"(3) consist of a reasonable degree of color contrast between the background and the printed statement.

"(d)(1) Any broadcast or cablecast communication described in subsection (a)(1) or subsection (a)(2) shall include, in addition to the requirements of those subsections, an audio statement by the candidate that identifies the candidate and states that the candidate has approved the communication.

"(2) If a broadcast or cablecast communication described in paragraph (1) is broadcast or cablecast by means of television, the communication shall include, in addition to the audio statement under paragraph (1), a written statement which—

"(A) states: 'I, (name of the candidate), am a candidate for (the office the candidate is seeking) and I have approved this message';

"(B) appears at the end of the communication in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds; and

"(C) is accompanied by a clearly identifiable photographic or similar image of the candidate.

"(e) Any broadcast or cablecast communication described in subsection (a)(3) shall include, in addition to the requirements of those subsections, in a clearly spoken manner, the following statement—

is responsible for the content of this advertisement.'

with the blank to be filled in with the name of the political committee or other person paying for the communication and the name of any connected organization of the payor; and, if broadcast or cablecast by means of television, shall also appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.".

SEC. 135. DEFINITIONS.

(a) IN GENERAL.—Section 301 of FECA (2 U.S.C. 431) is amended by striking paragraph (19) and inserting the following new paragraphs:

"(19) The term 'eligible Senate candidate' means a candidate who is certified under section 504 as eligible to receive benefits under title V.

"(20) The term 'general election' means any election which will directly result in the election of a person to a Federal office. Such term includes a primary election which may result in the election of a person to a Federal office.

"(21) The term 'general election period' means, with respect to any candidate, the period beginning on the day after the date of the primary or runoff election for the specific office the candidate is seeking, whichever is later, and ending on the earlier of—

"(A) the date of such general election; or

"(B) the date on which the candidate withdraws from the campaign or otherwise ceases actively to seek election.

"(22) The term 'immediate family' means—

"(A) a candidate's spouse;

"(B) a child, stepchild, parent, grandparent, brother, half-brother, sister or half-sister of the candidate or the candidate's spouse; and

"(C) the spouse of any person described in subparagraph (B).

"(23) The term 'major party' has the meaning given such term in section 9002(6) of the Internal Revenue Code of 1986, except that if a candidate qualified for the ballot in a general election in an open primary in which all the candidates for the office participated and which resulted in the candidate and at least one other candidate qualifying for the ballot in the general election, such candidate shall be treated as a candidate of a major party for purposes of title V.

"(24) The term 'primary election' means an election which may result in the selection of a candidate for the ballot in a general election for a Federal office.

"(25) The term 'primary election period' means, with respect to any candidate, the period beginning on the day following the date of the last election for the specific office the candidate is seeking and ending on the earlier of—

"(A) the date of the first primary election for that office following the last general election for that office; or

"(B) the date on which the candidate withdraws from the election or otherwise ceases actively to seek election.

"(26) The term 'runoff election' means an election held after a primary election which is prescribed by applicable State law as the means for deciding which candidate will be on the ballot in the general election for a Federal office.

"(27) The term 'runoff election period' means, with respect to any candidate, the period beginning on the day following the date of the last primary election for the specific office such candidate is seeking and ending on the date of the runoff election for such office.

"(28) The term 'voting age population' means the resident population, 18 years of age or older, as certified pursuant to section 315(e).

"(29) The term 'election cycle' means—

"(A) in the case of a candidate or the authorized committees of a candidate, the term beginning on the day after the date of the most recent general election for the specific office or seat which such candidate seeks and ending on the date of the next general election for such office or seat; or

"(B) for all other persons, the term beginning on the first day following the date of the last general election and ending on the date of the next general election.".

(b) IDENTIFICATION.—Section 301(13) of FECA (2 U.S.C. 431(13)) is amended by striking "mailing address" and inserting "permanent residence address".

SEC. 136. PROVISIONS RELATING TO FRANKED MASS MAILINGS.

Section 3210(a)(6)(C) of title 39, United States Code, is amended—

(1) by striking "if such mass mailing is postmarked fewer than 60 days immediately before the date" and inserting "if such mass mailing is postmarked during the calendar year"; and

(2) by inserting "or reelection" immediately before the period.

TITLE II—INDEPENDENT EXPENDITURES

SEC. 201. CLARIFICATION OF DEFINITIONS RELATING TO INDEPENDENT EXPENDITURES.

(a) INDEPENDENT EXPENDITURE DEFINITION AMENDMENT.—Section 301 of FECA (2 U.S.C. 431) is amended by striking paragraphs (17) and (18) and inserting the following:

"(17)(A) The term 'independent expenditure' means an expenditure for an advertisement or other communication that—

"(i) contains express advocacy; and

"(ii) is made without the participation or cooperation of a candidate or a candidate's representative.

"(B) The following shall not be considered an independent expenditure:

"(i) An expenditure made by a political committee of a political party.

"(ii) An expenditure made by a person who, during the election cycle, has communicated with or received information from a candidate or a representative of that candidate regarding activities that have the purpose of

influencing that candidate's election to Federal office, where the expenditure is in support of that candidate or in opposition to another candidate for that office.

"(iii) An expenditure if there is any arrangement, coordination, or direction with respect to the expenditure between the candidate or the candidate's agent and the person making the expenditure.

"(iv) An expenditure if, in the same election cycle, the person making the expenditure is or has been—

"(I) authorized to raise or expend funds on behalf of the candidate or the candidate's authorized committees; or

"(II) serving as a member, employee, or agent of the candidate's authorized committees in an executive or policymaking position.

"(v) An expenditure if the person making the expenditure has advised or counseled the candidate or the candidate's agents at any time on the candidate's plans, projects, or needs relating to the candidate's pursuit of nomination for election, or election, to Federal office, in the same election cycle, including any advice relating to the candidate's decision to seek Federal office.

"(vi) An expenditure if the person making the expenditure retains the professional services of any individual or other person also providing services in the same election cycle to the candidate in connection with the candidate's pursuit of nomination for election, or election, to Federal office, including any services relating to the candidate's decision to seek Federal office.

"(vii) An expenditure if the person making the expenditure has consulted at any time during the calendar year in which the election is to be held about the candidate's plans, projects, or needs relating to the candidate's pursuit of nomination for election, or election, to Federal office, with—

"(I) any officer, director, employee or agent of a party committee that has made or intends to make expenditures or contributions, pursuant to subsections (a), (d), or (h) of section 315 in connection with the candidate's campaign; or

"(II) any person whose professional services have been retained by a political party committee that has made or intends to make expenditures or contributions pursuant to subsections (a), (d), or (h) of section 315 in connection with the candidate's campaign.

For purposes of this subparagraph, the person making the expenditure shall include any officer, director, employee, or agent of such person, and the term 'professional services shall include any services (other than legal and accounting services for purposes of ensuring compliance with this Act) in support of any candidate's or candidates' pursuit of nomination for election, or election, to Federal office.

"(18) The term 'express advocacy' means, when a communication is taken as a whole and with limited reference to external events, an expression of support for or opposition to a specific candidate, to a specific group of candidates, or to candidates of a particular political party, or a suggestion to take action with respect to an election, such as to vote for or against, make contributions to, or participate in campaign activity.".

(b) CONTRIBUTION DEFINITION AMENDMENT.—Section 301(8)(A) of FECA (2 U.S.C. 431(8)(A)) is amended—

(1) in clause (i), by striking "or" after the semicolon 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 new clause:

"(iii) any payment or other transaction referred to in paragraph (17)(A)(i) that does not qualify as an independent expenditure under paragraph (17)(A)(ii).".

SEC. 202. EQUAL BROADCAST TIME.

Section 315(a) of the Communications Act of 1934 (47 U.S.C. 315(a)) is amended to read as follows:

"(a)(1) If a licensee permits any person who is a legally qualified candidate for public office to use a broadcasting station other than any use required to be provided under paragraph (2), the licensee shall afford equal opportunities to all other such candidates for that office in the use of the broadcasting station.

"(2)(A) A person who reserves broadcast time the payment for which would constitute an independent expenditure within the meaning of section 301(17) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(17)) shall—

"(i) inform the licensee that payment for the broadcast time will constitute an independent expenditure;

"(ii) inform the licensee of the names of all candidates for the office to which the proposed broadcast relates and state whether the message to be broadcast is intended to be made in support of or in opposition to each such candidate; and

"(iii) provide the licensee a copy of the statement described in section 304(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(d)).

"(B) A licensee who is informed as described in subparagraph (A) shall—

"(i) if any of the candidates described in subparagraph (A)(ii) has provided the licensee the name and address of a person to whom notification under this subparagraph is to be given—

"(I) notify such person of the proposed making of the independent expenditure; and

"(II) allow any such candidate (other than a candidate for whose benefit the independent expenditure is made) to purchase the same amount of broadcast time immediately after the broadcast time paid for by the independent expenditure; and

"(ii) in the case of an opponent of a candidate for whose benefit the independent expenditure is made who certifies to the licensee that the opponent is eligible to have the cost of response broadcast time paid using funds derived from a payment made under section 503(a)(3)(B) of the Federal Election Campaign Act of 1971, afford the opponent such broadcast time without requiring payment in advance and at the cost specified in subsection (b).

"(3) A licensee shall have no power of censorship over the material broadcast under this section.

"(4) Except as provided in paragraph (2), no obligation is imposed under this subsection upon any licensee to allow the use of its station by any candidate.

"(5)(A) Appearance by a legally qualified candidate on a—

"(i) bona fide newscast;

"(ii) bona fide news interview;

"(iii) bona fide news documentary (if the appearance of the candidate is incidental to the presentation of the subject or subjects covered by the news documentary); or

"(iv) on-the-spot coverage of bona fide news events (including political conventions and activities incidental thereto),

shall not be deemed to be use of a broadcasting station within the meaning of this subsection.

"(B) Nothing in subparagraph (A) shall be construed as relieving broadcasters, in connection with the presentation of newscasts, news interviews, news documentaries, and on-the-spot coverage of news events, from their obligation under this Act to operate in the public interest and to afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

"(6)(A) A licensee that endorses a candidate for Federal office in an editorial shall, within the time stated in subparagraph (B), provide to all other candidates for election to the same office—

"(i) notice of the date and time of broadcast of the editorial;

"(ii) a taped or printed copy of the editorial; and

"(iii) a reasonable opportunity to broadcast a response using the licensee's facilities.

"(B) In the case of an editorial described in subparagraph (A) that—

"(i) is first broadcast 72 hours or more prior to the date of a primary, runoff, or general election, the notice and copy described in subparagraph (A) (i) and (ii) shall be provided not later than 24 hours after the time of the first broadcast of the editorial, and

"(ii) is first broadcast less than 72 hours before the date of an election, the notice and copy shall be provided at a time prior to the first broadcast that will be sufficient to enable candidates a reasonable opportunity to prepare and broadcast a response.".

TITLE III—EXPENDITURES

Subtitle A—Personal Loans; Credit

SEC. 301. PERSONAL CONTRIBUTIONS AND LOANS.

Section 315 of FECA (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

"(j) LIMITATIONS ON PAYMENTS TO CANDIDATES.—(1) If a candidate or a member of the candidate's immediate family made any loans to the candidate or to the candidate's authorized committees during any election cycle, no contributions received after the date of the general election for such election cycle may be used to repay such loans.

"(2) No contribution by a candidate or member of the candidate's immediate family may be returned to the candidate or member other than as part of a pro rata distribution of excess contributions to all contributors.".

SEC. 302. EXTENSIONS OF CREDIT.

Section 301(8)(A) of FECA (2 U.S.C. 431(8)(A)), as amended by section 201(b), is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting "; or"; and

(3) by inserting at the end the following new clause:

"(iv) with respect to a candidate and the candidate's authorized committees, any extension of credit for goods or services relating to advertising on broadcasting stations, in newspapers or magazines, or by mailings, or relating to other similar types of general public political advertising, if such extension of credit is—

"(I) in an amount of more than $1,000; and

"(II) for a period greater than the period, not in excess of 60 days, for which credit is generally extended in the normal course of business after the date on which such goods or services are furnished or the date of a mailing.".

Subtitle B—Provisions Relating To Soft Money of Political Parties

SEC. 311. DEFINITIONS.

(a) CONTRIBUTION AND EXPENDITURE EXCEPTIONS.—(1) Clause (xii) of section 301(8)(B) of FECA (2 U.S.C. 431(8)(B)(xii)) is amended—

(A) by inserting "in connection with volunteer activities" after "such committee"; and

(B) by striking "and" at the end of subclause (2), by inserting "and" at the end of subclause (3), and by adding at the end the following new subclause:

"(4) such activities are conducted solely by, or any materials are distributed solely by, volunteers;".

(2) Clause (ix) of section 301(9)(B) of FECA (2 U.S.C. 431(9)(B)(ix)) is amended—

(A) by inserting "in connection with volunteer activities" after "such committee", and

(B) by striking "and" at the end of subclause (2), by inserting "and" at the end of subclause (3), and by adding at the end the following new subclause:

"(4) any materials in connection with such activities are prepared for distribution (and are distributed) solely by volunteers;".

(b) GENERIC ACTIVITIES; STATE PARTY GRASSROOTS FUND.—Section 301 of FECA (2 U.S.C. 431), as amended by section 135, is amended by adding at the end thereof the following new paragraphs:

"(30) The term 'generic campaign activity' means a campaign activity that promotes a political party rather than any particular Federal or non-Federal candidate.

"(31) The term 'State Party Grassroots Fund' means a separate segregated fund established and maintained by a State committee of a political party solely for purposes of making expenditures and other disbursements described in section 324(d).".

SEC. 312. CONTRIBUTIONS TO POLITICAL PARTY COMMITTEES.

(a) INDIVIDUAL CONTRIBUTIONS TO STATE PARTY.—Paragraph (1) of section 315(a) of FECA (2 U.S.C. 441a(a)(1)) is amended by striking "or" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) to—

"(i) a State Party Grassroots Fund established and maintained by a State committee of a political party in any calendar year which, in the aggregate, exceed $20,000;

"(ii) any other political committee established and maintained by a State committee of a political party in any calendar year which, in the aggregate, exceed $5,000,

except that the aggregate contributions described in this subparagraph which may be made by a person to the State Party Grassroots Fund and all committees of a State Committee of a political party in any State in any calendar year shall not exceed $20,000; or".

(b) MULTICANDIDATE COMMITTEE CONTRIBUTIONS TO STATE PARTY.—Paragraph (2) of section 315(a) of FECA (2 U.S.C. 441a(a)(2)) is amended by striking "or" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) to—

"(i) a State Party Grassroots Fund established and maintained by a State committee of a political party in any calendar year which, in the aggregate, exceed $15,000;

"(ii) to any other political committee established and maintained by a State committee of a political party which, in the aggregate, exceed $5,000,

except that the aggregate contributions described in this subparagraph which may be made by a multicandidate political committee to the State Party Grassroots Fund and all committees of a State Committee of a political party in any State in any calendar year shall not exceed $15,000; or".

(c) OVERALL LIMIT.—Paragraph (3) of section 315(a) of FECA (2 U.S.C. 441a(a)(3)) is amended to read as follows:

"(3)(A) No individual shall make contributions during any election cycle (as defined in section 301(29)(B)) which, in the aggregate, exceed $60,000.

"(B) No individual shall make contributions during any calendar year—

"(i) to all candidates and their authorized political committees which, in the aggregate, exceed $25,000; or

"(ii) to all political committees established and maintained by State committees of a political party which, in the aggregate, exceed $20,000.

"(C) For purposes of subparagraph (B)(i), any contribution made to a candidate or the candidate's authorized political committees in a year other than the calendar year in which the election is held with respect to which such contribution is made shall be treated as made during the calendar year in which the election is held.".

(d) PRESIDENTIAL CANDIDATE COMMITTEE TRANSFERS.—(1) Subparagraph (B) of section 315(b)(1) of FECA (2 U.S.C. 441a(b)(1)) is amended to read as follows:

"(B) in the case of a campaign for election to such office, an amount equal to the sum of—

"(i) $20,000,000, plus

"(ii) the lesser of—

"(I) 2 cents multiplied by the voting age population of the United States (as certified under subsection (e) of this section), or

"(II) the amounts transferred by the candidate and the authorized committees of the candidate to the national committee of the candidate's political party for distribution to State Party Grassroots Funds.".

(2) Subparagraph (A) of section 9002(11) of the Internal Revenue Code of 1986 (defining qualified campaign expense) is amended by striking "or" at the end of clause (ii), by inserting "or" at the end of clause (iii), and by inserting at the end the following new clause "(iv) any transfers to the national committee of the candidate's political party for distribution to State Party Grassroots Funds (as defined in section 301(31) of the Federal Election Campaign Act of 1971) to the extent such transfers do not exceed the amount determined under section 315(b)(1)(B)(ii) of such Act,".

SEC. 313. PROVISIONS RELATING TO NATIONAL, STATE, AND LOCAL PARTY COMMITTEES.

(a) SOFT MONEY OF COMMITTEES OF POLITICAL PARTIES.—Title III of FECA is amended by inserting after section 323 the following new section:

"POLITICAL PARTY COMMITTEES

"SEC. 324. (a) LIMITATIONS ON NATIONAL COMMITTEE.—(1) A national committee of a political party and the congressional campaign committees of a political party may not solicit or accept contributions or transfers not subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) Paragraph (1) shall not apply to contributions—

"(A) that—

"(i) are to be transferred to a State committee of a political party and are used solely for activities described in clauses (xi) through (xvii) of paragraph (9)(B) of section 301; or

"(ii) are described in section 301(8)(B)(viii); and

"(B) with respect to which contributors have been notified that the funds will be used solely for the purposes described in subparagraph (A).

"(b) ACTIVITIES SUBJECT TO THIS ACT.—Any amount solicited, received, expended, or disbursed directly or indirectly by a national, State, district, or local committee of a political party (including any subordinate committee) with respect to any of the following activities shall be subject to the limitations, prohibitions, and reporting requirements of this Act:

"(1)(A) Any get-out-the-vote activity conducted during a calendar year in which an election for the office of President is held.

"(B) Any other get-out-the-vote activity unless subsection (c)(2) applies to the activity.

"(2) Any generic campaign activity.

"(3) Any activity that identifies or promotes a Federal candidate, regardless of whether—

"(A) a State or local candidate is also identified or promoted; or

"(B) any portion of the funds disbursed constitutes a contribution or expenditure under this Act.

"(4) Voter registration.

"(5) Development and maintenance of voter files during an even-numbered calendar year.

"(6) Any other activity that—

"(A) significantly affects a Federal election, or

"(B) is not otherwise described in section 301(8)(B)(xvii).

Any amount spent to raise funds that are used, in whole or in part, in connection with activities described in the preceding paragraphs shall be subject to the limitations, prohibitions, and reporting requirements of this Act.

"(c) GET-OUT-THE-VOTE ACTIVITIES BY STATE, DISTRICT, AND LOCAL COMMITTEES OF POLITICAL PARTIES.—(1) Except as provided in paragraph (2), any get-out-the-vote activity for a State or local candidate, or for a ballot measure, which is conducted by a State, district, or local committee of a political party (including any subordinate committee) shall be subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) Paragraph (1) shall not apply to any activity which the State committee of a political party certifies to the Commission is an activity which—

"(A) is conducted during a calendar year other than a calendar year in which an election for the office of President is held,

"(B) is exclusively on behalf of (and specifically identifies only) one or more State or local candidates or ballot measures, and

"(C) does not include any effort or means used to identify or turn out those identified to be supporters of any Federal candidate (including any activity that is undertaken in coordination with, or on behalf of, a candidate for Federal office).

"(d) STATE PARTY GRASSROOTS FUNDS.—(1) A State committee of a political party may make disbursements and expenditures from its State Party Grassroots Fund only for—

"(A) any generic campaign activity;

"(B) payments described in clauses (v), (x), and (xii) of paragraph (8)(B) and clauses (iv), (viii), and (ix) of paragraph (9)(B) of section 301;

"(C) subject to the limitations of section 315(d), payments described in clause (xii) of paragraph (8)(B), and clause (ix) of paragraph (9)(B), of section 301 on behalf of candidates other than for President and Vice President;

"(D) voter registration; and

"(E) development and maintenance of voter files during an even-numbered calendar year.

"(2) Notwithstanding section 315(a)(4), no funds may be transferred by a State committee of a political party from its State Party Grassroots Fund to any other State Party Grassroots Fund or to any other political committee, except a transfer may be made to a district or local committee of the same political party in the same State if such district or local committee—

"(A) has established a separate segregated fund for the purposes described in paragraph (1); and

"(B) uses the transferred funds solely for those purposes.

"(e) AMOUNTS RECEIVED BY GRASSROOTS FUND FROM STATE AND LOCAL CANDIDATE COMMITTEES.—(1) Any amount received by a State Party Grassroots Fund from a State or local candidate committee for expenditures described in subsection (b) that are for the benefit of that candidate shall be treated as meeting the requirements of subsection (b) and section 304(e) if—

"(A) such amount is derived from funds which meet the requirements of this Act with respect to any limitation or prohibition as to source or dollar amount specified in section 315(a) (1)(A) and (2)(A); and

"(B) the State or local candidate committee—

"(i) maintains, in the account from which payment is made, records of the sources and amounts of funds for purposes of determining whether such requirements are met; and

"(ii) certifies that such requirements were met.

"(2) For purposes of paragraph (1)(A), in determining whether the funds transferred meet the requirements of this Act described in such paragraph—

"(A) a State or local candidate committee's cash on hand shall be treated as consisting of the funds most recently received by the committee, and

"(B) the committee must be able to demonstrate that its cash on hand contains sufficient funds meeting such requirements as are necessary to cover the transferred funds.

"(3) Notwithstanding paragraph (1), any State Party Grassroots Fund receiving any transfer described in paragraph (1) from a State or local candidate committee shall be required to meet the reporting requirements of this Act, and shall submit to the Commission all certifications received, with respect to receipt of the transfer from such candidate committee.

"(4) For purposes of this subsection, a State or local candidate committee is a committee established, financed, maintained, or controlled by a candidate for other than Federal office.

"(f) SOFT MONEY RESPONSE FUNDS.—(1) The national committee of any political party may establish a separate fund for purposes of this subsection. Such fund shall consist of contributions described in section 315(p).

"(2)(A) If a candidate or political party is notified under section 304(h) that a person is making disbursements in excess of $10,000—

"(i) solely in opposition to such candidate or solely in support of an opponent of such candidate, or

"(ii) in opposition to such political party or in support of another political party,

the national committee may make the transfers described in subparagraph (B).

"(B) In the case of—

"(i) a notification described in subparagraph (A)(i), the national committee may transfer funds to authorized committees of the candidate described in such paragraph, or

"(ii) a notification described in subparagraph (A)(ii), the national committee may transfer funds to the State Party Grassroots Fund in the State where the disbursements are being made.

The aggregate amounts which may be transferred under this subparagraph in response to any notification shall not exceed the amount of disbursements specified in such notice.

"(3) Any amount transferred under paragraph (2) (and any amount expended by the State Party Grassroots Fund or the candidate's authorized committees from such amount)—

"(A) shall not be treated as an expenditure for purposes of applying any expenditure limit applicable to the candidate under title V, and

"(B) shall not be taken into account in applying the limit under section 315(d)(3) for expenditures by a political party or committees thereof on behalf of a candidate.".

(b) CONTRIBUTIONS AND EXPENDITURES.—(1) Section 301(8)(B) of FECA (2 U.S.C. 431(8)(B)) is amended by striking "and" at the end of clause (xiii), by striking the period at the end of clause (xiv) and inserting a semicolon, and by adding at the end the following new clauses:

"(xv) any amount contributed to a candidate for other than Federal office;

"(xvi) any amount received or expended to pay the costs of a State or local political convention;

"(xvii) any payment for campaign activities that are exclusively on behalf of (and specifically identify only) State or local candidates and do not identify any Federal candidate, and that are not activities described in section 324(b) (without regard to paragraph (6)(B)) or section 324(c)(1);

"(xviii) any payment for administrative expenses of a State or local committee of a political party, including expenses for—

"(I) overhead, including party meetings;

"(II) staff (other than individuals devoting a significant amount of their time to elections for Federal office and individuals engaged in conducting get-out-the-vote activities for a Federal election); and

"(III) conducting party elections or caucuses;

"(xix) any payment for research pertaining solely to State and local candidates and issues;

"(xx) any payment for development and maintenance of voter files other than during the 1-year period ending on the date during an even-numbered calendar year on which regularly scheduled general elections for Federal office occur; and

"(xxi) any payment for any other activity which is solely for the purpose of influencing, and which solely affects, an election for non-Federal office and which is not an activity described in section 324(b) (without regard to paragraph (6)(B)) or section 324(c)(1).".

(2) Section 301(9)(B) of FECA (2 U.S.C. 431(9)(B)) is amended by striking "and" at the end of clause (ix), by striking the period at the end of clause (x) and inserting a semicolon, and by adding at the end the following new clauses:

"(xi) any amount contributed to a candidate for other than Federal office;

"(xii) any amount received or expended to pay the costs of a State or local political convention;

"(xiii) any payment for campaign activities that are exclusively on behalf of (and specifically identify only) State or local candidates and do not identify any Federal candidate, and that are not activities described in section 324(b) (without regard to paragraph (6)(B)) or section 324(c)(1);

"(xiv) any payment for administrative expenses of a State or local committee of a political party, including expenses for—

"(I) overhead, including party meetings;

"(II) staff (other than individuals devoting a significant amount of their time to elections for Federal office and individuals engaged in conducting get-out-the-vote activities for a Federal election); and

"(III) conducting party elections or caucuses;

"(xv) any payment for research pertaining solely to State and local candidates and issues;

"(xvi) any payment for development and maintenance of voter files other than during the 1-year period ending on the date during an even-numbered calendar year on which regularly scheduled general elections for Federal office occur; and

"(xvii) any payment for any other activity which is solely for the purpose of influencing, and which solely affects, an election for non-Federal office and which is not an activity described in section 324(b) (without regard to paragraph (6)(B)) or section 324(c)(1).".

(c) LIMITATION APPLIED AT NATIONAL LEVEL.—Paragraph (3) of section 315(d) of FECA (2 U.S.C. 441a(d)(3)) is amended by adding at the end the following new sentence: "Notwithstanding the preceding sentence, the applicable congressional campaign committee of a political party shall make the expenditures described in this paragraph which are authorized to be made by a national or State committee with respect to a candidate in any State unless it allocates all or a portion of such expenditures to either or both of such committees.".

(d) LIMITATIONS APPLY FOR ENTIRE ELECTION CYCLE.—Section 315(d)(1) of FECA (2 U.S.C. 441a(d)(1)) is amended by adding at the end the following new sentence: "Each limitation under the following paragraphs shall apply to the entire election cycle for an office.".

(e) CONTRIBUTIONS TO RESPONSE FUNDS.—Section 315 of FECA (2 U.S.C. 441a), as amended by section 710, is amended by adding at the end the following new subsection:

"(p) CONTRIBUTIONS TO RESPONSE FUNDS.—(1) An individual may make contributions to a response fund established by a political party under section 324(f) which, in the aggregate, do not exceed $7,500 for any calendar year. For purposes of the preceding sentence, contributions during the calendar year preceding the calendar year in which an election occurs shall be treated as made in the year in which the election occurs.

"(2) Any contribution under paragraph (1) shall not be taken into account for purposes of subsection (a) (1)(B) or (3)."

SEC. 314. RESTRICTIONS ON FUNDRAISING BY CANDIDATES AND OFFICEHOLDERS.

(a) STATE FUNDRAISING ACTIVITIES.—Section 315 of FECA (2 U.S.C. 441a), as amended by section 301, is amended by adding at the end thereof the following new subsection:

"(k) LIMITATIONS ON FUNDRAISING ACTIVITIES OF FEDERAL CANDIDATES AND OFFICEHOLDERS AND CERTAIN POLITICAL COMMITTEES.—(1) For purposes of this Act, a candidate for Federal office, an individual holding Federal office, or any agent of the candidate or individual may not solicit funds to, or receive funds on behalf of, any Federal or non-Federal candidate or political committee—

"(A) which are to be expended in connection with any election for Federal office unless such funds are subject to the limitations, prohibitions, and requirements of this Act; or

"(B) which are to be expended in connection with any election for other than Federal office unless such funds are not in excess of amounts permitted with respect to Federal candidates and political committees under subsections (a) (1) and (2), and are not from sources prohibited by such subsections with respect to elections to Federal office.

"(2)(A) The aggregate amount which a person described in subparagraph (B) may solicit from a multicandidate political committee for State committees described in subsection (a)(1)(C) (including subordinate committees) for any calendar year shall not exceed the dollar amount in effect under subsection (a)(2)(B) for the calendar year.

"(B) A person is described in this subparagraph if such person is a candidate for Federal office, an individual holding Federal office, an agent of such a candidate or individual, or any national, State, district, or local committee of a political party (including a subordinate committee) and any agent of such a committee.

"(3) The appearance or participation by a candidate for Federal office or individual holding Federal office in any fundraising event conducted by a committee of a political party or a candidate for other than Federal office shall not be treated as a solicitation for purposes of paragraph (1) if such candidate or individual does not solicit or receive, or make disbursements from, any funds resulting from such activity.

"(4) Paragraph (1) shall not apply to the solicitation or receipt of funds, or disbursements, by an individual who is a candidate for other than Federal office if such activity is permitted under State law.

"(5) For purposes of this subsection, an individual shall be treated as holding Federal office if such individual—

"(A) holds a Federal office; or

"(B) holds a position described in level I of the Executive Schedule under section 5312 of title 5, United States Code.".

(b) TAX-EXEMPT ORGANIZATIONS.—Section 315 of FECA (2 U.S.C. 441a), as amended by subsection (a), is amended by adding at the end thereof the following new subsection:

"(l) TAX-EXEMPT ORGANIZATIONS.—(1) If an individual is a candidate for, or holds, Federal office during any period, such individual may not during such period solicit contributions to, or on behalf of, any organization which is described in section 501(c) of the Internal Revenue Code of 1986 if a significant portion of the activities of such organization include voter registration or get-out-the-vote campaigns.

"(2) For purposes of this subsection, an individual shall be treated as holding Federal office if such individual—

"(A) holds a Federal office; or

"(B) holds a position described in level I of the Executive Schedule under section 5312 of title 5, United States Code.".

SEC. 315. REPORTING REQUIREMENTS.

(a) REPORTING REQUIREMENTS.—Section 304 of FECA (2 U.S.C. 434), as amended by section 133(a), is amended by adding at the end thereof the following new subsection:

"(e) POLITICAL COMMITTEES.—(1) The national committee of a political party and any congressional campaign committee of a political party, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period, whether or not in connection with an election for Federal office.

"(2) A political committee (not described in paragraph (1)) to which section 324 applies shall report all receipts and disbursements including separate schedules for receipts and disbursements for State Grassroots Funds described in section 301(31).

"(3) Any political committee to which section 324 applies shall include in its report under paragraph (1) or (2) the amount of any transfer described in section 324(d)(2) and shall itemize such amounts to the extent required by section 304(b)(3)(A).

"(4) Any political committee to which paragraph (1) or (2) does not apply shall report any receipts or disbursements which are used in connection with a Federal election.

"(5) If a political committee has receipts or disbursements to which this subsection applies from any person aggregating in excess of $200 for any calendar year, the political committee shall separately itemize its reporting for such person in the same manner as subsection (b) (3)(A), (5), or (6).

"(6) Reports required to be filed by this subsection shall be filed for the same time periods required for political committees under subsection (a).".

(b) REPORT OF EXEMPT CONTRIBUTIONS.—Section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)) is amended by inserting at the end thereof the following:

"(C) The exclusion provided in clause (viii) of subparagraph (B) shall not apply for purposes of any requirement to report contributions under this Act, and all such contributions aggregating in excess of $200 shall be reported.".

(c) REPORTS BY STATE COMMITTEES.—Section 304 of FECA (2 U.S.C. 434), as amended by subsection (a), is amended by adding at the end thereof the following new subsection:

"(f) FILING OF STATE REPORTS.—In lieu of any report required to be filed by this Act, the Commission may allow a State committee of a political party to file with the Commission a report required to be filed under State law if the Commission determines such reports contain substantially the same information.".

(d) OTHER REPORTING REQUIREMENTS.—

(1) AUTHORIZED COMMITTEES.—Paragraph (4) of section 304(b) of FECA (2 U.S.C. 434(b)(4)) is amended by striking "and" at the end of subparagraph (H), by inserting "and" at the end of subparagraph (I), and by adding at the end the following new subparagraph:

"(J) in the case of an authorized committee, disbursements for the primary election, the general election, and any other election in which the candidate participates;".

(2) NAMES AND ADDRESSES.—Subparagraph (A) of section 304(b)(5) of FECA (2 U.S.C. 434(b)(5)(A)) is amended—

(A) by striking "within the calendar year", and

(B) by inserting ", and the election to which the operating expenditure relates" after "operating expenditure".

Subtitle C—Soft Money of Persons Other Than Political Parties

SEC. 321. SOFT MONEY OF PERSONS OTHER THAN POLITICAL PARTIES.

Section 304 of FECA (2 U.S.C. 434), as amended by section 602(d), is amended by adding at the end thereof the following new subsection:

"(h) ELECTION ACTIVITY OF PERSONS OTHER THAN POLITICAL PARTIES.—(1)(A) If any person to which section 324 does not apply makes (or obligates to make) disbursements for activities described in section 324(b) in excess of $2,000, such person shall file a statement—

"(i) on or before the day which is 48 hours before the disbursements (or obligations) are made, or

"(ii) in the case of disbursements (or obligations) which are to be made within 14 days of the election, on or before such 14th day.

An additional statement shall be filed each time additional disbursements aggregating $2,000 are made (or obligated to be made) by such person.

"(B) This paragraph shall not apply to—

"(i) a candidate or a candidate's authorized committees, or

"(ii) an independent expenditure (as defined in section 301(17)).

"(2) Any statement under this section shall be filed with the Secretary of the Senate or the Clerk of the House of Representatives, and the Secretary of State of the State involved, as appropriate, and shall contain such information as the Commission shall prescribe, including whether the disbursement is in support of, or in opposition to, 1 or more candidates or any political party. The Secretary of the Senate or Clerk of the House of Representatives shall, as soon as possible (but not later than 24 hours after receipt), transmit a statement to the Commission and the Commission shall, not later than 48 hours after receipt, transmit it—

"(A) to the candidates or political parties involved, or

"(B) if the disbursement is not in support of, or in opposition to, a candidate or political party, to the State committees of each political party in the State involved.

"(3) The Commission may make its own determination that disbursements described in paragraph (1) have been made or obligated to be made. The Commission shall notify the candidates or political parties described in paragraph (2) within 24 hours of its determination."

TITLE IV—CONTRIBUTIONS

SEC. 401. CONTRIBUTIONS THROUGH INTERMEDIARIES AND CONDUITS; PROHIBITION ON CERTAIN CONTRIBUTIONS BY LOBBYISTS.

(a) CONTRIBUTIONS THROUGH INTERMEDIARIES AND CONDUITS.—Section 315(a)(8) of FECA (2 U.S.C. 441a(a)(8)) is amended to read as follows:

"(8) For the purposes of this subsection:

"(A) Contributions made by a person, either directly or indirectly, to or on behalf of a particular candidate, including contributions that are in any way earmarked or otherwise directed through an intermediary or conduit to a candidate, shall be treated as contributions from the person to the candidate.

"(B) Contributions made directly or indirectly by a person to or on behalf of a particular candidate through an intermediary or conduit, including contributions made or arranged to be made by an intermediary or conduit, shall be treated as contributions from the intermediary or conduit to the candidate if—

"(i) the contributions made through the intermediary or conduit are in the form of a check or other negotiable instrument made payable to the intermediary or conduit rather than the intended recipient; or

"(ii) the intermediary or conduit is—

"(I) a political committee;

"(II) an officer, employee, or agent of such a political committee;

"(III) a political party;

"(IV) a partnership or sole proprietorship;

"(V) a person who is required to register or to report its lobbying activities, or a lobbyist whose activities are required to be reported, under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267), the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.), or any successor Federal law requiring a person who is a lobbyist or foreign agent to register or a person to report its lobbying activities; or

"(VI) an organization prohibited from making contributions under section 316, or an officer, employee, or agent of such an organization acting on the organization's behalf.

"(C)(i) The term 'intermediary or conduit' does not include—

"(I) a candidate or representative of a candidate receiving contributions to the candidate's principal campaign committee or authorized committee;

"(II) a professional fundraiser compensated for fundraising services at the usual and customary rate, but only if the individual is not described in subparagraph (B)(ii);

"(III) a volunteer hosting a fundraising event at the volunteer's home, in accordance with section 301(8)(B), but only if the individual is not described in subparagraph (B)(ii); or

"(IV) an individual who transmits a contribution from the individual's spouse.

"(ii) The term 'representative' means an individual who is expressly authorized by the candidate to engage in fundraising, and who occupies a significant position within the candidate's campaign organization, provided that the individual is not described in subparagraph (B)(ii).

"(iii) The term 'contributions made or arranged to be made' includes—

"(I) contributions delivered to a particular candidate or the candidate's authorized committee or agent; and

"(II) contributions directly or indirectly arranged to be made to a particular candidate or the candidate's authorized committee or agent, in a manner that identifies directly or indirectly to the candidate or authorized committee or agent the person who arranged the making of the contributions or the person on whose behalf such person was acting.

Such term does not include contributions made, or arranged to be made, by reason of an oral or written communication by a Federal candidate or officeholder expressly advocating the nomination for election, or election, of any other Federal candidate and encouraging the making of a contribution to such other candidate.

"(iv) The term 'acting on the organization's behalf' includes the following activities by an officer, employee or agent of a person described in subparagraph (B)(ii)(VI):

"(I) Soliciting or directly or indirectly arranging the making of a contribution to a particular candidate in the name of, or by using the name of, such a person.

"(II) Soliciting or directly or indirectly arranging the making of a contribution to a particular candidate using other than incidental resources of such a person.

"(III) Soliciting contributions for a particular candidate by substantially directing the solicitations to other officers, employees, or agents of such a person.

"(D) Nothing in this paragraph shall prohibit—

"(i) bona fide joint fundraising efforts conducted solely for the purpose of sponsorship of a fundraising reception, dinner, or other similar event, in accordance with rules prescribed by the Commission, by—

"(I) 2 or more candidates;

"(II) 2 or more national, State, or local committees of a political party within the meaning of section 301(4) acting on their own behalf; or

"(III) a special committee formed by 2 or more candidates, or a candidate and a national, State, or local committee of a political party acting on their own behalf; or

"(ii) fundraising efforts for the benefit of a candidate that are conducted by another candidate.

When a contribution is made to a candidate through an intermediary or conduit, the intermediary or conduit shall report the original source and the intended recipient of the contribution to the Commission and to the intended recipient.".

(b) PROHIBITION OF CERTAIN CONTRIBUTIONS BY LOBBYISTS.—Section 315 of FECA (2 U.S.C. 441a), as amended by section 314(b), is amended by adding at the end the following new subsection:

"(m)(1) A lobbyist, or a political committee controlled by a lobbyist, shall not make contributions to, or solicit contributions for or on behalf of—

"(A) any member of Congress with whom the lobbyist has, during the preceding 12 months, made a lobbying contact; or

"(B) any authorized committee of the President of the United States if, during the preceding 12 months, the lobbyist has made a lobbying contact with a covered executive branch official.

"(2) A lobbyist who, or a lobbyist whose political committee, has made any contribution to, or solicited contributions for or on behalf of, any member of Congress or candidate for Congress (or any authorized committee of the President) shall not, during the 12 months following such contribution or solicitation, make a lobbying contact with such member or candidate who becomes a member of Congress (or a covered executive branch official).

"(3) If a lobbyist advises or otherwise suggests to a client of the lobbyist (including a client that is the lobbyist's regular employer), or to a political committee that is funded or administered by such a client, that the client or political committee should make a contribution to or solicit a contribution for or on behalf of—

"(A) a member of Congress or candidate for Congress, the making or soliciting of such a contribution is prohibited if the lobbyist has made a lobbying contact with the member of Congress within the preceding 12 months; or

"(B) an authorized committee of the President, the making or soliciting of such a contribution shall be unlawful if the lobbyist has made a lobbying contact with a covered executive branch official within the preceding 12 months.

"(4) For purposes of this subsection—

"(A) the term 'covered executive branch official' means the President, Vice-President, any officer or employee of the executive office of the President other than a clerical or secretarial employee, any officer or employee serving in an Executive Level I, II, III, IV, or V position as designated in statute or Executive order, any officer or employee serving in a senior executive service position (as defined in section 3232(a)(2) of title 5, United States Code), any member of the uniformed services whose pay grade is at or in excess of 0-7 under section 201 of title 37, United States Code, and any officer or employee serving in a position of confidential or policy-determining character under schedule C of the excepted service pursuant to regulations implementing section 2103 of title 5, United States Code;

"(B) the term 'lobbyist' means—

"(i) a person required to register under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267) or the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.) or any successor Federal law requiring a person who is a lobbyist or foreign agent to register or a person to report its lobbying activities; or

"(C) the term 'lobbying contact'—

"(i) means an oral or written communication with or appearance before a member of Congress or covered executive branch official made by a lobbyist representing an interest of another person with regard to—

"(I) the formulation, modification, or adoption of Federal legislation (including a legislative proposal);

"(II) the formulation, modification, or adoption of a Federal rule, regulation, Executive order, or any other program, policy or position of the United States Government; or

"(III) the administration or execution of a Federal program or policy (including the negotiation, award, or administration of a Federal contract, grant, loan, permit, or license); but

"(ii) does not include a communication that is—

"(I) made by a public official acting in an official capacity;

"(II) made by a representative of a media organization who is primarily engaged in gathering and disseminating news and information to the public;

"(III) made in a speech, article, publication, or other material that is widely distributed to the public or through the media;

"(IV) a request for an appointment, a request for the status of a Federal action, or another similar ministerial contact, if there is no attempt to influence a member of Congress or covered executive branch official at the time of the contact;

"(V) made in the course of participation in an advisory committee subject to the Federal Advisory Committee Act (5 U.S.C. App.);

"(VI) testimony given before a committee, subcommittee, or office of Congress a Federal agency, or submitted for inclusion in the public record of a hearing conducted by the committee, subcommittee, or office;

"(VII) information provided in writing in response to a specific written request from a member of Congress or covered executive branch official;

"(VIII) required by subpoena, civil investigative demand, or otherwise compelled by statute, regulation, or other action of Congress or a Federal agency;

"(IX) made to an agency official with regard to a judicial proceeding, criminal or civil law enforcement inquiry, investigation, or proceeding, or filing required by law;

"(X) made in compliance with written agency procedures regarding an adjudication conducted by the agency under section 554 of title 5, United States Code, or substantially similar provisions;

"(XI) a written comment filed in a public docket and other communication that is made on the record in a public proceeding;

"(XII) a formal petition for agency action, made in writing pursuant to established agency procedures; or

"(XIII) made on behalf of a person with regard to the person's benefits, employment, other personal matters involving only that person, or disclosures pursuant to a whistleblower statute.".

"(5) For purposes of this subsection, a lobbyist shall be considered to make a lobbying contact or communication with a member of Congress if the lobbyist makes a lobbying contact or communication with—

"(i) the member of Congress;

"(ii) any person employed in the office of the member of Congress; or

"(iii) any person employed by a committee, joint committee, or leadership office who, to the knowledge of the lobbyist, was employed at the request of or is employed at

the pleasure of, reports primarily to, represents, or acts as the agent of the member of Congress.".

SEC. 402. CONTRIBUTIONS BY DEPENDENTS NOT OF VOTING AGE.

Section 315 of FECA (2 U.S.C. 441a), as amended by section 401(b), is amended by adding at the end the following new subsection:

"(n) For purposes of this section, any contribution by an individual who—

"(1) is a dependent of another individual; and

"(2) has not, as of the time of such contribution, attained the legal age for voting for elections to Federal office in the State in which such individual resides,

shall be treated as having been made by such other individual. If such individual is the dependent of another individual and such other individual's spouse, the contribution shall be allocated among such individuals in the manner determined by them.".

SEC. 403. CONTRIBUTIONS TO CANDIDATES FROM STATE AND LOCAL COMMITTEES OF POLITICAL PARTIES TO BE AGGREGATED.

Section 315(a) of FECA (2 U.S.C. 441a(a)) is amended by adding at the end the following new paragraph:

"(9) Notwithstanding paragraph (5)(B), a candidate for Federal office may not accept, with respect to an election, any contribution from a State or local committee of a political party (including any subordinate committee of such committee), if such contribution, when added to the total of contributions previously accepted from all such committees of that political party, exceeds a limitation on contributions to a candidate under this section.".

SEC. 404. CONTRIBUTIONS AND EXPENDITURES USING MONEY SECURED BY PHYSICAL FORCE OR OTHER INTIMIDATION.

Title III of FECA, as amended by section 707, is amended by adding at the end the following new section:

"CONTRIBUTIONS AND EXPENDITURES USING MONEY SECURED BY PHYSICAL FORCE OR OTHER INTIMIDATION

"SEC. 326. It shall be unlawful for any person to—

"(1) cause another person to make a contribution or expenditure by using physical force, job discrimination, financial reprisals, or the threat of physical force, job discrimination, or financial reprisal; or

"(2) make a contribution or expenditure utilizing money or anything of value secured in the manner described in paragraph (1).".

SEC. 405. PROHIBITION OF ACCEPTANCE BY A CANDIDATE OF CASH CONTRIBUTIONS FROM ANY ONE PERSON AGGREGATING MORE THAN $100.

Section 321 of FECA (2 U.S.C. 441g) is amended by inserting ", and no candidate or authorized committee of a candidate shall accept from any one person," after "make".

SEC. 406. OUT-OF-STATE FUNDRAISING.

Title III of FECA, as amended by this Act, is amended by adding at the end the following new section:

"OUT-OF-STATE FUNDRAISING

"SEC. 328. A person shall not solicit or accept a contribution from a person that is not a legal resident of the candidate's State of residence prior to the date that is 2 years prior to the date of a general election for a congressional office in which the person seeks to become a candidate.".

TITLE V—REPORTING REQUIREMENTS

SEC. 501. CHANGE IN CERTAIN REPORTING FROM A CALENDAR YEAR BASIS TO AN ELECTION CYCLE BASIS.

Paragraphs (2) through (7) of section 304(b) of FECA (2 U.S.C. 434(b)(2)-(7)), as amended by section 315(d), are amended by inserting after "calendar year" each place it appears the following: "(election cycle, in the case of an authorized committee of a candidate for Federal office)".

SEC. 502. PERSONAL AND CONSULTING SERVICES.

(a) REPORTING BY POLITICAL COMMITTEES.—Section 304(b)(5)(A) of FECA (2 U.S.C. 434(b)(5)(A)) is amended by adding before the semicolon at the end the following: ", except that if a person to whom an expenditure is made is merely providing personal or consulting services and is in turn making expenditures to other persons (not including employees) who provide goods or services to the candidate or his or her authorized committees, the name and address of such other person, together with the date, amount and purpose of such expenditure shall also be disclosed".

(b) RECORDKEEPING AND REPORTING BY PERSONS TO WHOM EXPENDITURES ARE PASSED THROUGH.—Section 302 of FECA (2 U.S.C. 432) is amended by adding at the end the following new subsection:

"(j) The person described in section 304(b)(5)(A) who is providing personal or consulting services and who is in turn making expenditures to other persons (not including employees) for goods or services provided to a candidate shall maintain records of and shall provide to a political committee the information necessary to enable the political committee to report the information described in section 304(b)(5)(A).".

SEC. 503. COMPUTERIZED INDICES OF CONTRIBUTIONS.

Section 311(a) of FECA (2 U.S.C. 438(a)) is amended—

(1) by striking "and" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; and"; and

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

"(11) maintain computerized indices of contributions of $200 or more.".

SEC. 504. FILING OF REPORTS USING COMPUTERS AND FACSIMILE MACHINES.

Section 302(g) of FECA (2 U.S.C. 432(g)) is amended by adding at the end the following new paragraph:

"(6)(A) The Commission, in consultation with the Secretary of the Senate and the Clerk of the House of Representatives, shall prescribe regulations under which persons required to file designations, statements, and reports under this Act—

"(i) are required to maintain and file them for any calendar year in electronic form accessible by computers if the person has, or has reason to expect to have, aggregate contributions or expenditures in excess of $100,000 during the current calendar year, and

"(ii) may maintain and file them in that manner if not required to do so under clause (i).

"(B) The Commission, in consultation with the Secretary of the Senate and the Clerk of the House of Representatives, shall prescribe regulations which allow persons to file designations, statements, and reports required by this Act through the use of facsimile machines.

"(C) In prescribing regulations under this paragraph, the Commission shall provide methods (other than signing) for verifying designations, statements, and reports covered by the regulations. Any document verified under any of the methods shall be treated for all purposes (including penalties for perjury) in the same manner as a document verified by signature.

"(D) The Commission shall ensure that any computer (or other) system developed and maintained by the Commission to receive designations, statements, and reports in the forms required or permitted under this paragraph are compatible with the systems of the Secretary of the Senate and the Clerk of the House of Representatives.".

SEC. 505. POLITICAL COMMITTEES.

Section 303(b) of FECA (2 U.S.C. 433(b)) is amended—

(1) in paragraph (2), by inserting ", and if the organization or committee is incorporated, the State of incorporation" after "committee",

(2) by striking the "name and address of the treasurer" in paragraph (4) and inserting "the names and addresses of the officers", and

(3) by striking "and" at the end of paragraph (5), by striking the period at the end of paragraph (6) and inserting "; and", and by adding at the end the following new paragraph:

"(7) a statement of the purpose for which the political committee was formed.".

TITLE VI—FEDERAL ELECTION COMMISSION

SEC. 601. USE OF CANDIDATES' NAMES.

Section 302(e)(4) of FECA (2 U.S.C. 432(e)(4)) is amended to read as follows:

"(4)(A) The name of each authorized committee shall include the name of the candidate who authorized the committee under paragraph (1).

"(B) A political committee that is not an authorized committee shall not—

"(i) include the name of any candidate in its name, or

"(ii) except in the case of a national, State, or local party committee, use the name of any candidate in any activity on behalf of such committee in such a context as to suggest that the committee is an authorized committee of the candidate or that the use of the candidate's name has been authorized by the candidate.".

SEC. 602. REPORTING REQUIREMENTS.

(a) OPTION TO FILE MONTHLY REPORTS—Section 304(a)(2) of FECA (2 U.S.C. 434(a)(2)) is amended—

(1) in subparagraph (A) by striking "and" at the end;

(2) in subparagraph (B) by striking the period at the end and inserting "; and"; and

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

"(C) in lieu of the reports required by subparagraphs (A) and (B), the treasurer may file monthly reports in all calendar years, which shall be filed no later than the 15th day after the last day of the month and shall be complete as of the last day of the month, except that, in lieu of filing the reports otherwise due in November and December of any year in which a regularly scheduled general election is held, a pre-primary election report and a pre-general election report shall be filed in accordance with subparagraph (A)(i), a post-general election report shall be filed in accordance with subparagraph (A)(ii), and a year end report shall be filed no later than January 31 of the following calendar year.".

(b) FILING DATE.—(1) Section 304(a)(3) (A)(i) and (B)(i) of FECA (2 U.S.C. 434(a)(3) (A)(i)

and (B)(i)) are amended by striking "20th" and inserting "15th".

(2) Section 304(a)(4) of FECA (2 U.S.C. 434(a)(4)) is amended—

(A) in subparagraph (A)(i) by inserting ", and except that if at any time during the election year a committee receives contributions in excess of $100,000 ($10,000 in the case of a multicandidate political committee), or makes disbursements in excess of $100,000 ($10,000 in the case of a multicandidate political committee), monthly reports on the 15th day of each month after the month in which that amount of contributions is first received or that amount of disbursements is first anticipated to be made during that year" before the semicolon; and

(B) in subparagraph (B) by striking "20th" and inserting "15th".

(c) INCOMPLETE OR FALSE CONTRIBUTOR INFORMATION.—Section 302(i) of FECA (2 U.S.C. 432(i)) is amended—

(1) by striking "submit" and inserting "report"; and

(2) by adding the following at the end: "In the case of a contribution required to be reported under section 304(b)(3)(A), the contribution shall not be used by the political committee to make an expenditure until the political committee has obtained all of the information that is required to be reported.".

(d) WAIVER.—Section 304 of FECA (2 U.S.C. 434), as amended by section 315(c), is amended by adding at the end the following new subsection:

"(g) WAIVER.—The Commission may relieve any category of political committees of the obligation to file 1 or more reports required by this section, or may change the due dates of such reports, if it determines that such action is consistent with the purposes of this Act. The Commission may waive requirements to file reports in accordance with this subsection through a rule of general applicability or, in a specific case, may waive or change the due date of a report by notifying all political committees affected.".

SEC. 603. PROVISIONS RELATING TO THE GENERAL COUNSEL OF THE COMMISSION.

(a) VACANCY IN THE OFFICE OF GENERAL COUNSEL.—Section 306(f) of FECA (2 U.S.C. 437c(f)) is amended by adding at the end the following new paragraph:

"(5) In the event of a vacancy in the office of general counsel, the next highest ranking enforcement official in the general counsel's office shall serve as acting general counsel with full powers of the general counsel until a successor is appointed.".

(b) PAY OF THE GENERAL COUNSEL.—Section 306(f)(1) of FECA (2 U.S.C. 437c(f)(1)) is amended—

(1) by inserting "and the general counsel" after "staff director" in the second sentence; and

(2) by striking the third sentence.

SEC. 604. PENALTIES.

(a) PENALTIES PRESCRIBED IN CONCILIATION AGREEMENTS.—(1) Section 309(a)(5)(A) of FECA (2 U.S.C. 437g(a)(5)(A)) is amended by striking "which does not exceed the greater of $5,000 or an amount equal to any contribution or expenditure involved in such violation." and inserting "which—

"(i) is not less than 50 percent of all contributions and expenditures involved in the violation (or such lesser amount as the Commission provides if necessary to ensure that the penalty is not unjustly disproportionate to the violation); and

"(ii) does not exceed the greater of $5,000 or all contributions and expenditures involved in the violation.".

(2) Section 309(a)(5)(B) of FECA (2 U.S.C. 437g(a)(5)(B)) is amended by striking "which does not exceed the greater of $10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation." and inserting "which—

"(i) is not less than all contributions and expenditures involved in the violation; and

"(ii) does not exceed the greater of $10,000 or 150 percent of all contributions and expenditures involved in the violation.".

(b) PENALTIES WHEN VIOLATIONS ARE ADJUDICATED IN COURT.—(1) Section 309(a)(6)(A) of FECA (2 U.S.C. 437g(a)(6)(A)) is amended by striking all that follows "appropriate order" and inserting ", including an order for a civil penalty in the amount determined under subparagraph (B) or (C) in the district court of the United States for the district in which the defendant resides, transacts business, or may be found or in which the violation occurred.".

(2) Section 309(a)(6)(B) of FECA (2 U.S.C. 437g(a)(6)(B)) is amended by striking all that follows "other order" and inserting ", including an order for a civil penalty which—

"(i) is not less than all contributions and expenditures involved in the violation; and

"(ii) does not exceed the greater of $10,000 or 200 percent of all contributions and expenditures involved in the violation,

upon a proper showing that the person involved has committed, or is about to commit (if the relief sought is a permanent or temporary injunction or a restraining order), a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1986.".

(3) Section 309(a)(6)(C) of FECA (29 U.S.C. 437g(6)(C)) is amended by striking "a civil penalty" and all that follows and inserting "a civil penalty which—

"(i) is not less than 200 percent of all contributions and expenditures involved in the violation; and

"(ii) does not exceed the greater of $20,000 or 250 percent of all contributions and expenditures involved in the violation.".

SEC. 605. AUDITS.

(a) RANDOM AUDITS.—Section 311(b) of FECA (2 U.S.C. 438(b)) is amended—

(1) by inserting "(1)" before "The Commission"; and

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

"(2) Notwithstanding paragraph (1), the Commission may from time to time conduct random audits and investigations to ensure voluntary compliance with this Act. The subjects of such audits and investigations shall be selected on the basis of criteria established by vote of at least 4 members of the Commission to ensure impartiality in the selection process. This paragraph does not apply to an authorized committee of a candidate for President or Vice President subject to audit under section 9007 or 9038 of the Internal Revenue Code of 1986 or to an authorized committee of an eligible Senate candidate subject to audit under section 505(a).".

(b) EXTENSION OF PERIOD DURING WHICH CAMPAIGN AUDITS MAY BE BEGUN.—Section 311(b) of FECA (2 U.S.C. 438(b)) is amended by striking "6 months" and inserting "12 months".

SEC. 606. PROHIBITION OF FALSE REPRESENTATION TO SOLICIT CONTRIBUTIONS.

Section 322 of FECA (2 U.S.C. 441h) is amended—

(1) by inserting after "SEC. 322." the following: "(a)"; and

(2) by adding at the end the following:

"(b) No person shall solicit contributions by falsely representing himself as a candidate or as a representative of a candidate, a political committee, or a political party.".

SEC. 607. REGULATIONS RELATING TO USE OF NON-FEDERAL MONEY.

Section 306 of FECA (2 U.S.C. 437c) is amended by adding at the end the following new subsection:

"(g) The Commission shall promulgate regulations to prohibit devices or arrangements which have the purpose or effect of undermining or evading the provisions of this Act restricting the use of non-Federal money to affect Federal elections.".

SEC. 608. SIMULTANEOUS REGISTRATION OF CANDIDATE AND CANDIDATE'S PRINCIPAL CAMPAIGN COMMITTEE.

Section 303(a) of FECA (2 U.S.C. 433(a)) is amended in the first sentence by striking "no later than 10 days after designation" and inserting "on the date of its designation".

SEC. 609. REIMBURSEMENT FUND.

Section 311 of FECA (2 U.S.C. 438) is amended by adding at the end thereof the following new subsection:

"(g)(1) There is established in the Treasury of the United States a Federal Election Commission Reimbursement fund (referred to in this subsection as the "fund").

"(2) There shall be credited to the fund an amount equal to—

"(A) the expenses of the Commission incurred in preparing copies of documents, publications, computer tapes, and other forms of records sold to the public;

"(B) the expenses of the Commission incurred in responding to requests for records under section 552 of title 5, United States Code; and

"(C) costs awarded to the Commission in litigation.

"(3) Amounts credited to the fund shall be available without fiscal year limitation to the Commission, in addition to amounts otherwise appropriated to the Commission, for the purpose of paying the expenses of the Commission in providing records to the public as described in subparagraphs (A) and (B) and in providing at no charge to the public informational publications designed to assist candidates, political committees, and other persons in complying with this Act.".

SEC. 610. INSOLVENT POLITICAL COMMITTEES.

Section 303(d) of FECA (2 U.S.C. 433(d)) is amended by adding at the end the following new paragraph:

"(3) Proceedings by the Commission under paragraph (2) constitute the sole means, to the exclusion of proceedings under title 11, United States Code, by which a political committee that is determined by the Commission to be insolvent may compromise its debts, liquidate its assets, and terminate its existence.".

TITLE VII—MISCELLANEOUS

SEC. 701. PROHIBITION OF LEADERSHIP COMMITTEES.

Section 302(e) of FECA (2 U.S.C. 432(e)) is amended—

(1) by amending paragraph (3) to read as follows:

"(3) No political committee that supports or has supported more than one candidate may be designated as an authorized committee, except that—

"(A) a candidate for the office of President nominated by a political party may designate the national committee of such political party as the candidate's principal campaign committee, but only if that national committee maintains separate books of account with respect to its functions as a principal campaign committee; and

"(B) a candidate may designate a political committee established solely for the purpose

of joint fundraising by such candidates as an authorized committee."; and

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

"(6)(A) A candidate for Federal office or any individual holding Federal office may not establish, finance, maintain, or control any Federal or non-Federal political committee other than a principal campaign committee of the candidate, authorized committee, party committee, or other political committee designated in accordance with paragraph (3). A candidate for more than one Federal office may designate a separate principal campaign committee for each Federal office. This paragraph shall not preclude a Federal officeholder who is a candidate for State or local office from establishing, financing, maintaining, or controlling a political committee for election of the individual to such State or local office.

"(B) For one year after the effective date of this paragraph, any political committee established before such date but which is prohibited under subparagraph (A) may continue to make contributions. At the end of that period such political committee shall disburse all funds by one or more of the following means: making contributions to an entity qualified under section 501(c)(3) of the Internal Revenue Code of 1986; making a contribution to the treasury of the United States; contributing to the national, State or local committees of a political party; or making contributions not to exceed $1,000 to candidates for elective office.".

SEC. 702. POLLING DATA CONTRIBUTED TO CANDIDATES.

Section 301(8) of FECA (2 U.S.C. 431(8)), as amended by section 315(b), is amended by inserting at the end the following new subparagraph:

"(D) A contribution of polling data to a candidate shall be valued at the usual and normal charge for the data on the date the poll was completed, depreciated at a rate not more than 1 percent per day from such date to the date on which the contribution was made.".

SEC. 703. DEBATES BY GENERAL ELECTION CANDIDATES WHO RECEIVE AMOUNTS FROM THE PRESIDENTIAL ELECTION CAMPAIGN FUND.

Section 315(b) of FECA (2 U.S.C. 441a(b)) is amended by adding at the end the following new paragraph:

"(3)(A) The candidates of a political party for the offices of President and Vice President who are receiving payments under section 9003 of the Internal Revenue Code of 1986 from the Secretary of the Treasury shall refund such payments unless both of such candidates agree in writing—

"(i) that the candidate for the office of President will participate in at least 3 debates, sponsored by a nonpartisan or bipartisan organization, with all other candidates for that office who are receiving payments under that section; and

"(ii) that the candidate of the party for the office of Vice President will participate in at least 1 debate, sponsored by a nonpartisan or bipartisan organization, with all other candidates for that office who are receiving payments under that section.

"(B) If the Commission determines that either of the candidates of a political party failed to participate in a debate under subparagraph (A) and was responsible at least in part for such failure, the candidate of the party involved shall—

"(i) not receive payments under section 9006 of the Internal Revenue Code of 1986; and

"(ii) pay to the Secretary of the Treasury an amount equal to the amount of the payments made to the candidate under that section.".

SEC. 704. TELEPHONE VOTING BY PERSONS WITH DISABILITIES.

(a) STUDY OF SYSTEMS TO PERMIT PERSONS WITH DISABILITIES TO VOTE BY TELEPHONE.—

(1) IN GENERAL.—The Federal Election Commission shall conduct a study to determine the feasibility of developing a system or systems by which persons with disabilities may be permitted to vote by telephone.

(2) CONSULTATION.—The Federal Election Commission shall conduct the study described in paragraph (1) in consultation with State and local election officials, representatives of the telecommunications industry, representatives of persons with disabilities, and other concerned members of the public.

(3) CRITERIA.—The system or systems developed pursuant to paragraph (1) shall—

(A) propose a description of the kinds of disabilities that impose such difficulty in travel to polling places that a person with a disability who may desire to vote is discouraged from undertaking such travel;

(B) propose procedures to identify persons who are so disabled; and

(C) describe procedures and equipment that may be used to ensure that—

(i) only those persons who are entitled to use the system are permitted to use it;

(ii) the votes of persons who use the system are recorded accurately and remain secret;

(iii) the system minimizes the possibility of vote fraud; and

(iv) the system minimizes the financial costs that State and local governments would incur in establishing and operating the system.

(4) REQUESTS FOR PROPOSALS.—In developing a system described in paragraph (1), the Federal Election Commission may request proposals from private contractors for the design of procedures and equipment to be used in the system.

(5) PHYSICAL ACCESS.—Nothing in this section is intended to supersede or supplant efforts by State and local governments to make polling places physically accessible to persons with disabilities.

(6) DEADLINE.—The Federal Election Commission shall submit to Congress the study required by this section not later than 1 year after the effective date of this Act.

SEC. 705. PROVISIONS RELATING TO PRESIDENTIAL PRIMARY ELECTIONS.

(a) LIMITATION ON PRESIDENTIAL PRIMARY EXPENDITURES.—Section 315(b)(1)(A) of FECA (2 U.S.C. 441a(b)(1)(A)) is amended to read as follows:

"(A) $12,000,000, in the case of a campaign for nomination for election to such office; or".

(b) MINIMUM CONTRIBUTIONS.—Section 9033(b)(3) of the Internal Revenue Code of 1986 is amended—

(1) by striking "$5,000" and inserting "$15,000"; and

(2) by striking "20 States" and inserting "26 States".

(c) CONFORMING AMENDMENT.—Clause (vi) of section 301(9)(B) of FECA (2 U.S.C. 431(9)(B)(vi)) is hereby repealed.

SEC. 706. CERTAIN TAX-EXEMPT ORGANIZATIONS NOT SUBJECT TO CORPORATE LIMITS.

Section 316 of FECA (2 U.S.C. 441b) is amended by adding at the end the following new subsection:

"(c) PROHIBITIONS NOT TO APPLY TO INDEPENDENT EXPENDITURES OF CERTAIN TAX-EXEMPT ORGANIZATIONS.—(1) Nothing in this section shall preclude a qualified nonprofit corporation from making independent expenditures (as defined in section 301(17)).

"(2) For purposes of this subsection, the term 'qualified nonprofit corporation' means a corporation exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 which is described in section 501(c)(4) of such Code and which meets the following requirements:

"(A) Its only express purpose is the promotion of political ideas.

"(B) It cannot and does not engage in any activities that constitute a trade or business.

"(C) Its gross receipts for the calendar year have not (and will not) exceed $100,000, and the net value of its total assets at any time during the calendar year do not exceed $250,000.

"(D) It was not established by a person described in section 501(c)(6) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of such Code, a corporation engaged in carrying out a trade or business, or a labor organization, and it cannot and does not directly or indirectly accept donations of anything of value from any such person, corporation, or labor organization.

"(E) It—

"(i) has no shareholder or other person affiliated with it that could make a claim on its assets or earnings, and

"(ii) offers no incentives or disincentives for associating or not associating with it other than on the basis of its position on any political issue.

"(3) If a major purpose of a qualified nonprofit corporation is the making of independent expenditures, and the requirements of section 301(4) are met with respect to the corporation, the corporation shall be treated as a political committee.

"(4) All solicitations by a qualified nonprofit corporation shall include a notice informing contributors that donations may be used by the corporation to make independent expenditures.

"(5) A qualified nonprofit corporation shall file reports as required by section 304 (c) and (d).

SEC. 707. AIDING AND ABETTING VIOLATIONS OF FECA.

Title III of FECA, as amended by section 313, is amended by adding at the end the following new section:

"AIDING AND ABETTING VIOLATIONS

"SEC. 325. With reference to any provision of this Act that places a requirement or prohibition on any person acting in a particular capacity, any person who knowingly aids or abets the person in that capacity in violating that provision may be proceeded against as a principal in the violation.".

SEC. 708. DEPOSIT OF REPAYMENTS OF EXCESS PAYMENTS FROM THE PRESIDENTIAL ELECTION CAMPAIGN FUND.

Subsection (d) of section 9007 of the Internal Revenue Code of 1986 (relating to examinations, audits, and repayments) is amended to read as follows:

"(d) DEPOSIT OF REPAYMENTS.—All payments received by the Secretary under this section shall be deposited in the fund.".

SEC. 709. DISQUALIFICATION FROM RECEIVING PUBLIC FUNDING FOR PRESIDENTIAL ELECTION CAMPAIGNS.

(a) GENERAL ELECTION.—Section 9003 of the Internal Revenue Code of 1986 (relating to condition for eligibility to receive payments) is amended by adding at the end the following new subsection:

"(e) DISQUALIFICATION.—A person who has been convicted of a violation of this chapter

or chapter 96 shall be ineligible to receive benefits under this chapter on and after the date of the conviction.".

(b) PRIMARY ELECTION.—Section 9033 of the Internal Revenue Code of 1986 (relating to condition for eligibility to receive payments) is amended by adding at the end the following new subsection:

"(d) DISQUALIFICATION.—A person who has been convicted of a violation of this chapter or chapter 95 shall be ineligible to receive benefits under this chapter on and after the date of the conviction.".

SEC. 710. PROHIBITION OF CONTRIBUTIONS TO PRESIDENTIAL CANDIDATES WHO RECEIVE PUBLIC FUNDING IN THE GENERAL ELECTION CAMPAIGN.

Section 315 of FECA (2 U.S.C. 441a), as amended by section 402, is amended by adding at the end the following new subsection:

"(o) Except to the extent permitted under sections 9003 (b)(2) and (c)(2) of the Internal Revenue Code of 1986, no person shall make a contribution to a candidate who has become eligible to receive benefits under chapter 95 of such Code by making a certification described in section 9003 (b) and (c) of such Code.".

SEC. 711. APPLICATION OF INCREASED REVENUES TO REDUCE THE DEFICIT.

(a) DEFICIT REDUCTION.—The amount of increased revenue to the United States that is determined to be attributable to the disallowance of a deduction from income tax for lobbying expenses made by any law shall be paid into the general fund of the Treasury, to reduce the deficit and, to the extent provided by law, shall be used to reduce the role of special interests in congressional elections by funding the provision of benefits to candidates to encourage their agreement to campaign expenditure limits.

SEC. 712. SENSE OF THE SENATE THAT CONGRESS SHOULD ADOPT A JOINT RESOLUTION PROPOSING AN AMENDMENT TO THE CONSTITUTION THAT WOULD EMPOWER CONGRESS AND THE STATES TO SET REASONABLE LIMITS ON CAMPAIGN EXPENDITURES.

It is the sense of the Senate that Congress should adopt a joint resolution proposing an amendment to the Constitution that would—

(1) empower Congress to set reasonable limits on campaign expenditures by, in support of, or in opposition to any candidate in any primary, general, or other election for Federal office; and

(2) empower the States to set reasonable limits on campaign expenditures by, in support of, or in opposition to any candidate in any primary, general, or other election for State or local office.

SEC. 713. SENSE OF THE SENATE.

It is the sense of the Senate that every employee in the executive or legislative branch of the Federal Government shall follow appropriate officially prescribed procedures in contacts and dealings with the Federal Bureau of Investigation and the Internal Revenue Servce.

SEC. 714. CAMPAIGN ADVERTISING THAT REFERS TO AN OPPONENT.

Title III of FECA, as amended by this Act, is amended by adding at the end the following new section:

"CAMPAIGN ADVERTISING THAT REFERS TO AN OPPONENT

"SEC. 329. (a) CANDIDATES.—A candidate or candidate's authorized committee that places in the mail a campaign advertisement or any other communication to the general public that directly or indirectly refers to an opponent or the opponents of the candidate in an election, with or without identifying any opponent in particular, shall file an exact copy of the communication with the Commission and with the Secretary of State of the candidate's State by no later than 12:00 p.m. on the day on which the communication is first placed in the mail to the general public.

"(b) PERSONS OTHER THAN CANDIDATES.—A person other than a candidate or candidate's authorized committee that places in the mail a campaign advertisement or any other communication to the general public that—

"(1) advocates the election of a particular candidate in an election; and

"(2) directly or indirectly refers to an opponent or the opponents of the candidate in the election, with or without identifying any opponent in particular,

shall file an exact copy of the communication with the Commission and with the Secretary of State of the candidate's State by no later than 12:00 p.m. on the day on which the communication is first placed in the mail to the general public.".

SEC. 715. LIMIT ON CONGRESSIONAL USE OF THE FRANKING PRIVILEGE.

Section 3210(a)(6)(A) of title 39, United States Code, is amended to read as follows:

"(A) A Member of Congress may not mail any mass mailing as franked mail during a year in which there will be an election for the seat held by the Member during the period between January 1 of that year and the date of the general election for that office, unless the Member has made a public announcement that the Member will not be a candidate for reelection to that seat or for election to any other Federal office.".

TITLE VIII—EFFECTIVE DATES; AUTHORIZATIONS

SEC. 801. EFFECTIVE DATE.

Except as otherwise provided in this Act, the amendments made by, and the provisions of, this Act shall take effect on the date of the enactment of this Act.

SEC. 802. BUDGET NEUTRALITY.

(a) DELAYED EFFECTIVENESS.—The provisions of this Act (other than this section) shall not be effective until the Director of the Office of Management and Budget certifies that the estimated costs under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 have been offset by the enactment of legislation effectuating this Act.

(b) FUNDING.—Legislation effectuating this Act shall not provide for general revenue increases, reduce expenditures for any existing Federal program, or increase the Federal budget deficit, but should be funded by disallowing the Federal income tax deduction for expenses paid or incurred for lobbying the Federal Government and by repealing the tax exemption under section 527 of the Internal Revenue Code of 1986 for the exempt function income of the campaign committees of a candidate who exceeds the voluntary Federal campaign spending limits (whether or not the candidate agreed to the limits).

(c) CLARIFICATION OF RELATIONSHIP TO POTENTIAL RECONCILIATION ACT PROVISIONS.—The amount of increased revenue to the United States that is determined to be attributable to the disallowance of a deduction from income tax for lobbying expenses made by any law shall be paid into the general fund of the Treasury, to reduce the deficit and, to the extent provided by law, shall be used to reduce the role of special interests in congressional elections by funding the provision of benefits to candidates to encourage their agreement to campaign expenditure limits.

SEC. 803. SEVERABILITY.

Except as provided in section 101(c), if any provision of this Act (including any amendment made by this Act), or the application of any such provision to any person or circumstance, is held invalid, the validity of any other provision of this Act, or the application of such provision to other persons and circumstances, shall not be affected thereby.

SEC. 804. EXPEDITED REVIEW OF CONSTITUTIONAL ISSUES.

(a) DIRECT APPEAL TO SUPREME COURT.—An appeal may be taken directly to the Supreme Court of the United States from any interlocutory order or final judgment, decree, or order issued by any court ruling on the constitutionality of any provision of this Act or amendment made by this Act.

(b) ACCEPTANCE AND EXPEDITION.—The Supreme Court shall, if it has not previously ruled on the question addressed in the ruling below, accept jurisdiction over, advance on the docket, and expedite the appeal to the greatest extent possible.

SEC. 805. REGULATIONS.

The Federal Election Commission shall prescribe any regulations required to carry out the provisions of this Act within 9 months after the effective date of this Act.

Mr. BOREN. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. REID). The Senator from Oklahoma.

Mr. BOREN. Mr. President, we have just witnessed a great victory for the American people. I want to express my appreciation to a number of people.

First of all, I want to express my appreciation to the President of the United States, who vigorously worked for the passage of this legislation. It was appropriate that the President, in announcing his support for this legislation and for campaign finance reform, made that announcement in the Rose Garden before a group of students, high school students who had come to Washington to see Government in action, because the bill that we have passed today will help change politics for them in the future. It will open the door of opportunity for those young people who wish to enter politics and perform public service because they want to serve their country to do so without having to sit down and worry first about raising massive amounts of money in order to have a chance to participate in the political process.

I want to thank the majority leader, who worked long and hard every step of the way in all of the negotiations to help bring the votes together to pass this bill and Senator WENDELL FORD, the chairman of the Rules Committee, who was an early sponsor of this legislation and who provided support from that committee in a timely fashion and continued to help lead support for the bill on the floor.

I want to thank Senator ROBERT BYRD, the President pro tempore of the Senate, a long time supporter of this legislation. When he was the majority

leader, he attempted, again and again, to bring this legislation to the floor, to end the filibuster so that it might be considered, one cloture vote after another in attempting to move forward in the cause of campaign finance reform.

I want to thank two former Members of the Senate whose influence remains strong because they were individuals of such enormous personal integrity: former Senator John Stennis, of Mississippi, and former Senator Barry Goldwater, of Arizona. He sponsored with me early efforts in campaign finance reform. Both of those former Senators understood that the system was drifting in the wrong direction and that more and more money was determining the outcome of political elections, as opposed to the qualifications of the candidates and the ideas that candidates had to solve the very serious challenges facing this country.

I want to thank several members of the staff who have worked with us so hard in this entire process. First, from my personal staff, I want to thank Joe Harroz who spent many, many extra hours working on this legislation. I want to thank Bob Rozen, staff member to the majority leader, who has been a principal architect and drafter working with us on this legislation. He and Joe Harroz, together, have been on the floor all the time that this bill has been pending. Their advice, their help, has been enormously beneficial.

Then I want to thank those from the Rules Committee, the staff of Senator FORD, Tom Zoeller, Jack Sousa, and Jim King who worked with us again in the Rules Committee in the early stages of this legislation and in the drafting of the bill. They have also been here available to us on the floor. They have worked untold extra hours to help us on this legislation.

From the Democratic Policy Committee staff, Paul Brown has also been of great help to this effort.

So, Mr. President, I think this is an important moment for our country. It is an important step forward toward real political reform. During this last election, the people tried to express themselves in many ways about the frustration that they feel about what has been happening in American politics. And at the top of the list was their feeling that the Congress of the United States, meant to be the institution of Government where the people themselves can be heard and can be represented, that the Congress of the United States no longer really represented people like them because elections were being decided more and more by the influx of money.

The people saw the money chase in American politics. The American people saw $680 million flow into campaign funds for Members running for the House and for the Senate. They saw the political action committees and the special interests giving to incumbents at the rate of $9 to incumbents for every $1 they gave to challengers. They saw the fact that most challengers did not have a chance because sitting Members could usually outspend them at a ratio of 3 to 1, and the American people said: "We don't believe the Congress anymore represents people like us." And the average American begins to wonder if they really have a chance to have an impact at the polls to decide elections, because it was working out that the candidate with the most money was winning time after time after time.

Mr. President, what we have done today is to demonstrate to the American people that we are willing to change a system that gives an enormous benefit to those Members who sit here already.

Sixty Members of this body, without regard to self-interest today, since on the average they can raise three times as much as challengers, have voted to put limits on themselves in terms of how much money they can raise and spend in political campaigns. The 60 Members, on both sides of the aisle, who voted for this legislation today have demonstrated to the American people that they want to return government back to the people and keep faith with the American people by reducing the enormous influence of money in political campaigns and returning power to the people back at the grassroots, at the ballot box where it belongs.

So, Mr. President, I again thank all those who have worked so hard for so long to make this possible: The members of the staff I mentioned, Senator FORD, Senator MITCHELL, and the President. As someone said in one press story I read, this is not shadowboxing any longer because if the Congress passes the bill this year, it is something that will be different. In the past it was always felt it was a free vote because it was going to the White House where it was sure to be vetoed.

So year in and year out, as we struggled, we knew even if we were successful in the Congress, we were likely facing a Presidential veto. All of that changed when Bill Clinton became President of the United States and not only said that he would sign a bill into law to limit campaign spending, to reform the campaign process, but that he would work heart and soul as hard as he could to pass that bill. He has kept that commitment. He has worked hard with us, talking to Members of the Senate, making public statements, rallying the American people behind this bill. The President deserves great credit with this victory today, and he deserves our appreciation for his unyielding support of this effort.

Mr. President, this is a happy day for the country. It is a good day for those young people that the President spoke to in the Rose Garden because now when you talk to young people about the hope that they will someday want to give back to their country by entering into public service, they can begin to concentrate on what they should concentrate upon: getting a good education, learning as much as they can, making sure that they have high ideals and a vision of the future and ideas that will be of benefit to this country, instead of having to focus their attention on how they might someday raise the massive amounts of money that are now required to run for public office.

So it is a good day for our country. Again, I express my appreciation to all those who have had a part in it.

Mr. President, I ask unanimous consent that the bill be printed as passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

THANKS TO SENATE PAGES

Mr. MITCHELL. Mr. President, we, in the Senate, reply upon many people who work behind the scenes every day to help ensure that the Senate's business is conducted as smoothly as possible. The Senate pages are clearly among the hardest working of these people. I think it is appropriate to take a few minutes now to recognize and thank the Senate pages for tomorrow will mark the end of service of the current group of pages.

I am struck by the sacrifices these young people are willing to make to serve the Senate. They leave home to spend part of their junior year of high school working long hours and rising early to attend school. At a time when many of their peers are engaged in sports and planning the prom, these students are focused on Senate floor procedures, amendments, and filibusters. I hope they have found their time here to be worthwhile and educational.

Each day, they perform the tasks necessary to keep the Senate functioning. They locate podiums for Senators seeking to speak on the floor; they ensure that all Senators receive copies of amendments; they deliver messages between Senate offices. Their schedule is entirely contingent on the Senate schedule. On the other hand, Senate business, in a real sense, is contingent on their assistance.

Much is asked of the pages during their service. I hope they feel that they have gained much as well.

On behalf of every Member of the U.S. Senate, I express our appreciation to the pages and wish them well as they return home.

Mr. President, I would like to read the names of the pages. For those whose names I mispronounce, I apologize in advance: Rebecca Antkoviak; Andrea Besikof; Paul Dickson; Andrew Dulac; Leonard Fifield; Michelle Fleming; Ben-Israel Halley; Kathleen

Hennessey; Sara James; Elizabeth Joyce; Daniel Lapidus; Taraye Lopez; Cullen McGough; Cara Martin; Joshua Peterson; Hannah Pingree; Ariana Rolich; Justin Scaramazzo; Mike Smith; Sabrina Sorenson; Dawn Streufert; Darren Wallach.

Mr. President, I again thank these young people and wish them all very well. I now yield the floor.

SUPPLEMENTAL APPROPRIATIONS ACT OF 1993

The PRESIDING OFFICER. The clerk will now report H.R. 2118.

The assistant legislative clerk read as follows:

A bill (H.R. 2118) making supplemental appropriations for the fiscal year ending September 30, 1993, and for other purposes.

The Senate proceeded to consider the bill which was reported from the Committee on Appropriations with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italics.)

H.R. 2118

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to provide supplemental appropriations for the fiscal year ending September 30, 1993, and for other purposes, namely:

TITLE I—SUPPLEMENTAL APPROPRIATIONS

CHAPTER I

DEPARTMENT OF AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOOD SAFETY AND INSPECTION SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $4,000,000.

COMMODITY CREDIT CORPORATION

Notwithstanding any provision of law, any Commodity Credit Corporation funds that were appropriated by Public Law 102-229 and Public Law 102-368 for losses of crop production in 1990, 1991, and 1992 and that are unexpended as of the date of enactment of this Act shall be made available to producers of 1990, 1991, and 1992 crops of wheat, feed grains, upland cotton, rice, sugar beets, sugarcane, soybeans, and peanuts for losses of production due to the deterioration of the quality of such commodities caused by natural disasters, as determined by the Corporation: Provided, That such funds shall also be made available to producers of the 1993 crops of agricultural commodities for crop losses caused by natural disasters which occurred prior to May 1, 1993: Provided further, That such funds shall also be made available to producers for 1993, 1994, and 1995 crop losses if such losses are due to the occurrence of Hurricanes Andrew and Iniki and Typhoon Omar: Provided further, That such funds shall be made available under the same terms and conditions as authorized for 1990, 1991, and 1992 crop losses: Provided further, That no payments to producers under this Act shall be at a rate greater than the rate used in making payments under Public Law 102-229 and Public Law 102-368: Provided further, That any such funds shall remain available until September 30, 1993: Provided further, That no funds may be used pursuant to the last clause of the fifth proviso of the appropriation for the Commodity Credit Corporation in Public Law 102-368.

RURAL DEVELOPMENT ADMINISTRATION

(RESCISSION)

Of the funds made available for this heading in Public Law 102-341, $8,576,000 are rescinded. Such funds were made available for salaries and expenses.

RURAL DEVELOPMENT INSURANCE FUND PROGRAM ACCOUNT

For an additional amount for the "Rural development insurance fund program account", for the costs of water and sewer direct loans, $35,543,000, to subsidize additional gross obligations for the principal amount of direct loans not to exceed $250,000,000: Provided, That with regard to the funds provided herein, the Secretary may use 1980 U.S. Census information to determine the eligibility of loan applications submitted prior to the availability of 1990 U.S. Census information.

RURAL WATER AND WASTE DISPOSAL GRANTS

For an additional amount for "Rural water and waste disposal grants", $35,000,000, to remain available until expended: Provided, That with regard to the funds provided herein, the Secretary may use 1980 U.S. Census information to determine the eligibility of loan applications submitted prior to the availability of 1990 U.S. Census information.

FARMERS HOME ADMINISTRATION

RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

(INCLUDING RESCISSIONS)

For an additional amount for the "Rural housing insurance fund program account", $4,576,000 for the cost of guaranteed unsubsidized section 502 loans, for total loan principal not to exceed $250,000,000.

Of the amounts provided under this heading for the cost of low-income housing section 502 direct loans in Public Law 102-341, $64,826,000 are rescinded.

Of the amounts provided under this heading for the cost of section 515 rental housing loans in Public Law 102-341, $17,672,000 are rescinded.

Of the amounts provided under this heading for the cost of credit sales of acquired property in Public Law 102-341, $3,571,000 are rescinded.

RENTAL ASSISTANCE PROGRAM

For an additional amount for the Rental Assistance Program, for expiring agreements and for servicing existing units without agreements, $66,287,000.

AGRICULTURAL CREDIT INSURANCE FUND PROGRAM ACCOUNT

(RESCISSIONS)

Of the amounts provided under this heading for the cost of direct operating loans in Public Law 102-341, $15,000,000 are rescinded.

Of the amounts provided for the cost of emergency insured loans under this heading in Public Law 102-341, $15,000,000 are rescinded.

Of the amounts provided under this heading for the cost of credit sales of acquired property in Public Law 102-341, $3,511,000 are rescinded.

SALARIES AND EXPENSES

(RESCISSION)

Of the amounts provided under this heading in Public Law 102-341, $15,000,000 are rescinded.

FOOD AND NUTRITION SERVICE

SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

For [the funds remaining after the] *any* fiscal year 1993 reallocation process, the Secretary may waive the 15 percent cap regulation to ensure additional funds are received by States most in need.

HUMAN NUTRITION INFORMATION SERVICE

(RESCISSION)

Of the amounts provided under this heading in Public Law 102-341, $2,250,000 are rescinded.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

(TRANSFERS OF FUNDS)

[For an additional amount for "Salaries and expenses" from fees collected pursuant to section 736 of the Federal Food, Drug, and Cosmetic Act, not to exceed $36,000,000, to remain available until expended: *Provided,* That fees derived from applications received during fiscal year 1993 shall be subject to the fiscal year 1993 limitation.]

For an additional amount for carrying out the Mammography Quality Standards Act, $3,000,000, of which $1,000,000 shall be transferred from the Centers for Disease Control and Prevention; $1,000,000 shall be transferred from the National Institutes of Health "National Cancer Institute"; and $1,000,000 shall be transferred from the Health Care Financing Administration "Program Management".

CHAPTER II

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES

DEPARTMENT OF COMMERCE

MINORITY BUSINESS DEVELOPMENT AGENCY

MINORITY BUSINESS DEVELOPMENT

The sum "$13,889,000" under this heading in Public Law 102-395, 106 Stat. 1852, is amended to read "$15,050,000".

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

(RESCISSION)

Of the amounts provided under this heading in Public Law 99-190 and Public Law 99-591, $11,807,000 are rescinded.

ECONOMIC DEVELOPMENT REVOLVING FUND

(RESCISSION)

Of the unobligated balances in the Economic Development Revolving Fund, $67,000,000 are rescinded.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

(RESCISSION)

Of the amounts provided under this heading in Public Law 102-395, $1,750,000 are rescinded and in addition of the amounts also provided under this heading for a semitropical research facility located at Key Largo, Florida, in Public Law 101-515 and Public Law 102-140, $794,000 are rescinded.

GENERAL PROVISION

SEC. 201. Notwithstanding any other provision of law, the Secretary of Commerce, acting pursuant to Public Law 102-368 to provide grants to cover the costs of tourism promotion needs arising from Hurricane Andrew, Hurricane Iniki, or other disasters, shall not establish or enforce a maximum or minimum dollar amount of assistance to be made available to any State or eligible entity.

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

Notwithstanding section 1346 of title 31, United States Code, or section 612 of the Treasury,

Postal Service, and General Government Appropriations Act, 1993, funds made available for fiscal year 1993 by this or any other Act shall be available for the interagency funding of debt collection tracking and reporting by the Department of Justice.

ASSETS FORFEITURE FUND

(RESCISSION)

Of the funds made available under this heading in Public Law 102–395, $35,000,000 are rescinded.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $32,000,000, to remain available until expended, of which the entire amount is for necessary expenses of the Federal Bureau of Investigation for special programs in support of the Nation's security.

FEDERAL PRISON SYSTEM

BUILDINGS AND FACILITIES

(RESCISSION)

From unobligated balances available under this heading, $130,000,000 are rescinded.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

(INCLUDING RESCISSION)

For an additional amount for "Justice Assistance", $200,000,000, to remain available until expended, for grants authorized by chapter A of subpart 2 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended to enhance public safety and the quality of life and to promote the interaction of law enforcement officers with citizens, notwithstanding the limitations of section 511 of said Act.

Of the amounts provided under this heading in Public Law 102–140 to carry out part N of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, $1,000,000 for grants for televised testimony of child abuse victims are rescinded.

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

DEFENDER SERVICES

For an additional amount for "Defender Services", $55,000,000, to remain available until expended.

FEES OF JURORS AND COMMISSIONERS

For an additional amount for "Fees of Jurors and Commissioners", $5,500,000.

RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

MILITARY USEFUL VESSEL OBLIGATION GUARANTEES

(INCLUDING RESCISSION)

For an additional amount for "Military Useful Vessel Obligation Guarantees", $48,000,000, to remain available until expended.

Of funds provided under this heading in Public Law 102–395, 106 Stat. 1860, $48,000,000 are rescinded.

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses," $11,500,000, to remain available until expended.

THOMAS JEFFERSON COMMEMORATION COMMISSION

SALARIES AND EXPENSES

(RESCISSION)

Of the amounts provided under this heading in Public Law 102–395, $200,000 are rescinded.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $500,000, to remain available until expended.

[SMALL BUSINESS ADMINISTRATION

[BUSINESS LOANS PROGRAM ACCOUNT

[For an additional amount for "Business loans program account" for the cost of guaranteed loans authorized by section 7(a) of the Small Business Act, $181,000,000.]

CHAPTER III

DEPARTMENT OF DEFENSE—MILITARY

MILITARY PERSONNEL

MILITARY PERSONNEL, NAVY

For an additional amount for "Military Personnel, Navy", $7,100,000.

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for "Operation and maintenance, Army", $149,800,000.

OPERATION AND MAINTENANCE, NAVY

For an additional amount for "Operation and maintenance, Navy", $46,356,000.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for "Operation and maintenance, Marine Corps", $122,192,000.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for "Operation and maintenance, Air Force", $266,400,000.

[OPERATION AND MAINTENANCE, DEFENSE AGENCIES

[For an additional amount for "Operation and maintenance, Defense Agencies", $2,000,000.]

OPERATION AND MAINTENANCE, NAVY RESERVE

For an additional amount for "Operation and maintenance, Navy Reserve", $237,000.

HUMANITARIAN ASSISTANCE PROGRAM

For an additional amount for the "Humanitarian Assistance Program", $23,000,000: Provided, That not less than $23,000,000 shall be made available until expended to continue emergency relief operations for the Kurdish population and other minorities of northern Iraq: Provided further, That, notwithstanding any other provision of law, the Department of Defense is authorized to make grants to any individual, non-profit private voluntary organization, government or government agency, or international or intergovernmental organization, to assist in meeting the humanitarian needs of the people of northern Iraq: Provided further, That, notwithstanding any other provision of law, items or articles procured for this humanitarian purpose may be grown or produced inside or outside the United States.

REAL PROPERTY MAINTENANCE, DEFENSE

For an additional amount for "Real Property Maintenance, Defense", $29,098,000.

REVOLVING AND MANAGEMENT FUNDS

DEFENSE BUSINESS OPERATIONS FUND

For an additional amount for "Defense Business Operations Fund", [$293,500,000] *$295,500,000.*

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

For an additional amount for "Defense Health Program", $299,900,000.

RELATED AGENCIES

NATIONAL SECURITY EDUCATION TRUST FUND

There is hereby appropriated out of funds in the National Security Education Trust Fund, $10,000,000, which shall remain available until expended, for the purposes set out in paragraph (1) of section 804(b) of the National Security Education Act of 1991 (title VIII of Public Law 102–183; 50 U.S.C. 1904(b)), and may be obligated for such purposes notwithstanding any other provision of law.

GENERAL PROVISIONS—CHAPTER III

[SEC. 301. Section 9032 of the Department of Defense Appropriations Act, 1993 (Public Law 102–396) is amended by inserting ", the California and Hawaii recompetition contract," after "pursuant to this general provision" in the next to the last proviso (relating to preemption provisions).]

SEC. 301. Section 9165 of the Department of Defense Appropriations Act, 1993 (Public Law 102–396) is hereby repealed.

SEC. 302. Section 9084 of the Department of Defense Appropriations Act, 1993 (Public Law 102–396) is amended by inserting "or any other beneficiary described by section 1086(c) of title 10, United States Code," after "or a dependent of such a member,", and by inserting ", or end stage renal disease" after "solely on the grounds of physical disability" in the paragraph preceding the first proviso.

SEC. 303. In Section 103 of the Classified Annex which is incorporated into the Department of Defense Appropriations Act, 1993 (Public Law 102–396) the clause "notwithstanding any other provision of law" is hereby deleted.

CHAPTER IV

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES

DEPARTMENT OF THE INTERIOR

UNITED STATES FISH AND WILDLIFE SERVICE

CONSTRUCTION AND ANADROMOUS FISH

Of the $2,700,000 included under this head in Public Law 102–381 for construction of the Ottawa National Wildlife Refuge, Ohio, Metzger Marsh project, $2,600,000 shall be available as a grant from the United States Fish and Wildlife Service to Ducks Unlimited, Inc., for construction of the Federal portion of the dike and pumping station at Metzger Marsh.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Operation of Indian programs", [$21,300,000, of which $2,100,000 shall remain available until September 30, 1994; and $19,200,000 for school operations] *$11,142,000 for school operations which* shall become available for obligation on July 1, 1993, and shall remain available for obligation until September 30, 1994; and of which $3,900,000 shall be derived by transfer from unobligated balances available in the "Oil spill emergency fund" account [and $4,937,000 shall be derived by transfer from unobligated balances available under "Indian health services, Department of Health and Human Services" for the Morris K. Udall Scholarship Foundation, Public Law 102–154.]

MISCELLANEOUS PAYMENTS TO INDIANS

The paragraph under this head in Public Law 102–381 is amended by adding the following before the period: "and (3) to reimburse Indian trust fund account holders for losses to their respective accounts where the claim for said loss(es) has been reduced by a judgment and/or settlement agreement approved by the Department of Justice".

MISCELLANEOUS PERMANENT APPROPRIATIONS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for the "Alaska resupply program", $6,000,000, to remain

available until expended, to be derived by transfer from the unobligated balances available in the "Oil spill emergency fund" account.

CHAPTER V

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION, AND RELATED AGENCIES

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Training and employment services", $200,000,000, to be available upon enactment of this Act, to carry into effect the Job Training Partnership Act, of which $3,500,000 is for activities under part D of title IV of such Act, of which up to $1,000,000 may be transferred to the Program Administration account, and of which $196,500,000 is for activities under part B of title II of such Act.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

VACCINE INJURY COMPENSATION

For an additional amount for payment of claims resolved by the United States Claims Court related to the administration of vaccines before October 1, 1988, $30,000,000, to remain available until expended.

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For an additional amount for "Payments to Social Security Trust Funds" to reimburse the trust funds for administrative expenses to carry out sections 9704 and 9706 of the Internal Revenue Code of 1986, $10,000,000, to remain available until expended.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For making, after June 15 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary.

LIMITATION ON ADMINISTRATIVE EXPENSES

For an additional amount, $10,000,000, to remain available until expended, to carry out sections 9704 and 9706 of the Internal Revenue Code of 1986.

ADMINISTRATION FOR CHILDREN AND FAMILIES

REFUGEE AND ENTRANT ASSISTANCE

For an additional amount for making payments for Refugee and Entrant Assistance activities authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980, $3,700,000.

DEPARTMENT OF EDUCATION

STUDENT FINANCIAL ASSISTANCE

For an additional amount for "Student financial assistance" for payment of awards made under subpart 1 of part A of title IV of the Higher Education Act of 1965, as amended, **[$160,000,000]** *$360,000,000*, which shall be available through September 30, 1994, only for such awards made for award year 1993–1994 and prior award years.

COMMUNITY INVESTMENT PROGRAM

(RESCISSION)

Of the amounts provided under title XII of Public Law 102-368, Additional Assistance to Distressed Communities, under the heading "Community Investment Program", $500,000,000 are rescinded.

CHAPTER VI

DEPARTMENT OF DEFENSE—MILITARY CONSTRUCTION

[MILITARY CONSTRUCTION, NAVY

[For an additional amount for "Military Construction, Navy" to cover the incremental costs arising from flood damage at Camp Pendleton, California, $3,000,000.]

[FAMILY HOUSING, NAVY AND MARINE CORPS

[For an additional amount for "Family Housing, Navy and Marine Corps" to cover the incremental costs arising from flood damage at Camp Pendleton, California, $4,345,000.]

HOMEOWNERS ASSISTANCE FUND, DEFENSE

(INCLUDING RESCISSION)

Of the funds appropriated for "Homeowners Assistance Fund, Defense" under Public Law 102-380, $133,000,000 is hereby rescinded.

For an additional amount for "Homeowners Assistance Fund, Defense", $133,000,000, to remain available until expended.

CHAPTER VII

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

(TRANSFERS OF FUNDS)

OFFICE OF THE ASSISTANT SECRETARY FOR TRANSPORTATION POLICY

For necessary expenses of the Office of the Assistant Secretary for Transportation Policy, $2,358,000 to be derived from amounts made available for the "Office of the Assistant Secretary for Policy and International Affairs" in the Department of Transportation and Related Agencies Appropriations Act, 1993.

OFFICE OF THE ASSISTANT SECRETARY FOR AVIATION AND INTERNATIONAL AFFAIRS

For necessary expenses of the Office of the Assistant Secretary for Aviation and International Affairs, $7,920,000 to be derived from amounts made available for the "Office of the Assistant Secretary for Policy and International Affairs" and the "Office of Essential Air Service" in the Department of Transportation and Related Agencies Appropriations Act, 1993.

OFFICE OF THE DIRECTOR OF PUBLIC AFFAIRS

Amounts made available for the Office of the Assistant Secretary for Public Affairs in the Department of Transportation and Related Agencies Appropriations Act, 1993, which are unobligated on the date of enactment of this Act shall be transferred to and merged under this head.

OFFICE OF THE ASSISTANT SECRETARY FOR BUDGET AND PROGRAMS

(RESCISSION)

Of the funds appropriated for "Office of the Assistant Secretary for Budget and Programs" under Public Law 102-388, $158,000 are rescinded.

OFFICE OF THE ASSISTANT SECRETARY FOR GOVERNMENTAL AFFAIRS

(RESCISSION)

Of the funds appropriated for "Office of the Assistant Secretary for Governmental Affairs" under Public Law 102-388, $224,000 are rescinded.

OFFICE OF THE ASSISTANT SECRETARY FOR PUBLIC AFFAIRS

(RESCISSION)

Of the funds appropriated for "Office of the Assistant Secretary for Public Affairs" under Public Law 102-388, $158,000 are rescinded.

OFFICE OF COMMERCIAL SPACE TRANSPORTATION

OPERATIONS AND RESEARCH

(RESCISSION)

Of the funds appropriated for "Office of Commercial Space Transportation, Operations and Research" under Public Law 102-388, $25,000 are rescinded.

COAST GUARD

OPERATING EXPENSES

(RESCISSION)

Of the funds appropriated for "Operating Expenses" under Public Law 102-388, $5,476,000 are rescinded.

OIL SPILL LIABILITY TRUST FUND

Not more than $7,000,000 shall be expended in fiscal year 1993 pursuant to section 6002(b) of the Oil Pollution Act of 1990 to carry out the provisions of section 1012(a)(4) of that Act.

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

(RESCISSION)

Of the funds appropriated for "Operations" under Public Law 102-388, $13,750,000 are rescinded.

GRANTS-IN-AID FOR AIRPORTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(AIRPORT AND AIRWAY TRUST FUND)

(INCLUDING RESCISSION OF FUNDS)

For an additional amount for liquidation of obligations, $100,000,000, to be derived from the Airport and Airways Trust Fund and to remain available until expended: Provided, That $29,028,000 of unobligated contract authority are rescinded.

FEDERAL HIGHWAY ADMINISTRATION

LIMITATION ON GENERAL OPERATING EXPENSES

The $398,000,000 under the head "Limitation on General Operating Expenses" in Public Law 102-388 for necessary expenses for administration, operation, including motor carrier safety program operations, and research of the Federal Highway Administration, shall be reduced by $2,248,000.

FEDERAL-AID HIGHWAYS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

The obligation limitation under the heading "Federal-Aid Highways (Limitation on Obligations) (Highway Trust Fund) shall be reduced by $2,248,000.

FEDERAL RAILROAD ADMINISTRATION

RAILROAD SAFETY

(RESCISSION)

Of the funds appropriated for "Railroad Safety" under Public Law 102-388, $140,000 are rescinded.

NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

(INCLUDING RESCISSION)

Of the funds appropriated for "Northeast Corridor Improvement Program" under Public Law 102-388, $204,100,000 are rescinded.

For an additional amount for "Northeast Corridor Improvement Program", $204,100,000, to remain available until expended.

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

For an additional amount for "Grants to the National Railroad Passenger Corporation", to remain available until expended, $25,000,000 for operating losses incurred by the Corporation and $25,000,000 for capital improvements.

FEDERAL TRANSIT ADMINISTRATION

ADMINISTRATIVE EXPENSES

(RESCISSION)

Of the funds appropriated for "Administrative Expenses" under Public Law 102-388, $305,000 are rescinded.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

OPERATIONS AND MAINTENANCE

(HARBOR MAINTENANCE TRUST FUND)

(RESCISSION)

Of the funds appropriated for "Operations and Maintenance" under Public Law 102-388, $91,000 are rescinded.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

(RESCISSION)

Of the funds appropriated for "Salaries and Expenses" under Public Law 102-388, $285,000 are rescinded.

INDEPENDENT AGENCY

INTERSTATE COMMERCE COMMISSION

SALARIES AND EXPENSES

(RESCISSION)

Of the funds appropriated for "Salaries and Expenses" under Public Law 102-388, $360,000 are rescinded.

GENERAL PROVISION

NEW YORK NOISE COMMITTEE

SEC. 701. Section 345 of the Department of Transportation and Related Agencies Appropriations Act, 1992, as amended by section 353 of the Department of Transportation and Related Agencies Appropriations Act, 1993, is amended by adding at the end thereof the following:

"(7) The Metropolitan New York Aircraft Noise Mitigation Committee established under this section shall not be subject to the Federal Advisory Committee Act".

SEC. 702. Notwithstanding any other provision of law, funds made available under the Department of Transportation and Related Agencies Appropriations Act, Fiscal Year 1993, for the fuel cell buses program under the Federal Transit Administration's Discretionary grants account shall be transferred to that agency's Transit Planning and Research account and be administered in accordance with section 6 of the Federal Transit Act, as amended.

CHAPTER VIII

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT

DEPARTMENT OF THE TREASURY

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $4,000,000, for expenses arising from the Waco, Texas law enforcement operation.

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses", $1,618,000, to be derived by transfer from unobligated balances in the "Operation and Maintenance, air and marine interdiction programs" account.

BUREAU OF THE PUBLIC DEBT

ADMINISTERING THE PUBLIC DEBT

(RESCISSION)

Of the funds made available under this heading in Public Law 102-393, $3,400,000 are hereby rescinded.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $7,350,000 for expenses associated with the protection of former President Bush, security for the residence of Vice President Gore, for the extraordinary expenses associated with the World Trade Center bombing, and other urgent activities.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $4,342,000, to remain available until expended.

THE WHITE HOUSE OFFICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $7,410,538.

OFFICIAL RESIDENCE OF THE VICE PRESIDENT

OPERATING EXPENSES

Notwithstanding the limitation contained under this heading in Public Law 102-393, not to exceed $125,000 may be available for official entertainment expenses.

SPECIAL ASSISTANCE TO THE PRESIDENT

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $107,000.

NATIONAL CRITICAL MATERIALS COUNCIL

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 102-393, $50,000 are hereby rescinded.

NATIONAL SPACE COUNCIL

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 102-389, $650,000 are hereby rescinded.

INDEPENDENT AGENCIES

FEDERAL ELECTION COMMISSION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $112,000.

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

(LIMITATIONS ON AVAILABILITY OF REVENUE)

The funds made available for obligation under this heading in Public Law 102-393 for the following accounts are hereby reduced in the following amounts: "Rental of space", $16,000,000 and "Installment and acquisition payments", $2,000,000: Provided, That the aggregate limitation on Federal Buildings Fund obligations established in Public Law 102-393 is hereby reduced by such amounts: Provided further, That the amount deposited into the Fund is reduced by $18,000,000.

INDEPENDENT AGENCIES

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

OPERATING EXPENSES

For an additional amount for "Operating expenses", $2,997,000.

GENERAL SERVICES ADMINISTRATION

ALLOWANCES AND OFFICE STAFF FOR FORMER PRESIDENTS

For an additional amount for "Allowances and Office Staff for Former Presidents", $194,000.

[ADMINISTRATIVE PROVISIONS

[SEC. 801. Not to exceed 4 per centum of any appropriations made available to the Executive Office of the President in fiscal year 1993 may be transferred between such appropriations. Notwithstanding any authority to transfer funds between appropriations contained in this or any other Act, no transfer may increase or decrease any appropriation by more than 4 per centum and any such proposed transfers shall be approved in advance by the Committees on Appropriations of the House and Senate.

SEC. 802. Notwithstanding the limitation contained in Public Law 102-393 (Treasury, Postal Service, and General Government Appropriations Act, 1993), within the appropriation, "Official Residence of the Vice President", not to exceed $130,000 shall be available for official entertainment expenses.]

GENERAL PROVISIONS

SEC. 801. Notwithstanding any provision of law, the funds made available to the United States Customs Service by this or any other Act, may be transferred to state and local governmental agencies for law enforcement purposes.

SEC. 802. Notwithstanding any provision of law, for the purposes of implementing Executive Order No. 12839, the Secretary of the Treasury shall achieve 50 percent of the personnel reductions for all Treasury bureaus in headquarters and regional offices and in positions graded general schedule 14 and higher: Provided, That such reductions shall not adversely affect drug control, law enforcement, trade facilitation, or delivery of services to the public: Provided further, That if such reductions cannot be achieved, the Secretary shall request approval from the House and Senate Committees on Appropriations prior to making personnel reductions in other areas.

SEC. 803. Section 617 of Public Law 102-393 is hereby repealed.

SEC. 804. Notwithstanding any other provision of law, $2,000,000 made available by transfer to the Drug Enforcement Administration from the "Special Forfeiture Fund" account of the Office of National Drug Control Policy in Public Law 102-393 may be used for an expansion study of the El Paso Intelligence Center and for the operation and maintenance of the computer systems at the Center.

CHAPTER IX

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES

DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

For an additional amount for "Compensation and pensions", [$147,422,000] *$475,000,000*, to remain available until expended.

VETERANS HEALTH ADMINISTRATION

MEDICAL CARE

(TRANSFER OF FUNDS)

For an additional amount for "Medical care", [$5,000,000] *$3,000,000*, to be derived by transfer from amounts appropriated under the head "Medical administration and miscellaneous operating expenses" in Public Law 102-389.

Notwithstanding any other provision of law, not less than $9,315,000,000 of the sums appropriated under this heading in Public Law 102-389 shall be available only for expenses in the personnel compensation and benefits object classifications.

Notwithstanding any other provision of law, funds provided under this heading in Public Law 102-389 shall be available to establish and operate a geriatric research, education, and clinical center as directed in House Conference Report 102-902.

MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

Notwithstanding any other provisions of law, the national oversight quality assurance activities, described in section 104 of Public Law 102-405, shall be funded under this heading during the remainder of the fiscal year and in subsequent fiscal years.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

HOME INVESTMENT PARTNERSHIPS PROGRAM

(TRANSFER OF FUNDS)

For additional amounts for the HOME investment partnerships program, as authorized under title II of the Cranston-Gonzalez National Affordable Housing Act, as amended, subject to the terms provided under this head in the Dire Emergency Supplemental Appropriations Act, 1992, Public Law 102-368, to remain available until expended, $60,000,000, to be derived by transfer from the $100,000,000 appropriated in the second paragraph under the head "Annual contributions for assisted housing" in such Act.

SEVERELY DISTRESSED PUBLIC HOUSING PROJECTS

(TRANSFER OF FUNDS)

For activities as set forth in the third paragraph under the head "Homeownership and opportunity for people everywhere grants (HOPE grants)" in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act of 1993, $300,000,000, to remain available until expended, to be derived by transfer from amounts appropriated for the purpose under the foregoing head.

YOUTHBUILD PROGRAMS

(TRANSFER OF FUNDS)

For activities authorized by subtitle D of [the Housing and Community Development Act of 1992] *title IV of the Cranston-Gonzalez National Affordable Housing Act*, under the heading "HOPE for Youth: Youthbuild", [$40,000,000], to remain available until expended, to be derived by transfer from amounts appropriated under the head "Homeownership and opportunity for people everywhere grants (HOPE grants)" in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993, Public Law 102-389.

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

Of the amounts of budget authority (and contract authority) carried over from fiscal year 1992, $78,000,000 shall be awarded competitively for the construction or major reconstruction of obsolete public housing projects (MROP), other than for Indian families; $79,996,578 shall be for an additional amount for section 8 property disposition; and $45,000,000 shall be used in connection with requirements arising from litigation: Provided, That funds made available under this head shall not be subject to section 213(d) of the Housing and Community Development Act of 1974, as amended: Provided further, That, notwithstanding section 111(c) of the Housing and Community Development Act of 1992, amounts made available for these MROP projects shall be obligated pursuant to notice published in the Federal Register.

FEDERAL HOUSING ADMINISTRATION

FHA—MUTUAL MORTGAGE INSURANCE PROGRAM ACCOUNT

The limitation on commitments to guarantee loans during fiscal year 1993 to carry out the purpose of section 203(b) of the National Housing Act, as amended, is increased by a loan principal of $42,854,000,000.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

GUARANTEES OF MORTGAGE-BACKED SECURITIES LOAN GUARANTEE ACCOUNT

The limitation on new commitments during fiscal year 1993 to issue guarantees to carry out the purposes of section 306 of the National Housing Act, as amended (12 U.S.C. 1721(q)), is increased by an additional $30,000,000,000.

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT GRANTS

(TRANSFER OF FUNDS)

For an additional amount for "Community development grants", for use only for the repair, renovation, or replacement, or other authorized community development activities affecting structures damaged or destroyed by Hurricane Andrew, Hurricane Iniki, Typhoon Omar, and other Presidentially-declared disasters, to remain available until September 30, 1995, [$40,000,000] *$20,000,000*, to be derived by transfer from the $100,000,000 appropriated in the second paragraph under the head "Annual contributions for assisted housing" in the Dire Emergency Supplemental Appropriations Act, 1992, Public Law 102-368: *Provided*, That the Secretary may waive entirely, or in any part, any requirement set forth in title I of the Housing and Community Development Act of 1974, except a requirement relating to fair housing and nondiscrimination, the environment, and labor standards, if the Secretary finds that such waiver will further the purposes of the use of the amount hereby transferred.

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

The third, fourth, and fifth provisos under this head in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993, Public Law 102-389, are repealed.

ADMINISTRATIVE PROVISIONS

The accounts under the head "Management and administration", except the account for the Office of Inspector General, in title II, Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992, Public Law 102-139, and the amounts in such [accounts] *accounts*, are hereby [merged,] *merged* into "Salaries and expenses", for the purposes of administering such accounts in accordance with 31 U.S.C., subchapter IV, chapter 15.

[The seventh paragraph under this heading in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993, Public Law 102-389 (the second full paragraph at 106 Stat. 1591) is repealed.]

Of the $260,000,000 earmarked in Public Law 102-389 for special purpose grants (106 Stat. 1571, 1584), $1,750,000 made available to Los Angeles, CA, for a loan fund to be administered by a nonprofit community organization in support of small business revitalization that will create a beneficial impact on employment, income, savings, and the development of a stronger community economic base in South Central Los Angeles shall instead be made available to the Brotherhood Crusade Black United Front of Los Angeles for the same purpose.

Of the $54,250,000 earmarked in Public Law 101-507 for special purpose grants (104 Stat. 1351, 1357), $1,350,000 made available for the Bickerdike Redevelopment Corporation for the rehabilitation of 70 units in three buildings, for rental to low-income tenants in the City of Chicago shall instead be made available for the Bickerdike Redevelopment Corporation, for the creation of rental subsidy for 70 units of affordable housing for rental to low-income tenants in the City of Chicago. The Rental Subsidy program is to be set up through a secure investment portfolio by Bickerdike whereby principal and interest earned will be used to subsidize rents for a period of years.

Notwithstanding any provision of law or regulation thereunder, the requirement that an amendment to an urban development action grant agreement must be integrally related to the approved project is hereby waived for project No. B84AB210149.

INDEPENDENT AGENCIES

[ENVIRONMENTAL PROTECTION AGENCY

[PROGRAM AND RESEARCH OPERATIONS

[(TRANSFER OF FUNDS)

[For an additional amount for "Program and research operations", up to $5,000,000, to be derived by transfer from amounts provided under the head "Abatement, control, and compliance" in Public Law 102-389.]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND DEVELOPMENT

(TRANSFER OF FUNDS)

For an additional amount for "Research and development", $5,000,000, to be available until September 30, 1994, to be derived by transfer from amounts provided under the head "Construction of facilities" in Public Law 102-389.

TITLE II—GENERAL [PROVISIONS]

PROVISION

SEC. 201. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

[SEC. 202. In fiscal year 1994 and thereafter, the payments, revenues, and surcharges referred to in sections 3404(c)(3), 3405(f), and 3406(c)(1), respectively, of Public Law 102-575 shall be assessed and collected to the extent required in appropriations Acts.]

This Act may be cited as the "Supplemental Appropriations Act of 1993".

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, the Appropriations Committee will be meeting at 3 p.m. today to make the allocations to the various subcommittees for the new fiscal year of fiscal year 1994. Prior to that time, I would not want any action taken on this bill.

I ask unanimous consent that the ranking manager, Mr. HATFIELD, and I may proceed with opening statements and that following those two statements, the Senate stand in recess awaiting the call of the Chair or the call of the majority leader.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The manager of the bill is recognized.

Mr. BYRD. Mr. President, H.R. 2118, the fiscal year 1993 supplemental appropriations bill, provides net new appropriations totaling $1,878,886,538. Of that amount, $515,000,000 is for mandatory payments including VA compensation and pensions, $1,281,583,000 for defense (function 050), and a net $82,304,000 in new budget authority for domestic discretionary activities. Total outlays estimated for this bill are $262 million, of which outlays for defense of $279.5 million and mandatory programs of $40 million are partially offset by domestic discretionary savings of $57.5 million.

The bill as reported by the committee includes recommendations on items that were contained in both the House-passed versions of H.R. 2118 and H.R. 2244, the second supplemental. The combined total of the House bills contained $1,835,055,000 in budget authority and $316,480,000 in outlays. The committee-reported bill is approximately $43 million more than the combined House-passed bills. The difference is primarily made up of money for the Kurdish relief program and additional sums for FBI special programs.

The committee recommends $200 million for the Summer Youth Employment Program. This will provide, according to the Department of Labor, an additional 160,000 jobs this summer for disadvantaged youths ages 14–21. H.R. 2244, as passed the House, includes $320 million for this item. The committee would have liked to include more funding but the requirement that we offset all domestic discretionary items by subcommittee and the lateness in the summer season made it imprudent to do so.

The bill as recommended by the committee also includes $200 million for discretionary grants to State and local law enforcement agencies to hire additional police and further the concept of community policing. It is estimated that approximately 4,545 additional State and local police officers will be hired through these grants made by the Attorney General.

The committee also recommends $55 million for defender services which will permit the continued reimbursement of panel attorneys appointed by the Federal district courts to represent criminal defendants who cannot afford their own counsel. The committee understands that the level provided in the fiscal year 1993 regular appropriation bill was depleted on May 27, 1993. In addition, the bill includes $5.5 million for fees of jurors in the Federal courts. These funds are expected to run out some time this month.

For Amtrak, the bill includes $50 million, of which $25 million is provided for capital improvements to avoid further furloughs of maintenance workers and to procure additional rail cars.

The committee recommends $35.5 million for water and sewer facility loans under the Department of Agriculture. This appropriation will permit the Department to make an additional $250 million in direct loans for these facilities in rural areas. In addition, the committee recommends $35 million for rural water and waste disposal grants which will be used in conjunction with the loan funds to reduce to reasonable levels the cost per household to repay the loans.

In addition to domestic mandatory and discretionary items, the bill includes $1,281,583,000 in budget authority for defense, function 050. Included in this amount is $750 million to cover the costs of Operation Restore HOPE, the United States military humanitarian effort in Somalia, $100 million for Operations Southern Watch and Provide Comfort, $71.6 million to repair flood damage at Marine Corps installations in southern California, $10 million for the National Security Education Trust Fund, and $295 million for health programs for defense personnel and their families.

The bill before us appropriates $750 million in funding to pay part of the costs of the United States operation in Somalia. As you all know from news accounts, the U.N. forces in Somalia, in which the United States is participating, are engaged in a military operation against one of the Somali warlords. This raises questions of both the mission of the U.N. operations and the costs to the United States of continued involvement in Somalia. The Senate, on February 3, 1993, authorized troops to be deployed to Somalia to implement a U.N. resolution which called for use of "all necessary means to establish as soon as possible a secure environment for humanitarian relief operations in Somalia." It has been understood by this Senator from the beginning, that when President Bush first sent United States forces to Somalia the limited mission of the forces was to provide a secure environment to allow food to be distributed and to stop the starvation that was engulfing the country. The purpose was not to establish a new political authority in that nation. It was to secure food lines. However, the current U.N. mission clearly goes beyond this and includes the goal, according to a U.N. Security Council resolution adopted on December 3, 1992, to facilitate the "process of a political settlement under the auspices of the United Nations, aimed at national reconciliation in Somalia.

Mr. President, the United Nations has been in charge of the Somalia operation for about 1 month now, and of the 18,000 military personnel assigned to these forces, the UNOSOM II forces, some 1,200 are United States forces assigned to a Quick Reaction Force and 3,000 are logistics support personnel. Press accounts indicated that the United Nations has asked us to provide another 4,200 marines and sailors, a Marine expeditionary unit, to augment that force, and arrival of that force in waters off the coast is expected this weekend. I am concerned about the escalation of violence as the United Nations attempts to enforce its expanded mission, which includes political goals, and the doubling of the U.S. combat-ready contingent in one fell swoop. The violence which has erupted in the capital city there must be met by the United Nations so that its credibility and authority are not undermined, thus encouraging more attacks on it. But it does not necessarily follow that the United States has got to be the nation to augment the force in such a dramatic fashion. I would caution the administration to beware of enhancing U.S. participation in a mission which seems to be beyond that which was originally agreed to by this body.

In addition, the costs of the Somalia operation have now well surpassed the $1 billion mark. United States costs for Somali relief in fiscal year 1993–94, exclusive of food aid now total some $1.2 billion, including the United States assessment by the United Nations for costs of the so-called UNOSOM I operation, covering November 1, 1992–April 1, 1993 total $33 million and an expected U.N. assessment of $486 million for the costs of UNOSOM II. There may be more U.N. costs to come if this commitment continues. This is on top of United States normal aid to Somalia from fiscal year 1991–93 of some $210 million.

So, Mr. President, the contribution of the United States to the U.N.-led operation in Somalia needs to be kept at a level which does not put the United States back in to the position of shouldering a disproportionately large part of the costs and risks. Doubling U.S. forces over the weekend will add to both, and should be considered very carefully.

The bill also includes $23 million for the ongoing United States humanitarian relief program for the Kurds of northern Iraq, which is administered by DoD, so that the level of effort of the current program will be maintained through the end of the fiscal year. Saddam Hussein continues to put economic, political and military pressure on the Kurdish population now being protected by allied forces. I want to ensure that there is no break in the program which Saddam Hussein could misinterpret as a weakening of our commitment to that population, and tempt a renewed onslaught by Iraqi forces which would require another major Western military response.

Mr. President, the bill does not include a recommended appropriation for the Small Business Administration's section 7(a) Loan Guarantee Program. The House-passed version of H.R. 2118 includes $181 million for this program. The SBA had exhausted its appropriation for fiscal year 1993 of $331.5 million in April of this year. The House bill did not offset this appropriation as is required in the Senate. In order to fund defender services, fees of jurors, police hiring, and other requests of the President, the committee had to make rescissions totaling more than $240 million in the Commerce/Justice Subcommittee. While supportive of the program, we were simply unable to find an additional $181 million in budget authority and $56 million in outlays within that subcommittee to keep the bill in compliance with the budget act.

Mr. President, the committee has produced a good bill under current

budgetary constraints, and the bill deserves the support of my colleagues.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, the Senate today turns to the consideration of H.R. 2118, the fiscal year 1993 supplemental appropriations bill.

This bill was passed by the House of Representatives on May 26 and reported from our Committee on Appropriations in the Senate on June 8.

H.R. 2118 has its genesis in the President's request of April 8, 1993, for supplemental appropriations to meet unanticipated requirements and deficiencies in some 47 programs of 18 different departments and agencies. Those requests total approximately $1 billion in both mandatory and discretionary accounts that have been characterized as regular supplementals as distinct from emergency supplementals contained in H.R. 1335, the economic stimulus supplemental considered by the Senate earlier this year. The President proposed no offsets for this supplemental request.

On May 14, the President submitted another supplemental request in the amount of $920 million for three programs: $320 million for summer jobs, $400 in EPA waste water treatment grants, and $200 million to enable State and local governments to hire additional police.

The President proposed to offset this additional spending in this second request with an across-the-board reduction of 0.45 percent against nondefense discretionary programs. The House dealt with this proposal in a separate bill, H.R. 2244, and after substituting specific rescissions in lieu of the across-the-board reduction proposed by the President passed the bill on May 26.

The measure before us recommends funding most of the President's April 8 request plus some elements of the May 14 request plus some elements of H.R. 1335 and some additional items not requested by the President, notably $1.2 billion for the Department of Defense.

I wish to emphasize to my colleagues, particularly those on this side of the aisle, that there are no emergency declarations to this bill, that is, declarations that would exempt spending from discretionary spending caps. So all the spending is under the discretionary spending caps, and of course, the mandatory is excluded from that.

All the spending recommended in that bill is within our subcommittee allocations and the caps on discretionary spending, and I am speaking of the 1993 caps.

All new nondefense discretionary spending is fully offset. In fact, the offsets recommended in the bill would reduce the 1993 nondefense discretionary outlays by $58 million.

This bill is built on the principle that some of us advanced in the Senate debate on H.R. 1335, namely that we were willing to support additional funding for certain priority programs if that funding is offset so that the deficit would not increase—so that the deficit would not increase.

Now, Mr. President, there is one aspect of this bill that troubles me because it does not comport with that principle. The bill as reported from committee recommends $1.281 billion for the Department of Defense. All but $5 million for the National Security Education Trust Fund was not requested by the President. None of it is offset. No point of order under the Budget Act lies because there is room remaining under the fiscal year 1993 discretionary spending cap for function 050 spending.

In other words, this $1.2 billion for the Defense Department is under the Defense Department's cap for 1993. But it does add to the deficit. This is an addition to the deficit. And that concerns me. We debated for days on this floor about the wisdom of appropriating an additional $16 billion for a variety of nondefense programs without offsetting that additional expense to prevent an increase in the deficit.

Many of those programs are ones that I strongly support, and both as an individual Senator and as a manager of the bill on this side of the aisle I sought to reach an agreement to provide additional funding for such programs as summer jobs, child immunization, and highway construction if that additional spending could be offset and would be offset with cuts in spending in other programs. Regrettably, those efforts were not successful.

Now we are asked to appropriate more than $1.2 billion for the Defense Department, money that was not even requested by the Defense Department, and to do so without any regard to the deficit simply because the technical procedure allows us to do so. I believe that is wrong, Mr. President, and I will vote to strike that funding from the bill unless it is offset with reductions in other DOD programs. If we are to demand that the deficit not be increased for nondefense spending, then we should demand equally that it not be increased for defense spending.

Now, when we speak of defense in this particular context, let me say what this money is for. This is not wages for our service personnel but this is money that involves $750 million, the largest piece of it, for the Somalia peacekeeping operations. It involves money for the Iraqi no-fly zone. It involves money for the Kurdish military aid. It involves $299 million for CHAMPUS. That is the health program for military personnel.

Now, we also have information that the Department of Defense could have reprogrammed within existing appropriations moneys to cover those responsibilities. We owe those bills. It is not the question of whether we want to pay those bills or not pay them. We owe them and we have to pay them. I am just talking about the procedure of paying them and not adding to the deficit, which I think is an option.

We will debate this and several other issues during consideration of this measure, and as always I look forward to working with the chairman, Senator BYRD, to move this bill through the Senate as expeditiously as possible and go to conference with the House as quickly as possible and get this matter behind us because, Mr. President, as chairman of one of our subcommittees you fully understand that we are about the business now of 1994 and we have again a timeframe within which we have to move 13 appropriations bills.

This is not too early to begin to give signals to our colleagues that we are going to have to utilize every possible minute of the day in order to move those 13 appropriations bills in the context of the current budget situation before October 1—and July is almost upon us.

I yield the floor.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business with Senators permitted to speak therein for not to exceed 5 minutes each, and that the period for the transaction of routine morning business extend until such time as my colleague, Mr. HATFIELD, and I can complete our action in the full committee concerning allocations.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BURNS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MATHEWS). Without objection, it is so ordered.

Mr. BURNS. Might I inquire of the business of the Senate?

The PRESIDING OFFICER. The pending question is H.R. 2118, the supplemental appropriations bill.

Mr. BURNS. I ask unanimous consent that I may proceed for 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECONCILIATION BILL

Mr. BURNS. Mr. President, as we come down to the closing moments of the reconciliation bill that will be before us next week, as most of the details have been coming to our different

offices, it just seems to me this is a time that we really are thankful for sunshine. I think once the American people take a look at this reconciliation bill, they will find out that we are back into the old business of taxing and spending again and we will be asked to support that.

This is really a huge tax on small business. Ninety-eight percent of the employment in the State of Montana is provided by small businesses, farmers, and ranchers. It never ceases to amaze me how the Congressmen, Senators, and folks in the administration can throw about rhetoric of decrying the benefits of those rich business owners and ranchers and farmers. I am just wondering why, in this time when we are trying to expand the job base, when we are trying to get some investment credit back into America, and if you do accumulate just a little bit of money, then we are going to tax it, we are going to come after more of it for taxes, why do we then call you in and ask, "Why don't you expand your business?"

We are the only country in the world, just about, that taxes incentive. I just ask this body who, other than the commerce of this country, do you think pulls the wagons or pays the bills that creates the jobs in this country?

There are only two sources of job suppliers: Private business, be it corporate or small business, and Government—Federal, State, and local level.

We all know the figure that there are more people working for the Government now than there are manufacturing jobs in this country. I am wondering how long we can go on with that.

What I am saying is, Let us concentrate on spending. Let us concentrate on the redundancy of Government services, those services that are offered both at the State and local level and then piled onto by the Federal Government.

Or let us take a look at unfunded Federal mandates that are driving up the budgets of many States. And there is not a State in the Union that is not going through some very difficult financial times.

If you think we are not in a tax revolution, look at my State of Montana where we have no sales tax, and the Governor put forth a sales tax and it was voted down almost 4 to 1.

So I just ask, as this reconciliation bill becomes known and all the parts of it becomes known, I just want the people of this country to take a look at it, and ask: Is it as it is represented? Is it a 1-to-1 spending reduction to tax increases? Or it is more like $4 in new taxes and $1 in spending cuts?

So I ask my colleagues to take a very close look, and for all America this weekend, when you are enjoying Father's Day, take a look at this reconciliation once it is voted out because there is a transportation tax. No matter how small, it is very inflationary because we are at the end of the line in my State. We sell wholesale and we buy retail, and we pay the freight both ways.

At every segment, every part, every manufacturing, every production level is the use of gasoline and diesel. In this bill, I understand before it is voted out, there are no exemptions.

So I say a tax is a tax. You may call it a fee and you may score it like some folks here who have funny accounting systems in this town, but a tax is a tax. I just want to have America take a look at this over the weekend.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, are we in morning business?

The PRESIDING OFFICER. We are in morning business.

Mr. EXON. I thank the President.

COOPERATION BETWEEN DOD, NOAA AND NASA ON WEATHER SATELLITE PROGRAMS

Mr. EXON. Mr. President, several weeks ago I took to the Senate floor to argue that the Government needed to reexamine its policies and management arrangements for the global positioning system, which is a Department of Defense navigation satellite. I raised that issue because I believe there is a chance for the Government to save the taxpayers money, improve the performance of our economy, and achieve greater efficiencies in our space program.

Today I rise to make a similar case for new efficiencies in another set of space programs.

The Department of Defense maintains an expensive constellation of polar-orbiting weather satellites known as the Defense Meteorological Support Program, or DMSP.

The National Oceanographic and Atmospheric Administration, or NOAA, under the Department of Commerce, also maintains an expensive constellation of polar-orbiting weather satellites, known in this case by the acronym TIROS and NASA is developing a third system known as EOS.

Today, there is a fair amount of commonality and cooperation between these two programs. This commonality and cooperation is the result of 15 or 20 years of hard work by Congress, the Office of Management and Budget, NOAA, and DOD. Over this time period, there has also been numerous studies of the potential to merge the two programs outright in order to save money. Despite progress in achieving commonality and cooperation between these two programs, efforts to merge or converge the programs into a single Government system have always failed, largely because of what I believe were cold war considerations and efforts by individual agencies to protect turf.

Today I make the case that the time has come to examine this issue again. In terms of capacity and capability, the United States does not require two separate constellations of two satellites apiece. The cold war is over. Cooperation between civil agencies and the Department of Defense is no longer the sensitive issue it was when we were confronting the Soviet Union. In fact, today, given the large annual deficit and growing national debt, civil-military cooperation is imperative.

The end of the cold war has changed DOD's requirements for weather satellite support. DOD is no longer focused exclusively on strategic developments within the Soviet Union. DOD now has a global focus on Regional problems and the needs of its tactical combat forces. DOD therefore needs access to weather data on a regular basis throughout the day and night on a worldwide basis. In fact, in Operation Desert Storm, DOD tactical forces made significant use of the civilian weather satellite system.

Budget problems within DOD and NOAA are severe. We can no longer afford to fund redundant programs just because it is more convenient, less complicated, and more satisfying for the various agencies and departments of the Government.

NOAA's budget just does not add up. President Clinton's budget submission identifies over $200 million in NOAA's budget, including the satellite programs, as investments which are above the cap on discretionary spending this year. Paying for these investments will require us to cut funding this year in other areas that have not been identified and the problem will only get worse in the years ahead.

I submit, Mr. President, that merging our national weather satellite programs and reducing the number of satellites taxpayers have to buy and operate can help ease our fiscal problems—without jeopardizing our ability to forecast the weather or defend the Nation. In fact, I believe that it might be possible to improve forecasting capabilities by merging the existing programs. As things stand now, we can not afford to develop new technologies to improve the capabilities of both the DOD or NOAA satellite systems. If we merge them, however, we might be able to free up enough funds to make substantial improvements in capabilities and still save money overall.

I believe it is necessary to examine this issue carefully as soon as possible, for a number of reasons:

First, whereas the trend over the last 15 or so years has been for NOAA and DOD to increase commonality and cooperation, lately this trend has been reversed. Unless we change course we will soon experience divergence rather than convergence between the military and civil systems unless Congress and the new administration take action.

DOD has been planning for some time to try to develop a new version of its satellite, called the Block 6 DMSP. DOD plans to compete this program, which means that it would diverge from NOAA's. The 10-year cost of this effort would be close to $2 billion.

At the same time, NOAA has been planning to develop a new version of its weather satellite, which is known by the acronym OPQ. NOAA has been looking to cooperate on new sensors with both NASA's EOS program and with a European consortium for its new system. This international cooperation, and cooperation with NASA are laudable, but it would come at the cost of commonality with DOD's system.

I believe there is a better way. DOD, NOAA, and NASA should together develop an integrated system with a rational division of labor with respect to sensors, satellite platforms, satellite command and control, and data processing. This approach need not preclude close cooperation with our European friends.

At a minimum, Mr. President, we must act to ensure that our weather satellite systems do no diverge rather than to converge in coming years.

Second, if we are going to be able to overcome the policy issues that prevented convergence in the past, we might have to rethink some recent program decisions. For example, Congress last year directed NOAA to buy two more of the existing TIROS satellites to prevent a gap in coverage around the turn of the century.

If this procurement proceeds, NOAA will have enough satellites to last another 10 years and perhaps substantially longer. Meanwhile, DOD has an inventory of 9 DMSP satellites, which will last until 2007 or even longer. NOAA might have to buy even more TIROS satellites to maintain its constellation until DOD's inventory was exhausted before we could shift to a new common system. That seems to me to be a long wait for a merged program and new capabilities.

It might make more sense for DOD to transfer to NOAA two of its existing satellite buses for NOAA to modify to its TIROS configuration. This would leave NOAA and DOD with seven satellites each. By sharing existing inventory there would be sufficient time to define and build a common system. Part of the money saved by forgoing the NOAA procurement could be applied to designing and developing a merged program. It would also permit the United States to stay in step with European satellite development efforts.

Third, NOAA has been trying to determine how it could capitalize on the technology NASA is developing for the earth observing system, or EOS, for the weather forecasting program. To date, NOAA's plans do not look affordable and Congress denied funds for development last year. If the NOAA and DOD systems were merged it is more likely that resources would be available for modernization. It may be that NASA's sensor technology is affordable within a merged program that combines the resources of DOD, NOAA, and NASA.

If it should turn out that transferring DOD assets to NOAA is not practical or would not save enough money to begin work soon on a merge program, we should continue the procurement of two more Tiros satellites, as Congress mandated last year. If we can agree, however, that a merge system is the objective, it should be possible to postpone or slow down the efforts now underway to develop follow-on systems in both NOAA and DOD.

In closing, Mr. President, let me suggest that such a course that I suggest will save money in the short term and also over the long haul. Mr. President, now is the time to explore new efficiency in military and civilian space systems. Business as usual, based on parochial institutional interests, is not acceptable. I have sent letters to the Deputy Secretary of Defense, William Perry; Secretary Brown; and NASA Administrator Goldin, seconding the request of Chairman BROWN for a thorough administrative review. As a senior member of both the Armed Services and Commerce Committees, I also intend to raise this issue with my colleagues on the key committees of jurisdiction.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. What is the business before the Senate, Mr. President?

The PRESIDING OFFICER. Morning business.

THE NOMINATION OF JEAN KENNEDY SMITH TO BE AMBASSADOR TO IRELAND

Mr. DODD. Mr. President, I want to take this opportunity to express my deep sense of satisfaction at the action taken by the Senate last night to confirm the nomination of Jean Kennedy Smith to be United States Ambassador to Ireland. I have been fortunate enough to know Jean Kennedy Smith for a number of years, and from my firsthand knowledge I am convinced that she will accomplish this assignment with the kind of honor and distinction that few others can match.

Mr. President, Jean Kennedy Smith is as intelligent as she is compassionate. Jean Kennedy Smith is as knowledgeable as she is warm-hearted. Jean Kennedy Smith is the right person and this is the right job in the right place at the right time.

I know I speak for millions of Irish-Americans when I say that the quality of this appointment speaks volumes about the importance which this administration attaches to our relations with the Government of Ireland. It is a tribute to the White House, and it is the kind of appointment of which President Clinton can be justifiably and personally proud.

Mr. President, as my colleagues know, Jean Kennedy Smith is no stranger to public service. For years she has dedicated herself to a variety of humanitarian and charitable causes. She founded and sits on the board of directors of Very Special Arts, an organization devoted to enhancing and improving the lives of the disabled by offering them an experience in the world of art. We owe her an enormous debt of gratitude for this important effort and the many, many other contributions she has made to enrich the lives of others.

Mr. President, at a hearing of the Foreign Relations Committee last week, Jean Kennedy Smith demonstrated her thorough knowledge of Irish domestic politics, United States-Irish relations, and the many other issues that will confront her during her time in Dublin. In particular she spoke with eloquence and compassion about the tragic and long-running conflict in Northern Ireland and the steps that might be taken—in Dublin, in London, in Belfast, and in Washington—to promote a lasting settlement in that troubled corner of the world.

This is the Jean Kennedy Smith tradition, Mr. President. Humanitarian outreach. Warm-hearted generosity. Tireless attempts at building peace and understanding. With these efforts Jean Kennedy Smith helps to nourish all of us. I know she will do a great job in Dublin. And I am proud to call her friend.

Mr. DODD. I thank the Chair.

(The remarks of Mr. DODD pertaining to the introduction of S. 1125 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DODD. I suggest the absence of a quorum.

Mr. BYRD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. MURRAY). Without objection, it is so ordered.

SUPPLEMENTAL APPROPRIATIONS ACT OF 1993

The Senate continued with the consideration of the bill.

AMENDMENT NO. 475

Mr. BYRD. Madam President, I have certain amendments in my hand which the two managers have agreed to, and have agreed that they be offered en bloc. I ask unanimous consent that these amendments be offered en bloc, agreed to en bloc, and the motion to reconsider en bloc laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. They go to various parts of the bill.

I ask unanimous consent that statements in explanation of the amendments appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The chair recognizes the Senator from Oregon.

Mr. HATFIELD. Madam President, I send an amendment to the desk and ask for its immediate consideration.

Mr. BYRD. Madam President, I ask unanimous consent that the amendment offered by Mr. HATFIELD be joined with the amendments that I offered previously to various parts of the bill en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (No. 475) considered and agreed to en bloc are as follows:

On page 28 line 25, strike "$4,342,000" and insert "$415,000".

On page 32 after line 23 insert:

SEC. 802. Notwithstanding any other provision of law, the Comptroller General of the United States shall conduct an investigation into the alleged politicization of executive branch investigative agencies with respect to the White House travel office and shall submit the findings from such investigation to the Congress by no later than September 30, 1993.

On page 34, insert the following after line 24:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

COMMUNITY PLANNING AND DEVELOPMENT

HOME INVESTMENT PARTNERSHIP PROGRAM

For additional amounts for the HOME Investment Partnerships program, as authorized under title II of the Cranston-Gonzalez National Affordable Housing Act, as amended, subject to the terms provided under this head in the Dire Emergency Supplemental Appropriations Act, 1992, Public Law 102-368, $75,000,000, to remain available until expended: *Provided*, That up to $50,000,000 of the amounts required to fund the foregoing amount shall be derived by transfer from the Homeownership and Opportunity for People Everywhere (HOPE Grants) account and the remaining amounts shall be transferred from the Flexible Subsidy Fund, notwithstanding section 236(f)(3) of the National Housing Act and section 201(j) of the Housing and Community Development Amendments of 1978, as amended.

On page 36, insert the following after line 19:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

FEDERAL HOUSING ADMINISTRATION

FHA—GENERAL INSURANCE AND SPECIAL RISK INSURANCE PROGRAM ACCOUNT

For an additional amount for the cost of guaranteed loans authorized by sections 238 and 519 of the National Housing Act, as amended (12 U.S.C. 1715z-3(b) and 1735c(f)), up to $38,000,000: *Provided*, That notwithstanding section 236(f)(3) of such Act and section 201(j) of the Housing and Community Development Amendments of 1978, as amended, amounts required to fund the foregoing amount shall be derived by transfer from the Flexible Subsidy Fund during fiscal year 1993: *Provided further*, That prior to obligation of any funds from this transfer, such sums as may be necessary shall be rescinded from such Fund so that no amount so transferred shall increase Departmental budget outlays or budget authority.

During fiscal year 1993 additional commitments to insure loans under this head shall not exceed a total principal, any part of which is to be guaranteed, of an additional $1,000,000,000.

On page 37, insert the following after line 23:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT GRANTS

On the $4,000,000,000 appropriated under this head in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993, $37,500,000 shall be available for authorized community development activities for the use only in areas impacted by Hurricane Andrew, Hurricane Iniki or Typhoon Omar: *Provided*, That notwithstanding any provision of law the foregoing $37,500,000 shall be derived from certain set-asides established for fiscal year 1993 under section 107 of the Housing and Community Development Act of 1974, including $6,000,000 for section 107(a)(1)(C), $9,000,000 for section 107(a)(1)(F), $15,000,000 for section 107(a)(1)(H) and $7,500,000 for section 107(a)(1)(I): *Provided further*, That an additional $7,500,000 shall be available also for use in areas impacted by the above named disasters to be derived from amounts made available under this head in fiscal year 1993 in accordance with section 119(o) of such Act: *Provided further*, That the Secretary may waive entirely, or in any part, any requirement set forth in title I of such Act, except a requirement relating to fair housing and nondiscrimination, the environment, and labor standards, if the Secretary finds that such waiver will further the purposes of the use of the amounts made available to the impacted areas.

At the appropriate place insert:

DEPARTMENT OF AGRICULTURE

AGRICULTURAL NATURAL DISASTER ASSISTANCE

From amounts made available to the Farmers Home Administration in Public Law 102-368, the Secretary of Agriculture may transfer from the following accounts up to the specified maximum amounts as follows: Agricultural Credit Insurance Fund Program Account, $28,000,000; Rural Water and Waste Disposal Grants, $20,000,000; Emergency Community Water Assistance Grants, $5,000,000; and Rural Development Insurance Fund Program Account, $10,000,000. Such funds shall be available through the end of FY 1994 for:

(a) a program designed to reduce the interest rate on Business and Industry guaranteed loans, whereby with respect to loans guaranteed by the Secretary under which the rate of interest charged by any legally organized lending institution (hereinafter "lender") does not exceed by more than 100 basis points the prime rate as defined by the Secretary, the Secretary may enter into a contract with any such lender under which the lender will receive payments in such amounts as will during the term of such contract reduce the interest rate paid by a borrower by one percentage point: *Provided*, That the borrower would otherwise be unable to make payments on such loan when due;

(b) permanent replacement of temporary migrant housing and rental assistance under "Rural Housing for Domestic Farm Labor";

(c) utilization of section 9 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2105), without any requirement for state cost-sharing on matching funds;

(d) cost share assistance in accordance with Title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201-2205) for nurserymen for the rehabilitation of fencing destroyed or damaged by Hurricane Andrew: *Provided further*, That such amounts so transferred shall be available only in areas affected by Hurricane Andrew, Hurricane Iniki, and Typhoon Omar: *Provided further*, That the entire amount transferred is hereby designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

At the appropriate place insert the following:

SECTION . AMENDMENT.

Section 1(a) of the Act entitled "An Act to authorize the Architect of the Capitol to acquire certain property", approved August 3, 1992, is amended to read as follows:

"(a) ACQUISITION OF PROPERTY.—(1) That Architect of the Capitol, under the direction of the Senate Committee on Rules and Administration, may acquire, on behalf of the United States Government, by purchase, condemnation, transfer or otherwise, as an addition to the United States Capitol Grounds, such real property in the District of Columbia as may be necessary to carry out the provisions of this Act. Real property acquired for purposes of this Act, may, in the discretion of the Architect of the Capitol, extend to the outer face of the curbs of such property so acquired, including alleys or parts of alleys and streets within the lot lines and curblines surrounding such real property, together with any or all improvements thereon.

"(2) Subject to the approval by the Committee on Appropriations of the Senate, and amount necessary to enable the Architect of the Capitol to carry out the provisions of paragraph (1) of this subsection maybe transferred from any appropriation under the heading '**SENATE**' and the subheading 'SALARIES, OFFICERS AND EMPLOYEES', and 'OFFICE OF THE SERGEANT AT ARMS AND DOORKEEPER', and the subheadings 'CONTINGENT EXPENSES OF THE SENATE' and 'SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE' to the account appropriated under the heading '**ARCHITECT OF THE CAPITOL**' and the subheadings 'CAPITOL BUILDINGS AND GROUNDS' and 'SENATE OFFICE BUILDINGS'."

Mr. HATFIELD. Madam President, just a brief statement as to the amendment I am offering.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. The pages have been housed in housing which the House has established over the years but will no longer be available. In 1992, in August, Congress authorized the Capitol Architect to begin negotiations for site location for a new page dormitory for the Senate, but that authorization was a site specific, a property specific.

That property negotiation did not work out. What we are doing, in effect, is saying to the same Capitol Architect this is a more generic authorization to seek out certain properties that may be available now that he can negotiate to bring to a successful contract in order to provide for that future housing of the pages. And so all we are doing is making something that was very specific now more generic and more open ended for the Capitol Architect to seek properties wherever they may be, since the initial property that was so specific is no longer available.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. As the manager of the bill I am in agreement with the distinguished ranking manager with respect to this amendment and urge that it be agreed to.

The PRESIDING OFFICER. Under the previous order, the amendments have been agreed to.

Mr. BYRD. Madam President, an amendment which I offered previously read as follows:

Notwithstanding any other provision of law, the Comptroller General of the United States shall conduct an investigation into the alleged politicization of Executive Branch investigative agencies with respect to the White House travel office and shall submit the findings of such an investigation to the Congress by no later than September 30, 1993.

The purpose of the amendment was to address concerns that have been expressed about the decision earlier this year to dismiss all seven members of the staff of the White House travel office. The decision to dismiss the staff was made after management and accounting review of the travel office was made by a well-known accounting and consulting firm Peat Marwick.

That review identified a series of significant weaknesses in accounting systems at the travel office. In addition, discrepancies were found in the petty cash fund which raised concerns about possible theft.

More recently, pending an internal review by the Office of Management and Budget and White House Chief of Staff Mack McLarty, the travel office staff was placed on administrative leave with pay. Two former staff members have filed for retirement.

Questions have been raised about possible contacts between the White House and the Federal Bureau of Investigation. This amendment is intended to clear up any questions regarding the propriety of those contacts. The White House views this amendment as a constructive step in putting an end to the speculation about any of the actions taken in the matter.

I have offered the amendment in that same constructive spirit.

The Comptroller General will conduct the investigation and submit the findings to the Congress by no later than September 30, 1993.

Madam President, I yield the floor.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Louisiana [Mr. JOHNSTON].

Mr. JOHNSTON. Madam President, I ask unanimous consent that the pending committee amendment be temporarily laid aside in order to consider this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 476

Mr. JOHNSTON. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] proposes an amendment numbered 476.

Mr. JOHNSTON. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 40, after line 16, insert the following:

CHAPTER X

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

ADMINISTRATIVE PROVISION

Using funds heretofore appropriated under "Construction, General", the Secretary of the Army, acting through the Chief of Engineers, is directed to augment, reprogram, transfer or apply such additional sums as necessary to continue construction and cover anticipated contract earnings on any project which received an appropriation or allowance within the appropriation in fiscal year 1993 in order to avoid terminating any contracts and to avoid schedule delays.

Mr. JOHNSTON. Madam President, this amendment provides that within available funds in the construction general account that the Chief of Engineers is mandated to preprogram or augment those accounts where there are contracts on which earnings have been made or will be made before the end of the fiscal year.

Generally speaking, this situation occurs where there is good weather and they make more earnings than the contract provides for. It provides for the reprogramming of the funds and the augmentation of funds from that construction general account to these contracts.

I think this may be applicable in a few places around the country. I know it is applicable in the Red River project in Louisiana, where because of good weather the earnings have come on faster. In that kind of situation, there are two alternatives. Without this provision, there will be two alternatives. One would be to terminate, shut down the project which will involve the termination costs and remobilizing. That is a very unlikely thing. The more likely thing is that the contractor would continue the work, accrue the earnings and thereby be entitled to 6.5 percent interest which is the going rate for those funds to be paid out of the ensuing fiscal year.

This avoids that simply by requiring that the funds be augmented or reprogrammed out of the construction general account; in other words, out of the funds that are already available in the appropriations.

Mr. BYRD. Madam President, this amendment has been discussed with both managers. As for my part, I am prepared to accept the amendment and I support it.

Mr. HATFIELD. Madam President, the amendment has been cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 476) was agreed to.

Mr. JOHNSTON. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. BYRD. Madam President, I ask unanimous consent that the committee amendments be considered, and agreed to en bloc with the exception of the following amendments. Page 11, lines 3 through 17; page 13, lines 1 through 16; and that the bill be considered as original text for the purpose of further amendment; provided, further, that no points of order be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Madam President, I have no further amendments at this point. I understood Senator BUMPERS had an amendment.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INOUYE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Madam President, I ask unanimous consent that floor privileges be extended to Mr. John Young of my staff during consideration of the supplemental appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Thank you, Madam President.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Madam President, I wonder if my colleague, Mr. HATFIELD, has any idea as to how many amendments there might be to the bill on his side of the aisle.

Mr. HATFIELD. Madam President, I will be happy to respond to the chairman.

We have been making an effort to corral potential amendments, at least, and get a list of them.

I have a possiblility of an amendment by Mr. GRASSLEY relating to older Americans' employment; an amendment by Mr. ROTH on jobs; and a possible amendment dealing with the same subject that was dealt with by an amendment of the Senator from West Virginia, the chairman, which the Senate had already acted on en bloc, to the transportation office in the White House; a possible sense-of-the-Senate on Bosnia and Herzegovina; and one possibility of unauthorized funding.

All of these are, I think, with the exception of maybe amendments by Mr. ROTH, Mr. GRASSLEY, and one by Mr. BROWN on cargo preference—I think there are about three of those for certain, and the others are on the iffy side, at this point.

Mr. BYRD. Very well. I thank the distinguished Senator.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Madam President, over the last few days we have been discussing the supplemental appropriations bill. I, as a member of that committee and chairman of the transportation subcommittee, have had many discussions with the chairman of the full committee and the chairman of the Subcommittee on Defense regarding the supplemental proposed on behalf of the Defense Department. I have urged that deficit spending currently in this bill be offset, and we have come to a conclusion here that I think is very beneficial.

When the House of Representatives considered H.R. 2118, the supplemental appropriations bill for fiscal year 1993, it added $1.2 billion in new money for the Pentagon. The administration did not request the new deficit spending. The new money remains in the Senate version of the bill, which provides $1.9 billion in total.

Madam President, the administration did not ask for an additional $1.2 billion in spending for the Department of Defense, as is included in the supplemental bill.

The administration identified existing resources within its current budget to pay for American troops involved in peacekeeping operations in Somalia without inflating the deficit. Secretary of Defense Aspin sought to transfer $750 million from his existing budget to pay for the bill. The funs were to come from programs that he determined are low priority and not critical to the national defense. The transfer requires congressional approval.

Instead of approving the transfer, however, the House of Representatives disregarded the recommendation of the Secretary of Defense to pay for the effort in Somalia out of existing funds. Instead, it added $750 million in new spending to cover the Somalia effort, plus an additional $466 million for good measure.

Madam President, of course our Government must pay for this Somalia operation. Nor is there any argument that the additional $466 million is for meritorious programs like enforcing the no-fly zone in Iraq, or paying medical benefits for the military. That is not the issue here.

The only issue is whether to pay for the Somalia operation by deficit spending or by reallocating money from existing defense funds. The Pentagon has set its priorities. It is willing and able to pay for Somalia out of existing funds, as is the President. Why should Congress tell them to do it differently?

There are many good reasons why we should not. First and foremost is the deficit. The Federal Government is already in debt to the tune of $4.2 trillion. And soon the Senate will consider a deficit reduction package that includes hundreds of billions of dollars worth of new revenue, in addition to hundreds of billions of dollars in program cuts. What we are trying to do is desperately get ahold of our deficit problem.

Our Nation pays a terrible price if we go deeper and deeper into the red.

That is what this bill does to our Nation. One need not be a mathematician or accountant to figure out the arithmetic. If we keep this $1.2 billion in new spending, the deficit will increase by a like number, $1.2 billion. That is $1.2 billion more that we are going to borrow from our children and grandchildren. It is $1.2 billion more that will hang around the neck of economic recovery.

The American people have sent a clear message to us over the last few months: Cut before we spend, and choose our priorities carefully.

We should allow the Defense Department the flexibility to respond to international contingencies.

However, we owe it to the American people to choose priorities in defense spending, just as this supplemental legislation does in domestic spending.

All domestic discretionary outlays added in the legislation are offset by reductions out of the existing domestic budget. However, none of the defense spending is paid for out of the existing budget.

We should not increase the deficit when, in this instance, at least, the administration has explicitly stated that it can meet our defense needs within existing funding levels through specific transfers.

Others have argued that by agreeing to the $750 million in reprogramming, we will undercut the readiness of our Armed Forces. However, a rather superficial look—let us say, a cursory look—at some of the programs deemed to be low priorities by Secretary Aspin in the reprogramming request demonstrates that in many cases this is a false assertion.

Should we really be spending nearly $40 million designated for salaries for personnel who are no longer serving? Do we really need to spend money buying advanced cruise missiles when the program has been canceled? Can we really afford a new executive jet for the top Coast Guard admiral?

As chairman of the Senate Transportation Appropriations Subcommittee, I carefully reviewed the justification for the C-20 and other programs in the reprogramming request and found that there are some that we just cannot afford, including a new executive jet for the Coast Guard commandant.

In this reprogramming request, the Pentagon makes a persuasive case that we do not need these items for our national security. Some may take issue with these and other recommendations. It is fair to have a disagreement. However, if the Congress does not accept the Pentagon's recommendations, we have a responsibility to work with them to identify other funds from the existing budget that can be transferred, rather than adding willy-nilly to the deficit.

The amendment that will be offered will save the American taxpayers money by offsetting $1.2 billion in deficit spending added to the bill. An amendment to offset these funds has been endorsed by the National Taxpayers Union and the Council for Citizens Against Government Waste.

I ask unanimous consent, Madam President, that the text of these organizational endorsements, along with a copy of a New York Times editorial supporting this effort, be printed in the RECORD.

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

NATIONAL TAXPAYERS UNION,
Washington, DC, June 10, 1993.

Hon. FRANK LAUTENBERG,
U.S. Senate,
Washington, DC.

DEAR SENATOR LAUTENBERG: On behalf of the National Taxpayers Union, I am writing to express our support for your amendment

to cut additional funds for the Department of Defense that the Administration did not request and are included in the FY '93 Supplemental Appropriations bill.

The Administration did not ask for the additional $1.2 billion that is included in the Supplemental. In fact, the Pentagon has identified $750 million in offsets to cover the costs of the request for Somalia. Your amendment to eliminate the funds, rather than add $1.2 billion to the deficit does the taxpayers a tremendous service.

The federal government is already projected to run a deficit of over $300 billion this year. To add to this expected record deficit, in the name of unrequested funding, would be an affront to current and future generations of taxpayers.

We applaud your $1.2 billion deficit reduction effort and hope the Senate will approve your amendment rather than new deficit spending.

Sincerely,

JILL LANCELOT,
Director, Congressional Affairs.

COUNCIL FOR
CITIZENS AGAINST GOVERNMENT WASTE,
Washington, DC, June 11, 1993.

Hon. FRANK LAUTENBERG,
U.S. Senate, Senate Hart Office Building, Washington, DC.

DEAR SENATOR LAUTENBERG: I am writing to express the Council for Citizens Against Government Waste's (CCAGW) support for your amendment to cut the $1.2 billion in new unrequested defense spending in the fiscal year 1993 supplemental appropriations bill. CCAGW may rate this vote in its annual ratings.

This new spending was not requested by the Clinton administration or the Armed Services Committee. Instead the Appropriations Committee decided to approve new spending and add to the already out-of-control deficit. It is unnecessary and fiscally irresponsible to appropriate money for programs that the Pentagon offered to fund by reprogramming. This amendment is an important step in restoring fiscal sanity to this country.

Sincerely,

THOMAS A. SCHATZ.

[From the New York Times, June 11, 1993]

FORCING MONEY ON THE MILITARY

The Senate Appropriations Committee followed the House's lead this week and approved $1.2 billion in additional spending for the Pentagon. The money will be used for relief efforts in Somalia, health insurance for military families, the repair of storm-damaged Marine bases, air operations over Iraq and aid to the Kurds—worthy causes all.

The odd thing is that the Pentagon didn't ask for the money. To pay for these causes, it was prepared to reprogram funds it didn't need, like $274 million to buy executive jets for the top brass and V.I.P.'s.

But what may be fat even to the Pentagon is prized pork for some members of Congress. Damn the deficit, they declared. Full speed ahead. Representative Joseph McDade even warned of a "return to the days of the hollow Army, the hollow Navy, the hollow Air Force" if the $1.2 billion was not added to an already bloated Pentagon budget. Only his argument is hollow.

Senators Jim Sasser, Charles E. Grassley and Frank R. Lautenberg want the full Senate to put an end to this excess. They're right.

Mr. LAUTENBERG. Madam President, if the military had needs that cannot be met within existing resources, the administration should have asked for the money. Until then, the Congress ought to put the taxpayers' credit card back in its wallet.

Madam President, I have had several discussions with the chairman of the Appropriations Committee, as well as the chairman of the Subcommittee on Defense in Appropriations. It is their desire to try to work as vigorously as anyone else to make sure that the deficit does not increase. And I want to compliment each one of them for the effort that they put in to offset deficit spending in this bill and protect our military readiness.

So I think we have arrived at a way to do that which the chairman of the Appropriations Committee is going to propose soon as an amendment. I hope our colleagues will support this amendment. It is responsible. It is appropriate fiscal management. At the same time, it makes sure that our defense needs, which have already been cut, are not cut to the bone or to the point at which we cannot answer the call when required.

So, as we look here at ways to best serve the needs of our country and the personnel who serve it, what we have to do is, provide them with what they need and at the same time, keep our eye, if you will, on the other ball, and that is the deficit. That is what is being proposed in our amendment which will fully offset defense spending in this legislation.

I commend my colleagues for working to find a way to see that we control deficit spending. I am delighted that we are going to approach it in the same sound fiscal manner as we have tried to approach all of the other needs for Government.

I yield the floor, Madam President.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER (Mr. ROBB). The Chair recognizes the Senator from Nebraska [Mr. EXON].

Mr. EXON. I thank the Chair.

Mr. President, as an original cosponsor of the pending Lautenberg amendment, I rise to urge my colleagues to support this measure and strike a blow for very reasonable fiscal responsibility.

The $1.2 billion in additional Department of Defense spending contained in this supplemental appropriations bill is to cover unexpected spending for important military priorities which I strongly support. This amendment does not question the need to fund the cost of our operations in Somalia or our enforcement of the Iraqi no-fly zone. I hope that the Senate is unanimous in its support of these and other deserving military programs. What is being debated is how to pay for this supplemental request. And that is the heart and soul of the Lautenberg amendment which I cosponsor.

The Department of Defense offered to offset these rising costs by reprogramming $750 million in funds previously appropriated by the Congress but no longer necessary. In fact, certain military programs identified in the programming request and being offered as an offset were never wanted by the Pentagon in the first place. I turn my colleagues' attention to the $274 million for executive support aircraft contained in the Pentagon's reprogramming request.

For years, the Congress has been telling the Defense Department it must get tough, it must understand, it must non-competitively purchase executive support aircraft, similar in size to a Lear jet, even though there was no military need for these dozens of planes. The feeding frenzy for local aviation jobs courtesy of a reluctant Pentagon and its well-worn charge card became so bad that I authored an amendment to the 1993 Defense authorization bill fencing all new money until the Pentagon reported back to Congress telling us what support aircraft it had, what it needed, whether it planned to transfer some excess planes from the active forces to the reserve forces, and how it was planning to competitively determine which of the many makes of planes it would buy, if more aircraft were, in fact, needed.

Nine months have gone by since Congress asked for this report and we have heard nothing, Why? The answer is simple. The Pentagon doesn't want the aircraft. It doesn't need the aircraft. It's telling the Congress what we sometimes have a hard time telling ourselves: The obvious. Don't spend money on unnecessary programs, especially at a time of scarce resources and ballooning debt.

By approving the administration's original request and reprogramming funds from this and other low-priority defense programs, the Senate will be taking a stand against the business-as-usual approach of, on one hand, charging new spending against the mountainous debt and, on the other, wringing our hands back home about how it takes time and the time is now to make tough budget choices.

But then again, what is $750 million in the scheme of things? Veritable chicken feed for a ravenous national debt with a hunger so great that it takes away 1 out of every 6 tax dollars collected for interest on the debt alone. There are many places in this great country where $750 million is a lot of money. And if with smug indifference we simply throw it into the national debt black hole, we will have once again asked every taxpayer to shoulder just a little more financial burden today and for generations to come.

A vote for the Lautenberg amendment is sensible and fiscally responsible. It will not harm our military's ability to provide for our Nation's security. But it is also more. Passage of the amendment will be a symbolic blow

against business as usual. It will reassure the already skeptical American taxpayer that the U.S. Senate, for at least 1 day in the month of June, has rededicated itself to having the Federal Government live—or attempt to live, or give some signal that we care about living—within our means.

I referenced in my remarks that 9 months ago I requested—we requested as a Senate—a report from the military as to the needs of this type of aircraft. Interestingly enough, I was not playing business as usual. Interestingly enough at that time there was a consideration to purchase some of this type of executive aircraft—executive aircraft, not fighting aircraft—that would be built partially, at least, in Lincoln, NE. I thought it was an outrage, although the normal, expected thing to do in those circumstances was to keep your mouth shut and maybe create a few jobs at home.

I am not against creating jobs. But I am against the things that are being attempted in this particular area, that further erode the confidence of the people of the United States, even though it can be said that this is a little amount of money and we should not worry about it.

I was against this proposition even though it might have benefited, directly, my home community and a potential manufacturer there. I simply say that business as usual is something we cannot afford. I hope the Senate will have the wisdom to overwhelmingly agree to the amendment that I think is very timely and is offered by the Senator from New Jersey.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the President pro tempore [Mr. BYRD].

AMENDMENT NO. 477 TO THE SECOND EXCEPTED COMMITTEE AMENDMENT ON PAGE 13, LINE 1 THROUGH LINE 16

Mr. BYRD. Mr. President, during the Appropriations Committee markup of this bill, Senator LAUTENBERG expressed his concern that the $1.25 billion in funding for the Department of Defense contained in the bill was not offset, and he stated at that time that he would attempt to offer an amendment to offset the spending because, as he stated, it would add to our national deficit.

I, subsequent to that point, as chairman of the full committee, asked Senator INOUYE, the chairman of the Subcommittee on Defense, and Senator LAUTENBERG to visit with me in my office together with Senator SASSER, who was a cosponsor of the Lautenberg amendment.

So we had some discussions. I think those discussions were profitable to the time of the Senate because they had led to, I believe, a proposal which will be supported by not only Senator LAUTENBERG and Senator INOUYE and Senator SASSER, but also Senator HATFIELD and Senator STEVENS and others. This amendment which we have suggested, that I offer on behalf of all of us who are named therein, rescinds $1.25 billion from the Department of Defense so as to fully offset the initiatives funded in the bill as requested by the administration.

And so I shall offer this amendment on behalf of myself and Mr. LAUTENBERG and Mr. SASSER and Mr. HATFIELD and Mr. INOUYE and Mr. STEVENS. As I say, it will fully offset the initiatives funded.

The offsets include the $750 million in funds proposed by the Department of Defense in a reprogramming request to fully offset the costs of United States peacekeeping in Somalia. Second, the amendment reduces funds for classified programs appropriated in fiscal year 1993 but not now planned for expenditures. And, third, for military personnel costs which no longer need to be funded in fiscal year 1993.

The House chose, as Mr. LAUTENBERG so correctly stated, not to offset any of these programs since the Defense Subcommittee is $2 billion under its budget allocation for 1993 spending and, furthermore, the amounts provided for defense in 1993 are more than $14 billion below the amounts allocated in the Budget Enforcement Act for defense spending. Therefore there is no budget requirement to offset the bill.

Nevertheless, we are daily concerned about the deficit and this amendment ensures that, even though the House action is proper and is allowed under the rules of the Budget Enforcement Act, the spending for these needed and requested defense matters will not add to the deficit and will be fully offset.

I am mindful that the leaders of the Defense Subcommittee, Senator STEVENS and Senator INOUYE, who as I have already indicated have joined me on this amendment, are concerned about further requirements well in excess of another $1 billion that we will need to meet later in this fiscal year. Sources that we are using to fully offset the $1.2 billion in this amendment will not, of course, be available to fund those upcoming requirements later in the year. So there will be mounting pressure on the Defense budget as we go along.

I know Senators INOUYE and STEVENS are aware and concerned about this matter. I also appreciate the concerns—may I repeat—that have been raised by the distinguished Senator from New Jersey [Mr. LAUTENBERG], and I thank him for not offering the amendment in the committee. But he indicated in the committee that it was his intention to do so when the bill was called up for debate on the floor. There was no question but that it was a controversial amendment to be brought up in the committee and it would have taken considerable amount of time and would still have to be brought up on the floor and take perhaps a lot of time on the floor. So the Senator from New Jersey was considerate of my urging that he not call the amendment up in the committee but wait until action on the floor. And I want to express my thanks, again, to him for his fine cooperation, that he always affords to the chairman of the full committee. I also wish to thank my chairman of the Defense Appropriations Subcommittee, DANNY INOUYE. In doing so, I recognize that he has a very difficult assignment.

He works hard at it. He is very dedicated, very effective, very competent and very considerate of the situation in this instance. I am pleased that he has worked to try to resolve this matter. And I also extend my thanks to his counterpart on the Defense Appropriations Subcommittee, Mr. Stevens. I thank my own counterpart, Mr. HATFIELD, on the full committee for his cooperation and support of the amendment.

So, Mr. President, the amendment which I have offered includes all the sources that Senator LAUTENBERG used in his amendment and additional sources which have been indicated by Mr. INOUYE and Mr. STEVENS and which follow the principle of offsetting the defense spending in this bill for the full amount. I send the amendment to the desk.

(Ms. MOSELEY-BRAUN assumed the chair.)

Mr. BYRD. Madam President, I ask unanimous consent that the pending committee amendment be set aside for the purpose of allowing this amendment to be offered to the appropriate excepted committee amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for himself, Mr. LAUTENBERG, Mr. SASSER, Mr. HATFIELD, Mr. INOUYE, Mr. STEVENS, Mr. BROWN, Mr. EXON, Mr. GRASSLEY, Mr. FEINGOLD, Mr. KOHL, Mr. GREGG, Mr. BUMPERS, Mr. WOFFORD, and Mr. BRADLEY proposes an amendment numbered 477 to the second excepted committee amendment on page 13, lines 1 through 16.

Mr. BYRD. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13, following line 16, add the following:

(RESCISSION)

SEC. . Of the funds available to the Department of Defense, amounts are rescinded from appropriations as follows:

Military Personnel, Army, $112,014,000;

Military Personnel, Marine Corps, $47,200,000;

Military Personnel, Air Force, $127,100,000;

Reserve Personnel, Army, $486,000;

Reserve Personnel, Air Force, $300,000;

National Guard Personnel, Air Force, $400,000;

Operation and Maintenance, Army, $6,408,000;

Operation and Maintenance, Defense Agencies, $35,000,000;

Aircraft Procurement, Army, 1993/1995, $3,000,000;

Procurement of Ammunition, Army, 1993/1995, $19,000,000;

Other Procurement, Army, 1993/1995, $21,900,000;

Aircraft Procurement, Navy, 1993/1995, $64,800,000;

Weapons Procurement, Navy, 1993/1995, $8,000,000;

Other Procurement, Navy, 1993/1995, $81,450,000;

Missile Procurement, Air Force, 1993/1995, $45,300,000;

Other Procurement, Air Force, 1993/1995, $150,000,000;

Procurement, Defense Agencies, 1993/1995, $22,200,000;

National Guard and Reserve Equipment, Defense, 1993/1995, $257,950,000;

Research, Development, Test and Evaluation, Army, 1993/1994, $6,200,000;

Research, Development, Test and Evaluation, Navy, 1993/1994, $36,200,000;

Research, Development, Test and Evaluation, Air Force, 1993/1994, $115,092,000; and

Research, Development, Test and Evaluation, Defense Agencies, 1993/1994, $90,000,000.

Mr. BYRD. Madam President, I ask unanimous consent that in addition to the cosponsors that I have already indicated, the following Senators be added as cosponsors: Senators EXON, GRASSLEY, FEINGOLD, KOHL, GREGG, BUMPERS, BRADLEY, and BROWN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Will the Senator yield?

Mr. BYRD. Yes.

Mr. LAUTENBERG. Madam President, I just wanted to say that, as usual, the chairman of the Appropriations Committee, a wise counsel, provides good advice. When I asked about the possibility of bringing this amendment up during the markup on the Defense bill, he recommended, I might say even strongly, that no amendments be offered at that time. Rather he urged me to allow that the bill be reported. And so we are addressing the issue here today. This is a very important piece of legislation that we are discussing. With these supplemental funds, we are not just talking about the military. We are talking about almost $2 billion of supplemental spending that is of a very serious nature. It was the desire of the chairman of the Appropriations Committee, Senator BYRD, and the distinguished ranking member of the Appropriations Committee, Senator HATFIELD, to move the bill to the floor so it could be debated and so we could provide desperately needed funds for those critical programs.

Certainly we include the defense portion in that category. There is not anybody who says we should not have aided Somalia, brought in food, and tried to save lives—not at all.

Does anybody here want to disagree with the no-fly zone being enforced over Iraq? No one I have heard from, I must tell you. We know these responsibilities are cascading. I know we have to have enough personnel, well trained and motivated. The Government needs to be responsible and help them protect us.

So, once again, it is the leadership of the chairman of the Appropriations Committee and everybody's dear friend and teacher, if I may, Senator INOUYE, which enables us to do that. Senator INOUYE has enormous responsibilities with the largest appropriations bill. He must guide it through many a mine and missile field. And still he must be able to respond to the fiscal requirements we have in front of us now, and that is try to do something about cutting the deficit. We all have that responsibility as well.

So I want to thank both the chairman of the committee and the chairman of the subcommittee, Senator INOUYE, for working with me to solve this dilemma that we have; that is, to maintain readiness, to maintain the force that we require, and at the same time, to be responsive to the demand across this country to do something about the deficit.

So I thank my colleagues. I hope everybody will support this amendment.

If I may inquire of the chairman of the Appropriations Committee, have the yeas and nays been ordered?

Mr. BYRD. The yeas and nays have not been ordered.

Mr. LAUTENBERG. Would it be appropriate at this time to request them?

Mr. BYRD. It would certainly be appropriate.

Mr. LAUTENBERG. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. LAUTENBERG. I yield the floor.

Mr. INOUYE. Mr. President, this amendment would rescind $1.25 billion from the Department of Defense. The rescissions are from many and varied specific DOD accounts. Rather than enumerate each account let me describe the amendment this way.

First, the amendment would rescind $750 million of the funds proposed as sources by DOD in its reprogramming 93-1 to offset the costs of United States peacekeeping in Somalia. In addition, the amendment reduces funds for classified programs and for military personnel costs which no longer need to be funded in fiscal year 1993.

Mr. President, I am offering this amendment reluctantly. I believe we should be adding the $1.2 billion to DOD for these emergency requirements, not using previously appropriated funds to offset costs of emergencies. The Defense Subcommittee is $2 billion under its budget allocation for 1993 spending. In addition, the amounts provided for Defense in 1993 are more than $14 billion below the amounts allocated in the Budget Enforcement Act.

Therefore, there is no budgetary requirement to offset this bill. I recognize that many of my colleagues believe that controlling the deficit is a more important consideration. This amendment will ensure that the deficit is not increased even for worthy causes such as Somalia peacekeeping and military health programs.

Mr. President, as chairman of the Appropriations Subcommittee on Defense, I feel compelled to put down a marker and to provide an early warning to my colleagues. The Defense Subcommittee is aware that there are well over $1.2 billion in unfunded requirements that the Department of Defense must meet in this fiscal year.

The subcommittee had planned on using the sources identified by DOD for Somalia to cover a significant portion of these unfunded costs. We will no longer have that option. Furthermore, to meet immediate requirements, we have identified additional sources to cover the costs of this bill.

In doing so, we have further restricted the subcommittee's ability to use previously appropriated funds to meet critical DOD needs which we know will emerge throughout the remainder of this year.

Mr. President, I will address the Senate soon about the problems facing DOD. This is not the time to offer a lengthy discourse about our Nation's defense.

Let me just say, that we are in dangerous waters. We can no longer act precipitously in reducing defense. Each cut recommended will bring real pain to the military departments and to the men and women who serve in our Armed Forces. This amendment may not be the straw that breaks the camel's back, but we are close to that point.

Reluctantly, I recommend that the Senate adopt the amendment.

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. Madam President, I rise in strong support of the Lautenberg initiative. It seems to me it is the essence of good budgeting in a moment in which we ought to praise the Pentagon for having identified their ability to live within a budget.

What is essentially happening here is we are funding needs, that can be described as urgent, through rescissions. That I think is the essence of good budgeting by this Congress; that is, to provide for new needs as they arise by trimming back other expenditures. It is a practice that I think shows great promise for our ability to meet budget demands in the future.

So I am strongly in support of the initiative that has been championed by Senator LAUTENBERG. I want to express my strong praise for his efforts because I think his perseverance and his commitment in this area has led to a very significant development on this bill.

I also want to express my great appreciation to the distinguished chairman of the Appropriations Committee and the ranking member for including me as a cosponsor of this amendment. I am delighted to be allowed to join them in this effort.

Setting priorities, as the committee has done in this instance, can make an enormous difference as we move forward in this decade toward meeting our goals and objectives on the deficit. I believe the kind of commitment the committee has shown in this regard deserves the praise and support of every Member of this body. I yield the floor.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Madam President, I wish to join my colleagues in praising the amendment offered by the President pro tempore which was originally authored by the Senator from New Jersey. This is an excellent piece of legislation and it is the type of fiscal responsibility that gets us on the right path toward deficit reduction.

I noticed that the Senator from Nebraska mentioned that in some places this might be considered chicken feed. He noted it was not chicken feed in Nebraska, and it would not be chicken feed in New Hampshire. In fact, the amount being saved with this amendment would operate the budget of New Hampshire for 1 year. It is a fairly significant sum. It all adds up.

I want to congratulate the parties who worked hard to make this a successful effort. I hope it brings fiscal responsibility to the process. I yield the floor.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. Is there further debate?

The Senator from Alaska.

Mr. STEVENS. Madam President, I supported the appropriation of $1.2 billion in new defense spending to respond to costs that we could not foresee when acting on the fiscal year 1993 Defense appropriations bill.

The Defense Subcommittee did not use its entire allocation for 1993, not anticipating the specific new missions in Somalia and continuation of the Iraq no-fly enforcement.

I believe these new appropriations are fully justified, and should be in addition to the spending otherwise provided to the Department of Defense.

After close consultation with Senator INOUYE, chairman of the Defense Subcommittee, I have agreed that we can offset these new appropriations by making reductions in other programs where funds will not be spent this year.

While I am troubled by some of these cuts, in programs which I feel still have great merit, the overriding need to protect the vital O&M funds for the Department make this the most sensible decision at this point in the fiscal year.

I hope all members take note of Secretary Aspin's letter to the Senate concerning this supplemental bill. He makes clear the need for urgent action on this measure.

All of us have worked closely with the new Secretary during his time as chairman of the House Armed Services Committee, and know he would not make this request unless these funds were genuinely important for the military.

This amendment responds to the concerns of some members who believed that defense and domestic discretionary spending should abide by the same offset requirements.

Members must understand that the commitment of United States military forces to Somalia, to Yugoslavia, or other potential peacekeeping sites is not a free good.

There is no allowance in the Defense budget for operations on the scale of Restore Hope in Somalia. If the military is to be engaged in these sorts of missions, we must be prepared to add funds during the year to pay those costs.

The sacrifice of American military personnel and their families from these missions should not be compounded by cuts in the critical health care, morale and quality of life programs on which those families rely.

I hope all Members have taken note of Secretary Aspin's letter to the Senate concerning this supplemental bill, and I ask that it be printed in the RECORD after my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. STEVENS. Madam President, in conclusion, the Secretary has made clear the need for urgent action on this measure. I, too, commend the chairman and ranking member for their actions. I have tried to work as closely as possible with my good friend, the chairman of the Defense Subcommittee, and we have agreed to this substitute on the basis that it will offset these new appropriations by making reductions in other programs where the funds will not be spent this year.

I am troubled by these cuts in programs that I feel still have great merit. The overriding need to protect the vital O&M funds for the Department make it the most sensible decision at this point of the fiscal year.

I think Members should remember that the commitment of U.S. military forces to Somalia, to Yugoslavia, and other peacekeeping sites is not free. There is no allowance in the defense budget for operations on the scale of Restore Hope in Somalia. If the military is to be engaged in these sorts of missions in the future, I think we must be prepared to add funds during the years to pay for these costs.

The sacrifice of American military personnel and their families in performing these missions should not be compounded by the cuts in critical health care, morale, and quality of life programs on which those families rely. But in this case, this amendment responds to the concerns of the Members who believe that the defense and domestic discretionary spending should abide by the offset requirements that apply to all programs, and I am pleased to agree to this amendment.

I again commend my colleagues for the work they have done in making sure that it was appropriate at this time.

EXHIBIT 1

THE SECRETARY OF DEFENSE,
Washington, DC, June 15, 1993.

Hon. ROBERT J. DOLE,
Minority Leader, U.S. Senate, Washington, DC.

DEAR MR. LEADER: This letter seeks your support for the timely passage of the fiscal year (FY) 1993 supplemental appropriations bill. The bill is essential for the Department of Defense to meet urgent needs and the large expenses incurred in our participation in Somalia relief operations. Originally the Department proposed a reprogramming for its Somalia expenses. However, we have since identified additional requirements that exceed both our transfer authority and reprogramming sources.

If a way is not provided to meet these requirements, the prudent readiness levels of our armed forces will be at risk. Currently, our forces are working hard to stay in good shape in spite of large personnel losses and turbulence, and severe budget pressures. But their readiness is vulnerable to even moderate shortfalls in their Operation and Maintenance (O&M) accounts. Without the O&M funding in this bill, Army training exercises will be cut back substantially, ship steaming hours will be reduced, and flying hours will fall below the level needed to ensure the proficiency of our pilots.

To keep U.S. forces "ready to fight" in this demanding time for our defense posture, I urge you to support speedy passage of the FY 1993 supplemental appropriations.

Sincerely,

LES ASPIN.

Mr. KOHL. Mr. President, I was proud to be an original cosponsor of Senator LAUTENBERG's amendment and equally proud to be a cosponsor of Senator BYRD's amendment.

I am proud because, I adopted, this amendment will prevent $750 million from being added to the deficit. While that is certainly not an insignificant sum, I hope and expect that it will pale in comparison to the money we could save if we accepted the principle behind this amendment.

That principle is simply this: we ought to pay for what we do.

Not a radical notion to most Americans. But revolutionary to many in government. Pay for what we do.

Last year, the military forces of the United States went to Somalia on a mission of mercy. But mercy can cost money. And in this case it did: roughly $750 million.

That was obviously an unexpected expenditure. We could not plan or budget for it. So at the end of the year, the Department of Defense sat down

and tried to figure out how to pay for it.

We often criticize the Pentagon for bad planning. But this time they did just what they should have. They looked at what they had spent and then figured out how to pay for it. It wasn't easy, it wasn't painless. But they did it. They said they would cover the costs of the Somalia operation by eliminating or reducing funding for less important, lower priority programs.

That sort of behavior should be encouraged. It should be praised. It should be supported. It should never—never—be ignored.

But that is what the House decided to do.

The House decided that rather than accept the Pentagon's efforts to pay for the program through reprogramming requests, they would simply let them spend the money. Not even try to offset it. Just add it to the deficit.

Under the budget rules, we can do that. There is room to do it under the budget caps. But just because we can does not mean that we need to or that we should.

The point to remember, Mr. President, is that we can pay for the costs we incurred. Not easily. Not without some pain. But we can do it. The Pentagon identified enough lower priority programs to do it. And if we don't like their list, or if changing circumstance require changes in the list, we can modify it through the normal reprogramming process.

But there was no effort made to find offsets in the House. Because there was room in the budget, because we could spend the money, we did.

That, Mr. President, is why we have a $4 trillion debt.

The Senate Appropriations Committee looked for offsets in other areas. And the committee in general and the chairman in particular should be praised for that. It forced the chairman, and the committee, to make some very painful choices. For example, we cut back on summer jobs because we could not come up with the money to pay for a program I believe we all support. We were forced to deny a number of legitimate and pressing requests for funds because we could not figure out how to pay for them.

Those decisions were and are painful. Some, I hope, will be reversed. In that regard, I will join with Senator BUMPERS and others to offer an amendment to restore funding the SBA loan program. But our amendment accepts the principle of paying for what we do. We went through the information available to us and we found some offsets. We found a way to pay for it. We simply did not say this is an important program—let's add to the deficit to pay for it.

The point, Mr. President, is that we have simply got to abandon the assumption that we can spend more than we have as a matter of course. Our assumption must be that we will pay for what we do. That is the assumption that the Pentagon accepted when it suggested cuts in low priority programs. That is the assumption that Senator LAUTENBERG and I accepted in our amendment and which the Senate will ratify when we adopt the Byrd amendment.

The Byrd amendment will not create a hollow army. It will not destroy our military readiness or threaten the service men and women who protect us. It will, however, prevent our promises of fiscal frugality from being just hollow words. It will, I hope, make us more ready to get on with the task of cutting the deficit. And it will protect the economic future of the men and women who live in this country.

Mr. FEINGOLD. Mr. President, I am proud to be an original cosponsor of the amendment offered by the distinguished chairman of the Appropriations Committee, Mr. BYRD, and the Senator from New Jersey, Mr. LAUTENBERG. I support this amendment very, very strongly. This amendment raises two critical issues:

First, are we serious about reducing the Federal deficit and paying for what the Federal Government spends?

Second, are we going to apply a double standard to domestic spending and defense spending?

When the Clinton administration submitted its request for $750 million to cover the costs of "Operation Restore Hope" in Somalia, it identified $750 million in low-priority defense programs to be reprogrammed to offset the new defense spending being requested.

The House, however, disregarded the administration's offset requests and, in fact, added $450 million in supplemental defense spending, bringing the total of new defense spending to $1.2 billion.

The House action would thus add $1.2 billion to the Federal deficit—$1.2 billion in new Federal spending that we haven't paid for—money we would add to the $4 trillion that we have left for future generations to pay.

I was one of the few Democrats who recently was unable to support President Clinton's economic stimulus package. That opposition was based upon one fact—it wasn't paid for. The economic stimulus package would have added some $16 billion to the Federal deficit.

That was a very difficult position for this freshman Senator to take. I did not enjoy withholding my support for President Clinton's initiative. I did not like hearing from State and local officials in Wisconsin, and many, many Wisconsin constituents who wanted me to vote for the economic stimulus package.

I did not like voting against additional funding for programs like Head Start, childhood immunization, urban development—programs that I strongly support and strongly believe have been underfunded.

But I ran for the U.S. Senate last year on a platform to reduce the Federal deficit; I could not in good conscience—as one of my first actions—vote for additional Federal spending that was not offset by either new revenues or reductions in other programs.

I cannot turn around today and vote to add some $1.2 billion in unfunded spending for the Department of Defense—something I refused to do for programs throughout Wisconsin.

What makes this so untenable is the fact that the administration identified low-priority items to offset the new spending.

Let me give you some examples of what these offsets included: $274 million to buy executive aircraft which are used primarily by VIP's and Members of Congress; and $80 million for SDI, or star wars as it has often been called.

Let me give you some examples of where some of the additional new spending is going: $5 million for a national security education trust fund; and $71.6 million for repairs to Marine Corps facilities, including the El Toro Base which is slated to be closed under the current round of base closing.

Mr. President, let me stress again, the Clinton administration did not ask for additional unfunded defense expenditures—they were added by the House Appropriations Committee. The Clinton administration proposed spending offsets for the $750 million that it requested.

This amendment does not eliminate the defense requests—it simply provides that they must be paid for.

This amendment asks that the Defense Department use the same kind of discipline that we ask from the rest of the Federal Government—establish spending priorities and reallocate spending according to those priorities.

There is simply no reason why defense spending should be spared the same kind of discipline that is imposed upon all Federal spending. Opponents argue that DOD has taken unfair cuts in the deficit reduction process and that continued cuts will create a hollow force.

The truth is the Department of Defense has had an artificially high budget in past decades. Moreover, the Pentagon is the agency most affected by the end of the cold war. While we must maintain a strong, responsive, and advanced military, we do not need to spend the trillions of dollars on defense that we did in the previous decade.

It simply is not credible to suggest that we will imperil our national security by requiring that the defense funding requested in this supplemental be offset—somewhere in the enormous defense budget. Indeed, the administration has already done most of the work

for us in identifying the $750 million in offsets for the funds that the administration initially requested.

What is imperiling our national security is the Federal deficit and unchecked deficit spending. This is an amendment that should be adopted unanimously. It will send a very clear message that we are serious about reducing the deficit and paying the bills that the Federal Government runs up.

If we send a different message—that the Pentagon has a special credit card that doesn't have to be paid for—it will be very hard to ever achieve what is most important to our Nation's long-term security—reduction of the Federal deficit.

I applaud the chairman of the Appropriations Committee, the Senator from West Virginia [Mr. BYRD] for putting forth this amendment and the Senator from New Jersey [Mr. LAUTENBERG] for his leadership on this issue.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Madam President, I announce that the Senator from Wyoming [Mr. SIMPSON] is necessarily absent today due to the death of his father.

I also announce that the Senator from Indiana [Mr. LUGAR], the Senator from New Hampshire [Mr. SMITH], and the Senator from Wyoming [Mr. WALLOP], are necessarily absent.

I further announce that the Senator from Pennsylvania [Mr. SPECTER] is absent due to illness.

I further announce that, if present and voting, the Senator from Wyoming [Mr. SIMPSON] and the Senator from Wyoming [Mr. WALLOP] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 95, nays 0, as follows:

[Rollcall Vote No. 159 Leg.]

YEAS—95

Akaka	Craig	Hatch
Baucus	D'Amato	Hatfield
Bennett	Danforth	Heflin
Biden	Daschle	Helms
Bingaman	DeConcini	Hollings
Bond	Dodd	Hutchison
Boren	Dole	Inouye
Boxer	Domenici	Jeffords
Bradley	Dorgan	Johnston
Breaux	Durenberger	Kassebaum
Brown	Exon	Kempthorne
Bryan	Faircloth	Kennedy
Bumpers	Feingold	Kerrey
Burns	Feinstein	Kerry
Byrd	Ford	Kohl
Campbell	Glenn	Lautenberg
Chafee	Gorton	Leahy
Coats	Graham	Levin
Cochran	Gramm	Lieberman
Cohen	Grassley	Lott
Conrad	Gregg	Mack
Coverdell	Harkin	Mathews
McCain	Nunn	Sarbanes
McConnell	Packwood	Sasser
Metzenbaum	Pell	Shelby
Mikulski	Pressler	Simon
Mitchell	Pryor	Stevens
Moseley-Braun	Reid	Thurmond
Moynihan	Riegle	Warner
Murkowski	Robb	Wellstone
Murray	Rockefeller	Wofford
Nickles	Roth	

NOT VOTING—5

Lugar	Smith	Wallop
Simpson	Specter	

So the amendment (No. 477) was agreed to.

Mr. LAUTENBERG. Madam President, I move to reconsider the vote.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Madam President, I ask unanimous consent that the second committee amendment, as amended by the Byrd-Hatfield-Inouye-Stevens-Lautenberg amendment be adopted.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Madam President, I yield the floor to the Senator from Hawaii, and then I would like to explain the situation on behalf of the managers.

Mr. INOUYE. Madam President, I ask unanimous consent that the pending committee amendment be set aside for consideration of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 478

Mr. INOUYE. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE] proposes an amendment numbered 478.

Mr. INOUYE. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, after line 25, insert:

ENVIRONMENTAL RESTORATION, DEFENSE

Under the heading "Environmental Restoration, Defense" in the Department of Defense Appropriations Act, 1993 (Public Law 102-396), the third, fourth, and fifth provisos are repealed.

Mr. INOUYE. Madam President, the Department of Defense Appropriations Act, 1993, included provisions which have had an unintended, adverse impact on communities relying on access to property owned by the Defense Department. The provisions sought to expedite the transfer of property to States and other entities by requiring the Federal Government to indemnify recipients of properties from claims based on the presence or release of hazardous substances. While we could debate the Pentagon's interpretation of these provisions, their severe interpretation has led to a moratorium on transfers of any property—a result which is exactly the opposite of that intended.

This result has aggravated the impact of base closure and defense budget reductions on communities. Many local groups are diligently trying to move forward with plans to replace the economic loss caused by base closures and downsizing of the Department of Defense.

Madam President, as we all have heard, the economic security of this country is a priority for the new President and the Secretary of Defense. The Department of Defense must resume the practice of leasing and transferring property to communities to promote the economic development so vital to restoring our economy.

I am proposing an amendment which repeals the provisions related to indemnification from the Department of Defense Appropriations Act, 1993. During recent hearings conducted by the Defense Subcommittee, I urged Defense Department officials to carefully consider this matter and work with this committee to develop a solution which would provide relief to struggling communities. This amendment was developed in consultation with the Pentagon, and it is my understanding that the Department of Defense will proceed with leases and transfers of property following enactment. I urge my colleagues in the Senate to adopt this amendment.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment.

The amendment (No. 478) was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Madam President, I would like the attention of my colleagues so that I may explain the situation. On behalf of the chairman of the committee, Senator BYRD, and myself as a comanager of the bill, we would like to take up the Bumpers amendment next. We would like to dispose of the Bumpers amendment, which would require a vote on a waiver, I believe, of the Budget Act. Then we would like to have a listing of the amendments yet to be considered. We would like to lock them into that series of amendments. Then we would like to go back to the majority leader for further action on other matters, or adjournment, or whatever.

So that is the managers' hope. I ask at this time if the Senator from Arkansas [Mr. BUMPERS] would be willing to enter into a time agreement?

Mr. BUMPERS. I would be happy to do this in 30 minutes, equally divided.

Mr. HATFIELD. Madam President, I ask this before proposing a unanimous-consent request to put that to the vote. I would like to indicate that Senator BUMPERS' proposal initially had part of a contribution from the space station. Will the Senator explain that point?

Mr. BUMPERS. Madam President, our amendment offsets $175 million for the Small Business Administration's 7(a) program, which has been shut down since April 26. They have presently 3,800 loan applications ready to go. The offset comes from about seven different places. Most of it comes out of the Small Business Administration. Some of it comes out of the Israeli television thing, which is dead, as the Senator knows. I think it is $34 million out of that.

There is one small problem I would like to proceed with, and that is that the Office of Management and Budget did not, frankly, want us to use the space station. They wanted us to use what is called WPA, Western Power Administration. There is money in the fund there to settle a lawsuit; there is $40 million left. The staff of Senator JOHNSTON's subcommittee tells me the House has used that. I would like to leave it in so we can go to conference with it. If we do not have that money and do not get it in conference, SBA, the 7(a) loan program will be shut down again September 1.

Mr. HATFIELD. Madam President, I am trying to reduce the scope of the opposition. I propose at this time a 30-minute time agreement on the Bumpers amendment, equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. I thank the Senator.

AMENDMENT NO. 479

Mr. BUMPERS. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] for himself, Mr. LIEBERMAN, Mr. KOHL, Mr. LAUTENBERG, Mr. WELLSTONE, Mr. KERRY, Mr. WARNER, Mr. STEVENS, Mr. BAUCUS, Mr. REID, Mr. DODD, Mr. DOMENICI, Mr. BURNS, Mrs. FEINSTEIN, Mr. BRYAN, Mr. MATHEWS, and Ms. MOSELEY-BRAUN proposes an amendment numbered 479.

Mr. BUMPERS. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 11, line 17, strike "expended." and insert the following: "expended.

SMALL BUSINESS ADMINISTRATION

BUSINESS LOANS PROGRAM ACCOUNT

For an additional amount for "Business loans program account," for the cost of section 7(a) guaranteed loans (15 U.S.C. 636(a)), $175,000,000, to remain available until expended, of which $15,000,000 shall be derived from funds provided under this heading in Public Law 102-395 for the Small Business Investment Company Program.

DISASTER LOANS PROGRAM ACCOUNT

(RESCISSION)

Of unobligated balances available under this heading, $80,657,000 are rescinded.

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 102-395, $2,000,000 are rescinded.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 102-395 from offsetting collections to be earned by the Securities and Exchange Commission in fiscal year 1993, $11,700,000 are rescinded.

BOARD FOR INTERNATIONAL BROADCASTING

ISRAEL RELAY STATION

(RESCISSION)

From obligated and unobligated balances available under this heading, $180,000,000 are rescinded.

DEPARTMENT OF COMMERCE—ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT REVOLVING FUND

(RESCISSION)

In addition to sums rescinded elsewhere in this Act, of the unobligated balances in the Economic Development Revolving Fund, $16,000,000 are rescinded.

DEPARTMENT OF ENERGY

(RESCISSION)

From unobligated balances available under this heading which were appropriated to the Western Area Power Administration in Public Law 102-377, $40,000,000 is rescinded.

Mr. BUMPERS. Madam President, I offer this amendment on behalf of myself, Senators LIEBERMAN, KOHL, LAUTENBERG, WELLSTONE, KERRY, WARNER, STEVENS, BAUCUS, REID, DODD, DOMENICI, BURNS, FEINSTEIN, BRYAN, MATHEWS, and MOSELEY-BRAUN.

Madam President, since we are going to do this in such a short period of time, I will be very brief. Senator DOMENICI wanted to be heard on this, and I want him to be. But the proof of what we are doing is right here on these charts. I ask unanimous consent that this table of job creation by the 7(a) Guaranteed Loan Program under this amendment be inserted in the RECORD.

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

SMALL BUSINESS ADMINISTRATION GENERAL BUSINESS (7A) LOAN INFORMATION (BY STATE)

[Total request: $3.3 billion, dollar amounts in millions]

	Fiscal year 1993 supplemental request	Employee growth	
		1st year	4th year
Alabama	$60.7	653	2,565
Alaska	24.0	258	1,014
Arizona	33.7	363	1,424
Arkansas[a]	33.4	359	1,411
California	554.3	5,964	23,419
Colorado	68.9	741	2,911
Connecticut	42.1	473	1,779
Delaware	6.9	74	292
District of Columbia	24.8	267	1,048
Florida	114.7	1,234	4,846
Georgia	129.3	1,391	5,463
Hawaii	6.3	68	266
Idaho	24.8	267	1,048
Illinois	95.8	1,031	4,048

SMALL BUSINESS ADMINISTRATION GENERAL BUSINESS (7A) LOAN INFORMATION (BY STATE)—Continued

[Total request: $3.3 billion, dollar amounts in millions]

	Fiscal year 1993 supplemental request	Employee growth	
		1st year	4th year
Indiana	30.4	327	1,284
Iowa	65.8	708	2,780
Kansas	63.2	680	2,670
Kentucky	25.3	272	1,069
Louisiana	45.2	486	1,910
Maine	27.0	291	1,141
Maryland	12.4	133	524
Massachusetts	44.3	477	1,872
Michigan	56.1	604	2,370
Minnesota	61.2	659	2,586
Mississippi	42.9	452	1,813
Missouri	87.1	937	3,680
Montana	50.7	546	2,142
Nebraska	24.7	266	1,044
Nevada	15.8	170	668
New Hampshire	53.8	576	2,260
New Jersey	50.7	546	2,142
New Mexico	36.5	393	1,542
New York	174.5	1,878	7,373
North Carolina	42.4	456	1,791
North Dakota	22.1	238	934
Ohio	69.9	752	2,953
Oklahoma	33.0	355	1,394
Oregon	44.8	482	1,893
Pennsylvania	74.9	806	3,165
Puerto Rico	48.2	519	2,036
Rhode Island	22.1	238	934
South Carolina	27.8	299	1,175
South Dakota	24.6	265	1,039
Tennessee	58.7	632	2,480
Texas	307.1	3,304	12,975
Utah	28.5	307	1,204
Vermont	34.7	373	1,466
Virginia	28.5	307	1,204
Washington	121.4	1,306	5,129
West Virginia	17.7	190	748
Wisconsin	103.5	1,114	4,373
Wyoming	12.1	103	511
National totals	3,309.0	35,605	139,805

Mr. BUMPERS. I am sorry I do not have a table for that side, but I invite my colleague on that side of the aisle to walk over here or simply pick up a copy of the table on his desk and find out what this involves concerning jobs in our respective States. It is $181 million for the 7(a) guaranteed loan program which was included in the President's stimulus package.

When the package failed, this 7(a) program was shut down. It has been shut down since April 26. As I pointed out to the Senator from Oregon, there are 3,800 good loan applications pending that the SBA needs to make totaling almost $1 billion.

Madam President, the thing that is absolutely fascinating, if you stop and think about it, is for $175 million you get almost 35,000 jobs in 1994 alone. Tell me where else, for $175 million, you can get 35,000 jobs. Over a 4-year period, this $175 million, which will generate $3.19 billion in loans, will generate almost 140,000 jobs. Those jobs cost about $780 each. I must say when you consider a space station job at $100,000 or super collider job at $100,000, that ought to be attractive to 100 Senators.

Mr. JOHNSTON. Madam President, will the Senator yield for a question?

Mr. BUMPERS. I am happy to yield.

Mr. JOHNSTON. Madam President, I certainly support what Senator BUMPERS is trying to do here, and the WPA, Western Power Administration, moneys fall within my appropriations subcommittee. So I am very familiar with that. I think the Senator understands

that the money he is talking is $40 million, I believe; is that correct?

Mr. BUMPERS. That is correct.

Mr JOHNSTON. That rests on the assumption there is $100 million more or less available to WPA in this fund, because $60 million has already been used by the House, and the 602(b) allocation which we received in our subcommittee was based on receiving the House bill in the same shape that it came from the House, that is to say, with the $60 million already transferred for WPA.

There is a question about how much money is available. I know Mr. Panetta believes that is more than the $60 million already used by the House.

Mr. BUMPERS. Mr. Panetta called me about three times today to assure me. I must say your staff director and I had a couple conversations about it. He seems to me to be on top of it.

Since we have a short time, let me simply say this. I understand exactly where the Senator is going. I understand his concern. It is also a concern of mine.

If we have to drop the offset when we go to conference, we will just have to drop it. But there is another item. The reason I want to include the Western Area Power Administration offset in the total offsets for $175 million is because I think there is another program in the supplemental that we can use as an offset if this does not work.

Mr. JOHNSTON. Madam President, I was going to ask the Senator if we could have the money included under that assumption.

Mr. BUMPERS. Absolutely. I have no objection to that. Certainly, we cannot use the money if it is not available. If it is not there, if the House has already used it, as the Senator's staff director has told me, then it is not there.

Mr. JOHNSTON. The problem is you can take the money and then if the money is needed, it would have to come from something else. That is the problem.

Mr. BUMPERS. That is true.

Mr. JOHNSTON. So, I would be willing to let this stay in on the basis that if we find out this much money is not available, we find another source for it.

Mr. BUMPERS. I am more than happy to do it on that basis.

Mr. JOHNSTON. Madam President, I support Senator BUMPERS in what he is doing here and am very glad to take this to conference and hope it turns out that we have that much money.

Mr. BUMPERS. I thank the Senator very much.

Ms. MIKULSKI. Madam President, will the Senator from Arkansas yield?

Mr. BUMPERS. I am happy to yield.

Ms. MIKULSKI. Does the Senator from Arkansas wish to identify the source, if the WPA does not work?

Mr. BUMPERS. It is not the space station, I say to the Senator. Does that satisfy the Senator?

Ms. MIKULSKI. Yes. Not everyone should intrude on the Senator's keen strategic thinking, but I did.

Mr. BUMPERS. Bear in mind, I am only one Senator. Hopefully, I will be a conferee, but I have no assurance I will be on the supplemental.

Mr. JOHNSTON. I thank the Senator.

Mr. BENNETT. Madam President, will the Senator yield further?

Mr. BUMPERS. I am happy to yield to the Senator from Utah.

Mr. BENNETT. Madam President, with the understanding that the space station is out, will the Senator allow me to be listed as a cosponsor?

Mr. BUMPERS. Madam President, I ask unanimous consent that Senator BENNETT be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Maybe we can avoid a rollcall in a minute.

Mr. DOMENICI. Madam President, will the Senator yield for an observation?

Mr. BUMPERS. I yield.

Mr. DOMENICI. Madam President, I am a cosponsor of this amendment and I want to tell the Senate that whenever the Senator from Arkansas or someone else offers a motion to waive a technical budget act point of order, I am going to support it, because I stress that it is only technical.

What happens is you allocate all the funds to the subcommittees consistent with current law, and this amendment will cause one subcommittee to be over its allocation. But the cap that is on all discretionary is still on and we do not break it. In other words, we have saved money on some of the other allocations, $57 million in the committee bill, such that if you are $57 million over in the subcommittee that the Senator is adding money to, you are still under the mandatory limit on expenditures.

I believe we cannot fix it any other way, other than waiving the act for technical reasons. And I would think that this technical reason does not justify vitiating an amendment that will indeed create jobs.

The reason SBA has so much demand is because the banks are not lending money due to regulatory pressures and related concerns. The SBO is a big source of money for small business and it is vital we reinvigorate the guaranteed loan program.

I thank the Senator.

Mr. BUMPERS. I thank the Senator.

Madam President, the Senator from New Mexico just made a very cogent point. The small business community of this country is desperate right now, and the reason they are desperate is because the banks can lend $1 million to a customer at no more cost and considerably less risk than they can a $100,000 loan. So they are not making the loans.

The Finance Committee, most unfortunately, cut out the small business capital gains provision in the reconciliation bill.

So here you have the banks not loaning money. We give them no hope, because we took out the capital gains provision.

This program has been shut down since April 26. The demand this year is 31 percent higher than last year, and last year was 37 percent higher than the year before. The Senator from New Mexico just made the point as to why that is happening.

So, Madam President, I think everybody is pretty much agreed we have to get this program going again. There is not one single dollar the Federal Government spends that generates more jobs per dollar than this. Let me repeat, $780 per job. There is not a chamber of commerce in America that would not love to have all the jobs you could bring them at that cost.

So without taking any further time—Madam President, how much time do I have remaining?

The PRESIDING OFFICER. Six and one-half minutes.

The Senator from California.

Mrs. FEINSTEIN. Madam President, I rise to thank the distinguished Senator from Arkansas for his advocacy for this small business loan program. I come from a State where this program is actually one-half of what the entire administration's stimulus package in jobs would be for California.

The administration's stimulus package would have brought 50,000 jobs. This program, over the same time, brings almost 30,000 jobs in providing new jobs.

Madam President, in California today there are 465 loans that have been approved that cannot be authorized, because as of April this program was out of money. These are not make-work jobs. These are real jobs in the private sector from companies that are going to grow and thrive, and this is the way we should go.

I think the small business loan program is one of the most valuable the Federal Government supports. And what makes it even better is, as Senator from Arkansas just referred, it leverages over $3 billion of loans which is pumped into the economy.

This is an extraordinarily important program. We have received literally hundreds of letters and phone calls saying please help, from banks, from supply companies, from mechanic shops, you name it. And those are applications that are pending.

So I would also like to thank the Senator from Arkansas for agreeing not to fund this from the space station, because the space station in my State also is a big project that has 10,000 jobs this year, highly skilled and important. For every public dollar spent on the space station it will invest $7 in the private sector.

Madam President, in conclusion, I want to say thank you very much, Senator BUMPERS, and to your State for

having the good taste to elect you so you can be here to fight hard for this small business program. I am pleased to join you.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Madam President, I do not believe there are any opponents of this amendment. Therefore, I ask unanimous consent that the time allocated to the opponents be transferred to the proponents, so I can yield time to about five people who wish to speak.

The PRESIDING OFFICER. Is there objection?

Mr. HATFIELD. Madam President, let us keep the time agreement as is.

The PRESIDING OFFICER. There is objection.

Mr. BUMPERS. Madam President, I ask unanimous consent that Senator BINGAMAN be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Let me say to the Senator from Oregon and Senator FORD, that Senators LAUTENBERG, LIEBERMAN, BOND, and WELLSTONE all wish to speak and I will just let the Senator from Oregon allocate the time.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Madam President, I believe I have 15 minutes.

The PRESIDING OFFICER. The Senator is correct.

Mr. HATFIELD. Madam President, I am happy to yield 2 minutes to the Senator from Connecticut, 2 minutes to the Senator from Montana, 2 minutes to the Senator from New Jersey, and 2 minutes to the Senator from Missouri, and I have a few minutes left after that.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair and I thank my distinguished colleague.

And I thank our friend from Arkansas for his steadfast leadership here in the Senate on behalf of the small business community.

Madam President, the fact is, as has been pointed out, that this is the best thing that Congress will have done—this amendment to create jobs in America—since we came into session early this year. It will create 140,000 jobs, and almost 1,780 alone in the State of Connecticut.

And we need this for a simple reason. The Senator from New Mexico said it and said it well. The banks are still not lending money. The only way a lot of good, solid small businesses—these are not fly-by-night operations—can get money to invest in new equipment, to hire new workers is with an SBA guarantee.

In the State of Connecticut alone, we are almost 50 percent higher in SBA applications under this program than we were a year ago.

Let me give you two quick examples of companies, real companies, who are going to benefit from this.

In the city of Norwalk, CT, I visited a man. He likes to make boats and he is a great boatmaker. He has a contract from the city of New York to build two garbage scows. He cannot get a bank to loan him the money to buy the equipment and to hire the workers. His application has been approved by the SBA. It is waiting in Hartford to be funded but he cannot get it unless we pass this amendment.

And, finally, in the town of Berlin, CT, a maker of plastic molding products has a contract from a company in Rhode Island. He can hire 15 workers if he can get the loan from SBA. It is totally approved, waiting for this amendment to pass. That is what is going to happen all over America if we pass this amendment.

Mr. President, to those who say the economic recovery is underway, I say you have not come to Connecticut. Connecticut continues to suffer from one of the worst recessions in recent memory—unemployment remains high and businesses continue to fail. Since 1989 Connecticut has been crushed by the loss of more than 180,000 jobs and we have seen little, if any, new job creation.

One of the reasons for Connecticut's current economic crisis is the credit crunch which is impeding economic growth and job creation. The fact is that creditworthy businesses—particularly small businesses—cannot get loans from banks. They will continue to suffer unless we act soon.

That is why I rise in full support of the amendment offered by Senator BUMPERS to provide additional funding for the critical small business loan guarantee program. The credit crunch has precipitated a dramatic increase in the amount of SBA funding being sought by small businesses. In fact, in the first 4 months of fiscal year 1993, gross SBA lending exceeded levels for all of fiscal year 1991. This level of activity has been increasing steadily and as a result, the program has run out of funds. The SBA window is closed.

The SBA loan guarantee program is nothing short of a safety line for the thousands of small companies which have been and continue to be denied credit—denied credit not because they are failing or fledgling but because they have been consumed by a banking crisis which has swept across many regions of the country. That is why the SBA program has experienced a 26-percent increase in demand nationwide, and nearly a 46-percent increase in Connecticut.

Mr. President, let me be clear that these are not companies of marginal economic utility. The fact is that, both nationally and in Connecticut, small businesses continue to make strong contributions to the U.S. economy. There are now approximately 20 million small firms in the United States which employ 6 of every 10 working people. In fact, of the 20.5 million business tax returns filed in 1991, fewer than 7,000 would be classified as big. In Connecticut more than 85 percent of Connecticut's businesses are small, accounting for more than 40 percent of the State's employment.

Small businesses are not merely a component of economic growth, they are the foundation. Small firms are the principal place where new products are generated and tested. They create the majority of new jobs. They are more flexible in responding to shifting markets and changing demographics, and are able to bring more products to market faster than big businesses. They are free from the pressures of stockholders and quarterly earnings, they, by their very nature, are focused on the long term.

Mr. President, one of the unfortunate aspects of the defeat of the jobs stimulus package is the fact that SBA 7(a) loan guarantee program has run out of funds. Banks all over Connecticut are contacting me with reports of approved loans ready to go once funds are provided by Congress. But, in the meantime, those small businesses cannot go forward with their planned expansion and job creation. Let me be clear, jobs created through the SBA loan program are not make-work government jobs. They are solid private sector jobs created by small businesses.

Mr. President, aside from making economic sense, this program makes fiscal sense. One big advantage of money spent on the SBA program is the multiplier effect of every dollar. Every million dollars in Federal funds for the program translates into $20 million in loans to small businesses. And, this does not include the additional lending impact generated by the 7(a) secondary market.

Everybody agrees on the importance of this program. Funding was included in the President's stimulus package; funding was included in the Dole-Hatfield substitute to the stimulus package; and funding was contained in the supplemental recently passed by the House. This amendment will make credit a reality for thousands of companies and is projected to create more than 140,000 jobs. Connecticut alone will benefit by the creation of more than 1,220 jobs. This is no panacea, no silver bullet, but it is a large step in the right direction.

The credit crunch is strangling New England's economy and impeding New England's economic recovery. Without action, banks cannot provide credit; without credit, businesses cannot grow; and without business growth, jobs cannot be created. It is as fundamental as that. This is an important amendment and I urge its adoption.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Madam President, I appreciate the work of the Senator from California. We do not have a station, but we have a lot of space. We also need this program.

And if there was one thing that I heard from banking institutions during my town meetings the last time I was home was: "We are not trying to create too many more jobs. We are trying to hang on to the ones we have." And that is especially true in States that are natural resource States, where times are not that good.

This is very, very important. It is not because the banks do not have the money. It is the rules and regulations that this Government has put on banks that is crippling them from really, really being the financial underpinning of our local communities.

So it is very important. Seventy-six percent of the businesses in Montana are small businesses. And this is their source. So I think it is very important. I know it is important when we talk about our State's small businesses where 76 percent of our jobs come from.

I thank the Senator. I serve on the Small Business Committee with him. He has always been a great champion of small business men and women. I thank him for this amendment.

I yield the floor.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. I thank the Chair.

Madam President, as usual the Senator from Arkansas, the chairman of the Small Business Committee, makes eloquent sense when he describes what is necessary to tackle the problem that small businesses have in getting credit. This amendment offers us one opportunity to make a difference in solving that problem.

Everyone knows that employment growth comes from the small business community.

Before I came to the Senate, I ran a company that specialized in servicing small businesses. The company that I started services 250,000 companies, averaging 50 to 60 employees per account, which is a pretty good representation of small businesses across the country.

Though I do not run the company any more, these small companies still have growing pay rolls. However, often small business people like these cannot find the investment funds to start or to expand their businesses. This amendment is one essential way to do it. The 7(a) program is a terrific program.

I have been a member of the Small Business Committee since this term of the Senate began. The skills of the professional staff and the examples they bring to us confirm that small business will put people to work, will get things going. But small businesses need a source of funds and the banks are just not there.

This amendment, by replenishing funds for this 7(a) program, offers an important step in solving this problem.

Madam President, I rise today to join my colleague, the chairman of the Senate Small Business Committee, in support of this amendment.

This amendment reminds us that what we do in this Chamber is not on behalf of issues or abstractions—but on behalf of real people with real concerns.

My State is hurting. The recession—which seems to have crept away in some parts of the country—has not loosened its grip on New Jersey. Some 295,000 people are out of work. Nearly every New Jersey family has felt the recession's squeeze.

Yet, in the midst of these dim times, there are men and women in my State who want to lead us out. These intensely optimistic and intensely pragmatic souls want to build small businesses. They are willing to take risks and work hard, and ask not for a handout, but merely for a hand up.

Many of them have gone to their local lenders and arranged for a small loan guaranteed by the SBA's 7(a) Program. But when their loans were approved, the final step in getting their businesses up and running, many of them heard the following news:

There is no money left. The pot has run dry.

Now, I am not here to deliver a lecture on capital markets or accounting practices or some other abstraction. I am here to tell you that when there is no money left—when the pot runs dry—real people in my State suffer.

Take Richard Draves in Randolph, NJ. Mr. Draves has been out of work for a year, but created a solid business plant to open a store in Mount Olive. He found some investors who liked his idea, and then he applied for a 7(a) loan to purchase his inventory. His loan was approved but now the fund is empty.

That means Mr. Draves—who has worked hard, done all the right things, and been approved for a loan—cannot get any money. And it means the storefront he wants to move into will remain vacant, and the people he wants to hire will remain unemployed.

Or consider Steve Bybel in Kingsbury. He runs a small glass business and wants to purchase a larger building to operate his company. He too has done all the right things and he too was approved for a 7(a) loan. Yet he cannot get his money either. If Mr. Bybel cannot move into a new building, he will not be able to hire any new employees, and might have to lay off some he already has.

Or consider Richard Pavese who runs a hair salon in Livingston. He is doing well, and wants to expand his shop and hire six more people. He too has done all the right things and he too was approved for a 7(a) loan. But, you guessed it, he cannot get his money.

Madam President, the list goes on—talented, committed small business people who simply want to work hard and create jobs. We need to get them the resources they need to lead New Jersey and the Nation to recovery. If this loan fund is replenished, we will unleash about $40 million in new small business loans in my State, which will eventually mean about 1,700 new jobs.

How do we get the dollars we need to keep this loan program operating? We can do it without raising taxes or adding to the deficit.

Senator BUMPERS and I want to obtain these funds by taking them from several places they cannot be used well and putting them where they can do well.

I urge my colleagues to support this amendment.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Madam President, I thank the Chair, and I thank the Senator from Oregon.

I ask unanimous consent to be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Madam President, I wish to commend the Senator from Arkansas. I, too, serve on the Small Business Committee with the Senator, and we have discussed at great length the roadblocks to the creation of jobs in small business in this country.

Over the last 10 years, as large businesses have been cutting 2 million employees, small business has added 10 million employees.

But we know that there are tough times ahead for small business. We are not going to deal with all of the problems of small business in this amendment tonight, because small business does suffer when there are excessive regulations. Small business suffers when there are Government burdens in the form of taxation.

But the one area where we know that small business is being denied the power and the vitality to grow and create business is in credit. Because of the restrictions imposed by this body on lending institutions in the wake of the savings and loan fiasco and by overzealous regulators in financial institutions, there has been significant discouragement to loans by banks and other financial institutions.

The (7a) Program gives us the opportunity to provide the credit that will create the jobs. It is a pleasure to join with the Senator from Arkansas in this amendment. This will stimulate growth in the economy. I urge my colleagues to support it.

I thank the Senator from Arkansas and I yield the floor.

The PRESIDING OFFICER (Mr. CAMPBELL). The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I want to wait until the distinguished Senator yields back time. Then I have a unanimous-consent request, if he is going to.

Mr. HATFIELD. Mr. President, what is the time factor?

The PRESIDING OFFICER. The Senator from Oregon has 6 minutes and 25 seconds.

Mr. BUMPERS. Mr. President, do I have any time remaining?

The PRESIDING OFFICER. The Senator from Arkansas has 3 minutes and 18 seconds.

Mr. BUMPERS. I yield the remainder of my time.

Mr. HATFIELD. Mr. President, I yield the remaining time.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Budget Act be waived with reference to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I thank the Chair. I assume that means we do not have to vote on the point of order. Are we going to vote on the amendment?

Mr. BUMPERS. Parliamentary inquiry, Mr. President? The Budget Act has been waived by unanimous consent, but that will still require a vote on the amendment, will it not?

Mr. KOHL. Mr. President, as a cosponsor of the amendment by Senator BUMPERS, I rise in strong support of the Small Business Administration's 7(a) Loan Guarantee Program.

Until recently, this program did not receive much attention. It was just one of many growth incentive programs offered by various agencies of the Federal Government. In recent months, however, we have come to understand the immense value of this initiative.

Small business 7(a) loan guarantees are a model for the type of public-private partnership that can make our economy grow. For instance, the guarantees spur innovation: a 1992 independent study showed that about 14 percent of firms that started with a 7(a) loan were selling a new product or service.

Further, 7(a) loan guarantees expand the diversity of the American labor market: the same 1992 study found that, on average, almost one-fourth of a 7(a) firm's employees are people of color, Americans with disabilities, or undereducated workers.

And perhaps of most importance, 7(a) firms exhibited faster growth than did small businesses in general: between 1984 and 1989, a sample of 7(a) loan recipients enjoyed 22 percent more growth in revenues—and 65 percent more growth in employment— than did other small businesses.

In 1 year alone, the funds we can secure with this amendment will generate over 35,000 permanent, private sector jobs. Over 4 years, the investment will yield almost 140,000 jobs. Our amendment will not add one penny to the deficit. It is entirely paid for through recissions in other programs. In addition, a Price Waterhouse study indicates that government makes a profit from 7(a) loans. The taxes collected on revenues will exceed the amount we spend on this program. If that is not sound fiscal policy, I do not know what is.

Madam President, it is a cruel paradox that the bankrupt Federal Government has an easier time borrowing money than do America's boldest new entrepreneurs. We have heard over and over about the importance of small business to our country's economic future. To me, the choice is clear, and I hope my colleagues will join me in supporting the Bumpers amendment.

Mr. CHAFEE. Mr. President, I would like to say a few words regarding the Bumpers amendment, and make some general comments about the Small Business Administration [SBA] 7(a) Loan Guarantee Program in particular. I am pleased to join Senator BUMPERS as a cosponsor of this amendment, and hope for its adoption.

The Bumpers amendment addresses an important need. The SBA 7(a) Program is a critical support at a time when the Nation's small businesses are struggling to obtain credit. Thanks in part to stringent regulations that call into question nearly every loan made to a small business in a struggling economy, the small banks that serve as the source of funds for many local businesses simply cannot act without a guarantee from the Government.

In my view, Mr. President, this is a sad state of affairs. It is a shame that the Federal Government has to become directly involved through the 7(a) Program to help banks complete their basic function, making loans. This is why I have sponsored legislation to change some of the regulations that place the greatest burden on lending institutions. We should not have to revisit SBA funding levels each year because we can't seem to get out of the business of building obstacles to credit.

Meanwhile, however, I see no better alternative than to appropriate new funds for the 7(a) Program. Small businesses in my State have nowhere else to turn without SBA-backed loans. Small businesses provide the bulk of the new jobs that are created each year, and to rock the boat now while they are just feeling their legs again would be self-defeating. I urge my colleagues to support this amendment, and to join me in support of my legislation to help address the credit crunch in an even more lasting way. My distinguished colleague from Arkansas, the chairman of the Small Business Committee, is an original cosponsor of my bill, and I thank him for his support and for bringing this amendment.

I thank the Chair.

SUPPLEMENTAL FUNDING FOR THE SBA 7(a) GUARANTEED LOAN PROGRAM

Mr. PRESSLER. Mr. President, I rise in support of Senator BUMPERS' amendment to provide additional funds for the Small Business Administration 7(a) Guaranteed Loan Program—our Government's largest and most successful source of capital for small businesses.

The 7(a) Program ran out of money to lend well over 1 month ago. Last week, additional funding for the program, which was contained in the House-passed supplemental appropriations bill, was dropped by the Senate Appropriations Committee due to a lack of offsets. If the necessary funding for the 7(a) Program is not found, small business owners—and potential owners—nationwide will suffer immensely. Without additional 7(a) money, our country's economic growth will stagnate.

Under the 7(a) Program, the SBA guarantees between 70 and 90 percent of the amount lent to a small business that is not able to obtain financing elsewhere. Small amount borrowers, minority borrowers, and female business owners, in particular, have a difficult time obtaining credit. The 7(a) Program greatly helps these cash-starved businesses obtain much needed capital. The 7(a) Program also is important because excessive Government regulations currently make it difficult or impossible for many banks to make these loans without the guarantee.

Without adequate funding, small businesses are unable to start new ventures, expand their operations, or hire new employees. Many simply need additional funding to provide the day-to-day working capital necessary to stay in business. Without the 7(a) Program, many may be forced to close their doors and send their workers to the unemployment lines.

Mr. President, I must note a measure of disappointment in the handling of this issue. When the 7(a) shutdown was announced in late April, I encouraged President Clinton—both by letter and in the form of legislation—to reprogram as much money as possible from other accounts at the SBA to keep this important program up and running. President Bush reprogrammed the necessary money when he faced a similar situation last year. I cannot understand why President Clinton did not take the same action to keep the program open. Regardless, I am happy to see a solution today.

The 7(a) Program has a proven track record of creating permanent private sector jobs. Obviously, it is not just small business owners who benefit from 7(a) loans. The people businesses hire, the communities in which they are located, and our Nation as a whole all

benefit, as well. In recent years, small businesses have added 4.1 million jobs, while big businesses actually have lost 500,000 jobs. It has been estimated that replenishing the fund would create an additional 12,000 jobs by the end of 1993. In my home State of South Dakota, the 7(a) Program helped create over 200 jobs last year alone.

Not only have SBA borrowers created more jobs, they also have had higher sales, paid more taxes, and produced greater after-tax profits than the small businesses that did not utilize the 7(a) Program. Increased tax bases greatly help local communities, as do the job growth and economic development assisted by these loans. For some communities, the 7(a) program may play a vital role in their very survival.

How does the government benefit from this program? It has been estimated the government's actual rate of return on the 7(a) Program may be as high as 264 percent. Through SBA loan guarantees, the government also takes advantage of the decisionmaking expertise of the private sector. This is because bankers have enough of their own money at risk to ensure that sound loan decisions are made and jobs are created efficiently.

If entrepreneurs are denied access to this program, the only possible results will be decreased sales, less job creation, and reduced profits. The loss of support that the 7(a) Program provides to small business owners will put a stranglehold on one of our Nation's most valuable assets—our entrepreneurs. Small businesses are our greatest hope for new job creation, but they cannot do it without the necessary capital. Meanwhile, 7(a) applications continue to stack up and the demand for these loans continues to rise. This program has been closed down since the end of April and small business owners who have been approved for loans anxiously are awaiting action by Congress and the administration.

For all of these reasons, I believe it is important that we support this amendment to fund the SBA's 7(a) guaranteed loan program for the rest of this year and fully fund the program in fiscal year 1994. Unfortunately, because of increased demand, we likely will find ourselves in a similar situation next year unless we act now.

In conclusion, Mr. President, let me say that the SBA's 7(a) Loan Program is supported strongly by both Republicans and Democrats. To keep the doors to this program closed will only hamper the economic growth we all are trying so hard to achieve.

Mr. STEVENS. Mr. President, this amendment appropriates $181 million into the SBA 7(a) Guaranteed Loan Program which will fund $3.3 billion in SBA loans.

For Alaska, this means an additional $24 million in capital for small businesses.

This capital translates into over 250 new jobs for Alaskans. I might add that small business creates over 85 percent of Alaskan jobs.

It is hard enough for small businesses to plan cash flow for new business development, expansion, and production. But, when they are counting on funds through the SBA guaranteed Loan Program and they don't come through, it can literally stop the business—dead.

That is what has happened to over 30 Alaska small businesses who are waiting for loan money guaranteed by the SBA. Over $5 million in SBA loans in Alaska are ready to go but for the dry well of loan guarantees at the SBA.

I have gotten more than a dozen calls in the last 2 weeks from credit-worthy small businesses with all of their clearances and approvals in line; but with no money in the SBA program, their checks can't be issued.

This is a critical time of the year for Alaska small businesses. As I have often told the Senate, our construction and tourism industries have a very short 3- or 4-month window to make it for the year, and without liquidity now through the SBA program, several could fail.

I am pleased to be an original cosponsor of my friend from Arkansas' amendment to make the valuable and highly effective SBA small business guaranteed loan program liquid again.

The PRESIDING OFFICER. The amendment still has to be disposed of.

Mr. BUMPERS. I ask unanimous consent Senator HARKIN be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. I thank the Chair.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 479) was agreed to.

Mr. BUMPERS. Mr. President, I move to reconsider the vote.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Senator HATFIELD is recognized.

Mr. HATFIELD. What is the parliamentary situation as to the bill?

The PRESIDING OFFICER. The pending question is the committee amendment as amended.

Mr. HATFIELD. Mr. President, I urge we adopt the committee amendment at this time.

The PRESIDING OFFICER. The question occurs on the committee amendment as amended.

So the first excepted committee amendment, as amended, beginning on page 11, line 3 through line 17, was agreed to.

Mr. HATFIELD. Mr. President, the bill is open for further amendment, is it not?

The PRESIDING OFFICER. The Senator is correct.

AMENDMENT NO. 480

Mr. HATFIELD. Mr. President, if I might have the attention of the Senator from Arkansas for just a moment? I have an amendment here, the Senator from Arkansas and the Senator from Mississippi [Mr. COCHRAN] have cosponsored, relating to the amounts provided under the Soil Conservation Service. I would like to offer the amendment on their behalf, if it meets the approval of the Senator from Arkansas?

Mr. President, the amount of money is $3.3 million for the emergency watershed protection program under the conservation service. These amounts are provided under the heading for the cost of direct farm ownership loans, Public Law 102-341, and $2.3 million are rescinded.

I offer this amendment at this time on behalf of the Senators from Arkansas and Mississippi. I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. HATFIELD], for Mr. BUMPERS, for himself and Mr. COCHRAN, proposes an amendment numbered 480.

Mr. HATFIELD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 5, between lines 10 and 11, insert:

Of the amounts provided under this heading for the cost of direct farm ownership loans in Public Law 102-341, $2,317,000 are rescinded.

On page 3, between lines 15 and 16, insert:

SOIL CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

For an additional amount for the emergency watershed protection program, $3,328,000.

Mr. HATFIELD. Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 480) was agreed to.

AMENDMENT NO. 481 TO AMENDMENT NO. 475

Mr. HATFIELD. Mr. President, earlier on, when chairman of the committee, Senator BYRD, was offering amendments en bloc, I had proposed an amendment that would provide the authorization to the Capitol Architect to acquire property for the home for the pages. That was based upon an action taken in August 1992, that related to a specific piece of property. I did not include in my amendment to give the authorization to acquire and to make improvements on that property, as did the act of 1992, which did provide for acquisition of a property specific as well as to make improvements.

Therefore I would like to offer at this time a technical amendment to clarify that authorization that we have already adopted, relating to the Capitol Architect, again, to secure property for a home for the pages and to make improvement on that property.

Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. HATFIELD] proposes an amendment numbered 481 to Amendment No. 475.

Mr. HATFIELD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of amendment No. 475 insert the following:

(b) FACILITIES.—The first sentence of subsection (d) of section 1 of such Act is amended—

(1) by inserting "(1)" immediately after "to make expenditures for"; and

(2) by inserting immediately before the period at the end thereof a semicolon and the following: "and (2) for the construction on such real property of any facilities thereon as authorized under subsection (f)".

Mr. HATFIELD. Mr. President, I think to keep a clarification, a very clear track of what we are doing, I would like to offer this amendment and vitiate the first amendment, and offer this amendment as a substitute which in effect does give to the Capitol Architect, an authorization to seek out certain properties for a home for the pages and to make improvements on those properties.

We are basing that on an action approved by the Senate in August 1992, to give the Capitol Architect authorization to secure a specific piece of property. That specific piece of property was not then acquired. So now we want to continue that authorization on a generality of seeking property, rather than a site-specific, and to make the same improvements that he had previously.

Therefore, I ask unanimous consent to vitiate the first amendment and to offer this one in its place. That ought to clarify.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 481) was agreed to.

Mr. HATFIELD. Is there an adoption of the new amendment to give that authorization to the Capitol Architect? We just finished that—complete?

The PRESIDING OFFICER. The new text will be included in the amendment.

Mr. HATFIELD. It is a very simple procedure that I have made very complex, but I think we have resolved it.

Let us get a complex issue, now, and make it simple.

Mr. President, I urge all Members to make known to the managers of the bill any amendments that they propose to offer. As I indicated earlier, we are very hopeful to complete the work for tonight on this supplemental by getting a listing of all amendments to be considered, lock them in, and then turn to the leader for whatever action he desires to take up.

Chairman BYRD has asked me to proceed on this matter. I am now with a list, and unless I hear otherwise within the next few minutes under a quorum call, we will proceed to list these amendments as the ones and only ones to be considered on the supplemental at a future time, whenever the leadership should so determine.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 482

Mr. DECONCINI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Arizona [Mr. DECONCINI] proposes an amendment numbered 482.

Mr. DECONCINI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 28, line 16, strike "$7,350,000" and insert in lieu thereof, "$11,277,000".

Mr. DECONCINI. Mr. President, this amendment increases the amount available for salary and expenses to the Secret Service to $11,277,000. This amount is still $3 million less than what was requested by the Secret Service to cover the unbudgeted costs of the Bush protection detail, the Pope's visit in August, the losses suffered as a result of the World Trade Center bombing, and the shortfall in funds to pay for the candidate-nominee protection bill. The amount is fully offset by reductions elsewhere in the bill.

Mr. HATFIELD. Mr. President, the amendment has been cleared on this side.

Mr. DECONCINI. Mr. President, I am advised that it has been cleared on this side.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 482) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NUNN addressed the Chair.

AMENDMENT NO. 483

(Purpose: To make a technical amendment to the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993)

Mr. NUNN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Georgia [Mr. NUNN], for himself and Mr. COVERDELL, proposes an amendment numbered 483.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . TECHNICAL AMENDMENT.

Title III of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993, is amended in the paragraph under the subheading "STATE REVOLVING FUNDS/CONSTRUCTION GRANTS" under the heading "ENVIRONMENTAL PROTECTION AGENCY" by striking "necessary work to remove and reroute the existing sewer lines at" and inserting "improvements related to the sewer system that services".

Mr. NUNN. Mr. President, this amendment has been cleared on both sides of the aisle. It clarifies the use of EPA funds set aside in the fiscal year 1993 VA-HUD appropriations bill for the city of Atlanta. There is no cost to this amendment. It is necessitated by changes in what the city of Atlanta wants to do with the original appropriation.

There is no commitment to the Federal Government to provide any more money than what has already been appropriated.

I ask the amendment be agreed to.

The PRESIDING OFFICER. Is there further discussion on this amendment?

Mr. HATFIELD. Mr. President, the amendment has been cleared on this side of the aisle, and I ask for its adoption.

The PRESIDING OFFICER. Is there further discussion on this amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 483) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 484

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Arizona [Mr. DECONCINI] proposes an amendment numbered 484:

On page 2, line 19, following the words "feed grains," insert "citrus,".

Mr. DECONCINI. Mr. President, this amendment deals with Commodity Credit Corporation funds and making them available for quality losses prior to 1993. The supplemental appropriations bill before us has this provision.

I wish to thank Senator BUMPERS, the chairman of the Appropriations Subcommittee, for making these funds available to growers affected by 1993 disasters, and I wish to talk about a related issue a little bit, Mr. President.

Growers in my State have been devastated by flooding that occurred earlier this year in Arizona. In-ground crop losses were immense. Land has been taken permanently out of production. Some of my colleagues may remember seeing on CNN in the month of February the loss of a lettuce crop; that was a loss that amounted to millions of dollars to Arizona growers. It is my hope that the disaster assistance provided in this bill will help these growers return to productivity.

The bill also makes growers of certain commodities eligible for this disaster assistance for losses in quality suffered in previous years. Earlier this year, Secretary Espy used his discretion to provide such assistance for corn and potato growers in response to quality losses these farmers suffered. It is only fair that if some growers be made eligible for quality losses, other growers be given the same consideration.

In Arizona, for example, cotton growers suffered enormous quality losses as a result of the white fly infestation. In 1992, these losses in Arizona were at least $53 million. This was a disaster which caused quality losses.

The amendment I am offering simply adds citrus to those crops named in the bill to be made eligible for assistance for quality losses. It would be greatly unfair to exclude citrus growers in Arizona, California, or elsewhere from eligibility. Growers of all crops should be made eligible for this assistance. It would be unfair to make other crops eligible and exclude citrus growers.

I urge my colleagues to adopt this amendment.

The PRESIDING OFFICER. Is there further discussion on the amendment?

Mr. HATFIELD. Mr. President, I am very sorry to say this has not been cleared on our side, and I could not approve this amendment at this time until we have had a chance to, first of all, get a copy of it. I do not even have a copy of the amendment. And I have had information that there would be objections raised on this side.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DECONCINI. I thank the Chair and I thank the Senator from Kentucky.

Mr. President, there is opposition to this amendment, and it is not my interest to keep people. As a matter of fact, I usually have interest in getting out at this time of night.

I ask unanimous consent that the pending amendment be set aside, and that, if an agreement is made, it be among those amendments for a vote certain, whenever that day may be, whether it is tonight or tomorrow or Tuesday next week.

Mr. COCHRAN. Mr. President, reserving the right to object, I do not intend to object. I want to inquire as to whether or not the managers of the bill have indicated an agreement to set aside amendments and to have a record vote at a later date. I had not heard a unanimous-consent request on that subject that had been entered.

Mr. FORD. Mr. President, may I say to my friend, we are trying right now to work out some kind of an agreement. Both sides are putting together the amendments at the request of the ranking member of the committee. Hopefully, we will have that done.

The Senator's request would be in order under those circumstances. He is trying to prevent being shut out being considered whenever an agreement is made. I think that is his request. It may not hurt. But I will assure the Senator that nothing will be agreed to tonight without his amendment being in it; that if he will wait until we agree to that, we can have a quorum call. Maybe we are very close to having some kind of an agreement.

Mr. COCHRAN. The point I am making is it may be better to have an understanding rather than try to enter an order for a time certain for a vote on this amendment, if there is no order entered that relates to other amendments. That is the point I am making.

Mr. FORD. His motion is if and when an agreement is reached, that he would be included in that. Otherwise, he would reserve his right to ask for a vote.

Mr. DECONCINI. The Senator from Kentucky is right. He phrases it better. You can tell the Senator from Kentucky is not a lawyer, that he can speak very clearly and concisely.

Mr. FORD. I thank my friend.

Mr. COCHRAN. He is a very talented legislator. I will stipulate to that as well.

Let me just say I will not object.

I withdraw my reservation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, under current authorities, nonprogram crops are eligible for disaster assistance on quality losses on the amount of the harvested crop which cannot be marketed through the normal commercial channels. Poor quality crops sold through the normal marketing channel at a discount rate are ineligible for disaster assistance on the loss resulting from the price discount. Assistance is available to producers with losses resulting from a natural disaster during the same calender year or in the previous year that affected the production of a crop.

The citrus producers in Arizona have already been reimbursed for loss on the 1990 citrus crop which resulted from the December 1990 freeze, and have subsequently experienced quality problems on the 1991, 1992, and 1993 crops related to the 1990 freeze. These producers have been able to market the poor quality crop through the normal channels, but at discounted prices. Adding citrus crops to the list of crops eligible for quality loss payments in 1990, 1991, or 1992, would, therefore, have minimal impact.

The authority proposed in the committee amendment extends to quality losses suffered by program crops, which, of course, was triggered by the Secretary's decision to make 1992 corn crop quality losses eligible for disaster assistance. These program crops would not otherwise be eligible for assistance.

I object to extending this authority to citrus, which along with a wide range of perennial crops, now qualify for disaster assistance for quality losses. Providing such assistance to follow-on losses resulting from damages sustained from a natural disaster in an earlier year on perennial crops would be costly and difficult to administer.

AMENDMENT NO. 485

Mr. DECONCINI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Arizona [Mr. DECONCINI] proposes an amendment numbered 485.

At the appropriate place in the bill, under General Provisions, insert the following General Provision:

SEC. . Of the funds appropriated for "Department of State, International Narcotics Control" in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993 (Public Law 102-391), $9,800,000 shall be made available immediately only for aircraft manufacture-certified upgrades of no fewer than eight existing UH-1 helicopters for use in international narcotics control operations in Latin America.

Provided, That none of the funds appropriated in this section shall be used to support the transfer or use of these helicopters in Guatemala.

Mr. DECONCINI. Mr. President, the amendment I am offering today is a simple earmarking of funds already appropriated in the fiscal year 1993 Foreign Aid Appropriations Act. My amendment would earmark $9.8 million of the funds appropriated for Department of State, International Narcotics Control, to upgrade no fewer than 8 existing UH-1 [Huey] helicopters for use in international narcotics control operations in Latin America.

My amendment also ensures that none of these funds could be used for any activities in Guatemala.

This action was supported by the Foreign Operations Subcommittee last year. It is not a new issue, but it is one on which the State Department has refused to act. I have discussed this matter with Senators LEAHY and MCCONNELL, the chairman and ranking member of the subcommittee and I appreciate their counsel on this issue.

I have also modified my amendment to accommodate the concerns of Senator MCCONNELL regarding the use of these helicopters in Guatemala. These are concerns which I share.

Last fall, in Senate Report No. 102-419, the committee report accompanying the fiscal year 1993 foreign aid appropriations bill, the committee recommended that the State Department use this money for the upgrade of these helicopters. The helicopters would be used to support drug interdiction activities in Bolivia, Columbia, and other Andean nations to enable them to combat the drug trade in those countries. This upgrade program would enhance the safety of the helicopters used in these activities. It would also provide a three-fold increase in the UH-1's ability to perform in high-hot environments while reducing operating costs by close to 36 percent and extending the overall life of the helicopter by close to 20 years.

Unfortunately, the State Department has refused to move forward with this initiative in fiscal year 1993, despite support from the INM Air Program officials. Time is slipping away, and these upgrades are desperately needed to allow our older Hueys to attack the drug traffickers in the high-hot climates in Latin America. In order to ensure that this program can proceed on a timely manner, it is important for State to make use of these funds. I would prefer that I did not have to take this route and offer this amendment. I would prefer that State would initiate this action on its own. But, it has been nearly 9 months and we are still waiting. I sympathize with the administration and its transition, but I hope that this is not foreshadowing for how the State Department will treat congressional directions when it requests flexibility and fewer congressional earmarks.

Here is why I am offering an amendment to force the Department to proceed with this important helicopter upgrade program.

First, the upgrade of these old Hueys is an affordable way to provide sophisticated aircraft to our allies in Latin America who are fighting the drug traffickers. We cannot afford to buy new helicopters for this important and dangerous mission, but upgrading existing Hueys to enhance their performance and allow them to fly into difficult terrain, is a good, affordable alternative. The drug smugglers are literally moving into higher, hotter terrain to avoid our helicopters. They know we cannot pursue them into the higher altitudes with the aircraft we currently have. This upgrade initiative will take away the smugglers' option to seek higher ground.

Second, the $9.8 million appropriated last year by the Senate was not overturned in conference with the House. In fact, under the procedures for the foreign operations bill, as I understand it, if an item is contained in one House's committee report and is not specifically overturned or modified in conference, it is agreed to in conference. Such is the case with this provision that was in last year's foreign operations bill. My amendment merely tells the Department to do what was contained in the Senate committee report.

Finally, this amendment does not add any more money to the bill, nor does it add to the deficit. The funds last year were made available within the total amount of appropriations for INM and have already been scored. My amendment merely tells State to release the funds and do what the Senate told them to do last year with regard to this important program.

Mr. President, this amendment, if approved, will make a significant difference in our war on drugs here at home in my region of the country, and in Latin America at the drug source. We need to make do with the assets we have, by making them better and more productive. This initiative does precisely that. Our Latin American allies have indicated their strong support for upgrading the Huey helicopters and we agree. This amendment will go a long way toward making that commitment.

I urge the adoption of the amendment.

Mr. President, I believe this amendment has been agreed to by both sides.

Mr. COCHRAN. Mr. President, I have just been advised by staff that this amendment has not been cleared that the Senator is offering at this time.

Mr. DECONCINI. If the Senator will yield, I was under the impression it had been cleared. It was cleared on this side. I assumed that it had been cleared on the other side.

Mr. COCHRAN. I have just been advised that this amendment has not been cleared. We are not able to clear that now unless there is some misunderstanding. I hope that the Senator would give us an opportunity to discuss it.

Mr. DECONCINI. Certainly.

Mr. COCHRAN. Maybe we can determine whether or not it can be cleared.

Mr. FORD. Under those circumstances, we will discuss it.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MR. COCHRAN. Mr. President, we have now had an opportunity to review on this side of the aisle the amendment offered by the Senator from Arizona [Mr. DECONCINI]. We are able to advise that this amendment is cleared on our side, and we have no objection to it being accepted by the Senate.

Mr. FORD. Mr. President, I thank my friend from Mississippi for his good work. The amendment is obviously cleared on this side. We thank them for joining in. The amendment is ready for adoption.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Arizona.

The amendment (No. 485) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. Mr. President, for clarification, the pending business of the Senate is the DeConcini amendment dealing with agriculture.

The PRESIDING OFFICER. The question occurs on that DeConcini amendment.

Mr. DECONCINI. Mr. President, I have another amendment that I talked to the manager, the distinguished Senator from Kentucky, about and that I just wanted a mix of it. The committee has been advised. That deals with the Defense Department and approximately $4 million. It has not been

cleared on that side of the aisle. It has been cleared on this side.

I would like that to be in the mix, whatever is going on. I will make a unanimous-consent request regarding the pending amendment.

I am prepared for that amendment not being set aside under the terms of the unanimous-consent request.

I thank the Senator from Mississippi for agreeing to this amendment.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MODIFICATION TO AMENDMENT NO. 475

Mr. COCHRAN. Mr. President, in amendment No. 475, in three instances, headings begin: "Department of Housing and Urban Development" were included.

I ask unanimous consent that these headings be deleted from this amendment. This has been cleared on both sides.

Mr. FORD. We have no objection, Mr. President.

The PRESIDING OFFICER. The amendment is so modified.

The modification is as follows:

In amendment 475, in three instances, headings beginning: "DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT" were included.

I ask unanimous consent that these headings be deleted from the amendments.

COUNTERING ANTIARMOR WEAPONS

Mr. INOUYE. Mr. President, the Army and the Advanced Research Projects Agency recently proposed a reallocation of certain fiscal year 1993 Defense Department funds. The proposal would allow the Pentagon to investigate new concepts for defeating missile and artillery rounds fired at our tanks, artillery, and other armored vehicles. The Department of Defense's fiscal year 1993 budget request did not include funds for such antiarmor countermeasure efforts. Nonetheless, officials have proposed reallocating fiscal year 1993 funds to initiate these activities now in order to support planned milestone decisions for the advanced field artillery system in late fiscal year 1994.

While we were unable to deal specifically with this matter prior to Senate consideration of this supplemental appropriations measure, I believe we can adequately address the Department of Defense's request during the conference on the many related items in this bill.

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. THURMOND. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. BOXER). Without objection, it is so ordered.

TRIBUTE TO FORMER SENATOR MILWARD LEE SIMPSON OF WYOMING

Mr. THURMOND. Madam President, I rise today to pay tribute to the memory of my good friend, former Senator Milward Lee Simpson, who passed away on June 11, 1993. It was my great pleasure to serve with Senator Simpson during his years in the Senate; as it has been my pleasure to serve with his son, AL, for whom I have a high regard.

Milward Simpson was an unusual man, and one of many talents. Not only was he a person of integrity and high principles, but he was very capable and deeply interested in the welfare of our great country and its citizens.

Senator Simpson had a keen sense of humor, and was one of the finest storytellers I have ever known. His intelligence and keen wit enlivened this body a great deal, and his forthrightness and gentlemanly demeanor earned him affection and respect on both sides of the aisle.

Senator Simpson had a long and varied career. In addition to his tenure in the U.S. Senate, he served Wyoming in the State house of representatives and as Governor. A veteran of World War I, he was a great patriot, and he took his reponsibilities as a citizen and public servant very seriously. He was active in a number of organizations, including the American Legion, Rotary International and the Elks, and was a 33d degree Mason.

Senator Simpson's death constitutes a great loss to the people of Wyoming and our Nation, which he served so well. In addition to being an outstanding public servant, he was a loving husband and father; and we are doubly indebted to him for raising a son who is such an asset to the U.S. Senate and this Nation.

My family and I extend our deepest sympathy to Senator Simpson's lovely wife, Lorna; his able and talented son, AL; and the rest of his family during this time of sorrow.

Madam President, I yield the floor.

Mr. FORD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Madam President, I am going to speak on the bill, not to offer an amendment, just to give some points of view on defense matters, and it is issues that I have discussed before on this floor that relate to the Defense Department and sloppy bookkeeping and things that fall into that area.

Today, I wish to discuss the defense business operation fund, [DBOF]. DBOF we call it for short—defense business operating fund.

This bill contains a direct $295 million cash transfusion into this fund. The new transfusion already comes on top of a $1.1 billion transfusion that we provided last year.

Madam President, DBOF is supposed to run like a business and pay for itself. Why does DBOF then constantly need a new infusion of cash from the Treasury? The DBOF cash generator is overheated and may be busted. As a result, military services are not getting the cash they need to retain force readiness.

As a Republican, let me say I am not talking about a Clinton Presidency or Secretary Aspin. I am talking about problems that carried over from my own Republican administration where this fund was set up.

So, because of this shortage, that comes up all the time, there is mounting concern about a "hollow force," a term that was used during the late Carter years, early Reagan years to express an inadequacy of our defense forces.

To a large extent then, that is why we are debating a $1.2 billion supplemental bill today. The military has had it with DBOF.

Adm. Frank B. Kelso II, Acting Secretary of the Navy, fears that DBOF is undermining readiness.

In a recent memo dated February 18, 1993, Admiral Kelso said:

Since the beginning of FY 1993, the Department of the Navy, like the other military departments, has relied on a transfer of cash from DBOF to finance the O&M appropriations as directed by the FY 1993 defense appropriations act. We have been informed that the cash position of DBOF is too low to accommodate a complete transfer. A reduction of this magnitude to the O&M accounts for the Navy and Marine Corps would unacceptably impact on our operational readiness.

General McPeak, Chief of Staff of the Air Force, provided an identical assessment in testimony before the House Armed Services Committee on April 1, 1993, but added: "People don't trust DBOF because nobody has visibility into it and can see what the heck is going on with the numbers. We have been whipsawed by it."

Congressman MURTHA, chairman of the Defense Appropriations Subcommittee, is also frustrated by DBOF.

In a letter to Secretary Aspin on March 31, 1993, MURTHA said:

If the DBOF does not generate sufficient cash to be transferred to the services' O&M

accounts, unit training, JCS exercises and equipment readiness will suffer. This will impact on the readiness of the force.

That is an expert in the House of Representatives speaking concerns about DBOF.

Madam President, what went wrong with DBOF?

To begin to understand the problem, we need to go back to the DOD Appropriations Act for fiscal year 1993—Public Law 102-396. What did this bill do to the O&M accounts.

I asked the Congressional Research Services [CRS] to help me sort out the facts.

Mr. Steve Daggett, a specialist in national defense, has done an excellent piece of work.

Madam President, I ask unanimous consent to place the CRS report in the RECORD.

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

CONGRESSIONAL RESEARCH SERVICE,
Washington, DC, April 14, 1993.

To: Hon. Charles Grassley. Attention: Charlie Murphy.

From: Stephen Daggett, Specialist in National Defense, Foreign Affairs and National Defense Division.

Subject: FY1993 Appropriations Action on DBOF.

This is in response to your request for a review of action in the FY1993 Department of Defense Appropriations Act related to the Defense Business Operations Fund (DBOF). I have attached (1) selected sections of the Department of Defense Appropriations Act, 1993 (P.L. 102-396) that concern funding for DBOF and (2) a table that summarizes funding action.

The data in the table track quite closely with report language in the FY1993 Defense Appropriations Conference Report (H.Rept. 102-1015). As the Report notes—

Service Operation and Maintenance (O&M) accounts were reduced by $1,018,000,000 to encourage services to return excess supplies to the supply system—this is shown in line 1 of the attached table.

This amount was offset by a transfer of funds from DBOF—this is shown in lines 7, 8, 9, and 10 of the table. To explain: DOD had requested a transfer of $2,036,000,000 in excess cash from DBOF to service O&M accounts. The appropriations Conference Report provided an additional transfer of $1,018,000 for a total of $3,054,000,000. This total amount is shown as an addition to service total obligational authority (TOA) either in cash (line 7) or as free issues of material from DBOF stocks (line 8) and also as an offsetting reduction in the amount of new budget authority appropriated (line 10).

Service O&M accounts were further reduced by $541,866,000 to reflect the effects of a provision limiting FY1993 DBOF purchases to 70 percent of sales to service customers (line 5), by $379,056,000 because of provisions in prior years similarly limiting DBOF purchases (line 6), and by $400,000,000 to encourage the Army and Air Force to terminate excess on-order contracts (line 4). These amounts are close to those cited on pp. 53-4 of the Conference Report, but I cannot reconcile them precisely.

As the Conference Report notes, these reductions in service O&M accounts were offset by transfers of cash balances from DBOF directed by Section 9101 of the Appropriations Act. These transfers are shown on line 13—note that the total transfer of $1,320,920 shown on line 13 equals (with an allowance for rounding) the sum of lines 4, 5, and 6.

Title V of the Defense Appropriations Act transfers $1,054,800 in DBOF cash balances to various O&M accounts (line 12). The Conference Report explains these transfers on p. 150. The transfers are offset by reductions in service O&M accounts shown as "DBOF Technical Adjustments," (line 2).

I hope this is sufficient to clarify congressional action on funding related to the Defense Business Operations Fund. If CRS can be of any further assistance, please call me at 707-7642.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1993

(P.L. 102-396—OCT. 6, 1992)

TITLE II—OPERATION AND MAINTENANCE

Operation and Maintenance, Army (including transfer of funds)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed $14,437,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes; $13,442,418,000 and, in addition, $2,229,000,000, to be derived by transfer from the Defense Business Operations Fund upon completion of the identification of residual inventories and the initiation of the transfer of such inventories to the wholesale supply system of the Defense Business Operations Fund:

Operation and Maintenance, Navy (including transfer of funds)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed $5,005,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes; $19,108,558,000 and, in addition $94,500,000, to be derived by transfer from the Defense Business Operations Fund upon completion of the identification of residual inventories and the initiation of the transfer of such inventories to the wholesale supply system of the Defense Business Operations Fund:

Operation and Maintenance, Marine Corps (including transfer of funds)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law; $1,383,138,000 and, in addition, $58,500,000, to be derived by transfer from the Defense Business Operations Fund upon completion of the identification of residual inventories and the initiation of the transfer of such inventories to the wholesale supply system of the Defense Business Operations Fund:

Operation and Maintenance, Air Force (including transfer of funds)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed $8,912,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes; $16,009,040,000 and, in addition, $672,000,000, to be derived by transfer from the Defense Business Operations Fund upon completion of the identification of residual inventories and the initiation of the transfer of such inventories to the wholesale supply system of the Defense Business Operations Fund:

TITLE V—REVOLVING AND MANAGEMENT FUNDS

Defense Business Operations Fund

For the Defense Business Operations Fund; $1,123,800,000: Provided, That, in addition to any other transfer authority contained in this Act, $1,054,800,000 shall be transferred from the Defense Business Operations Fund to appropriations contained in this Act to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred, as follows: $480,000,000 to Operation and Maintenance, Navy; $150,800,000 to Operation and Maintenance, Marine Corps; $312,700,000 to Operation and Maintenance, Air Force; and $111,300,000 to Operation and Maintenance, Defense Agencies: Provided further, That, of funds available in the Defense Business Operations Fund, not less than $90,000,000 shall be available for the purchase of 1.8 million cases of Meals Ready to Eat in the current fiscal year.

SEC. 9076. During the current fiscal year, withdrawal credits may be made by the Defense Business Operations Fund to the credit of current applicable appropriations of an activity of the Department of Defense in connection with the acquisition by that activity of supplies that are repairable components which are repairable at a repair depot and that are capitalized into the Defense Business Operations Fund as the result of management changes concerning depot level repairable assets charged to an activity of the Department of Defense which is a customer of the Defense Business Operations Fund that became effective on April 1, 1992.

SEC. 9086. During the current fiscal year, obligations against the stock funds of the Department of Defense may not be incurred in excess of 70 percent of sales from such stock funds during the current fiscal year: Provided, That in determining the amount of obligations against, and sales from the stock funds, obligations and sales for fuel, subsistence, commissary items, retail operations, the cost of operations, and repair of spare parts shall be excluded: Provided further, That upon a determination by the Secretary of Defense that such action is critical to the national security of the United States, the Secretary may waive the provisions of this section: Provided further, That if the provisions of this section are waived, the Secretary shall immediately notify the Congress of the waiver and the reasons for such a waiver.

SEC. 9101. During the current fiscal year, not to exceed $60,500,000 of cash balances in the Defense Business Operations Fund shall be transferred to appropriations of the Department of Defense which are available for energy conservation improvement projects under the Department of Defense Energy Conservation Improvement Program: Provided, That the authority to make transfers pursuant to this section is in addition to any other transfer authority provided by this Act.

SEC. 9101A. In addition to any other transfer authority contained in this Act, $1,371,800,000 from the Defense Business Operations Fund shall be transferred to appropriations contained in this Act to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred, as follows: $456,687,000 to Operation and Maintenance,

Army; $299,167,000 to Operation and Maintenance, Navy; $20,448,000 to Operation and Maintenance, Marine Corps; $402,479,000 to Operation and Maintenance, Air Force; $30,038,000 to Operation and Maintenance, Defense Agencies; $9,442,000 to Operation and Maintenance, Army Reserve; $14,924,000 to Operation and Maintenance, Navy Reserve; $754,000 to Operation and Maintenance, Marine Corps Reserve; $15,844,000 to Operation and Maintenance, Air Force Reserve; $31,307,000 to Operation and Maintenance, Army National Guard; $39,830,000 to Operation and Maintenance, Air National Guard; and $50,880,000 to the Defense Health Program.

APPROPRIATIONS ACTION ON DBOF–RELATED FUNDING, FISCAL YEAR 1993

[In thousands of dollars]

	Army	Navy	Marine Corps	Air Force	Reserves	Defense wide/defense agencies [1]	Total
Title II: Operation and Maintenance:							
Excess inventories/return excess supplies	−743,000	−31,500	−19,500	−224,000			−1,018,000
DBOF technical adjustments		−480,000	−150,800	−312,700		−111,300	−1,054,800
Reduce purchases from DBOF	−110,982	−160,640	−10,980	−135,570	−60,194	−16,129	−494,495
Excess on-order purchases	−250,000			−150,000			−400,000
Fiscal year 1993 limit obligations-to-sales	−121,614	−176,028	−12,031	−148,557	−65,961	−17,675	−541,866
Prior year limit obligations-to-sales	−85,074	−123,139	−8,417	−103,922	−46,140	−12,364	−379,056
Transfer from DBOF			58,500	672,000			730,500
Transfer denied—covered by free issue	2,229,000	94,500					2,323,500
Subtotal: Transfer/free issue	2,229,000	94,500	58,500	672,000			3,054,000
Total obligational authority, O&M	15,671,418	19,203,058	1,441,638	16,681,040	7,911,476	22,460,556	83,369,186
Financing adjustments:							
Transfer from DBOF (return of supplies)	−2,229,000	−94,500	−58,500	−672,000			−3,054,000
Other financing adjustments						−400,000	−400,000
Total appropriation, O&M	13,442,418	19,108,558	1,383,138	16,009,040	7,911,476	22,060,556	79,915,186
Title V: Revolving and management funds: Transfer from DBOF [2]		480,000	150,800	312,700		111,300	1,054,800
Title IX: General provisions, sec. 9101A: Transfer from DBOF [3]	456,687	299,167	20,448	402,479	112,101	30,038	1,320,920

[1] Defense Wide/Defense Agency totals include $9,242,572,000 for the Defense Health Program.
[2] Title V also provides $1,123,800,000 in appropriations to DBOF.
[3] Section 9101A also transfers $50,880,000 to the Defense Health Program. In addition, sec. 9101 transfers $60,500,000 to accounts available for energy conservation projects.
Sources: Principal source—Department of Defense Comptroller, "Congressional Action on FY 1993 Appropriation Request," FAD728/93, Final, Jan. 26, 1993. Other sources—H. Rept. 102–1015; Public Law 102–396.

Mr. GRASSLEY. Madam President, in 1993 DOD requested $74.8 billion for O&M. Congress approved $69.4 billion. To the naked eye, this looks like a cut of $5.4 billion. It was counted as a $5.4 billion cut.

But in fact the $5.4 billion cut was a phony cut.

The proof lies in the language of the law itself.

The law says that the services get the $69.4 billion in O&M money up front. But in addition to the $69.4 billion, the law specifically mandates that the services get another $5.5 billion at a future but unspecified date.

In other words, the law says we had to cut the O&M accounts, but the O&M accounts will get the money back because that money is really needed.

This is how the O&M cuts were to be recouped.

First, DOD cycles $80 billion through the DBOF laundry operation to generate the excess cash.

Last year, DBOF was regularly able to produce monthly cash balances of $7 to $8 billion—more than enough to make the rebates and operate DBOF.

The excess cash is generated by jacking up the prices of items sold to the military. So it's a double cut on the services. They get less, and it costs more.

Once the excess cash was in hand, DBOF was directed by law to make $5.5 billion in rebates to the O&M accounts to offset the cuts made by Congress.

But for unexplained reasons, the excess cash has not materialized.

So far, DBOF has made rebates of $2.0 billion—well short of the $5.5 figure mandated by the appropriations act. The cash balance in DOBF is not adequate to pay off the remaining debt and future prospects for more are dim.

Because of all the concern surrounding DBOF's cash position, I asked the General Accounting Office [GAO] on March 1 to audit the DBOF cash account. We need to know how much cash has been generated, and how has it been used.

The GAO has begun to uncover another DOD financial nightmare—billions of dollars in undistributed disbursements. DBOF is writing hundreds of thousands of checks but amounts are not recorded in the books. Checks aren't hooked up to anything. Checks are written but no one bothers to fill our the stub. No wonder DBOF can't get the cash balance straight.

Secretary Aspin also has doubts about DBOF. In a memo dated April 10, 1993, on "A Ready to Fight Force," he made these disparaging words on DBOF:

> If acceptable oversight of DBOF cannot be established it is highly unlikely that either the Department of Defense or the Congress will continue with this system.

Madam President, if the concerns about force readiness are genuine and if the services have a legitimate need for more O&M money, then why are we providing more O&M money to DBOF. DBOF is the problem. The money should go directly to the military services through the front door where it is needed.

There is no need to give legitimate O&M moneys a preliminary flush through the DBOF plumbing works. Why are we doing that?

Air Force Maj. Joe Lokey, a former assistant comptroller at MacDill AFB, FL, knows why. I quote:

There are fewer than a handful of people who understand the complex and convoluted way DOD washes money into and out of these funds. They are, however, useful in subverting the intent of Congress who will no longer appropriate for specific purposes but simply ensure that the DOD K mart is adequately capitalized. It serves no value added purpose to warfighting capabilities as it simply moves money on paper from our right pocket to our left pocket.

Madam President, I quoted from Major Lokey's May 2, 1992, report during a speech I gave on March 23, 1993.

DBOF is nothing more than a cash generating scheme based on phony cuts, price fixing, and backdoor rebates to offset congressional budget cuts.

DBOF serves no useful purpose. And worst of all, it is degrading readiness.

Under section 341 of Public Law 102–484, DBOF will automatically cease to exist on April 15, 1994—unless Congress takes some positive action. DBOF should be allowed to die a quiet death.

Madam President, I will offer an amendment to eliminate DBOF at the appropriate time.

I yield the floor.

Madam President, I hope to speak to this on another matter later on, perhaps even on this bill.

I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD. Madam President, I have a proposed unanimous consent agreement which is the result of work on both sides of the aisle, the staffs, and Senator HATFIELD. So I am going to present it with the understanding that

if it is entered into, the Senate will be in tomorrow for a pro forma session only.

I make this statement on the authority of the majority leader. And there will be no session on Monday. The Senate will be in on Tuesday. The first vote would occur at 9:30 a.m.

Madam President, I ask unanimous consent that the following be the only amendments remaining in order to H.R. 2118, the supplemental appropriations bill; that they be first-degree amendments subject to relevant second-degree amendments: Kennedy amendment, education funding; Heflin amendment, Trio Program funding; Bingaman amendment, Public Health Service; DeConcini amendment, Defense/international narcotics; Harkin Amendment, Older Americans; Harkin-Feinstein amendment, refugees; DeConcini amendment No. 484, citrus disasters; Pryor amendment, clarify current funding for educational agencies at base closings; Inouye amendment, Defense related; Mitchell amendment, Department of Justice; DeConcini amendment, Travelgate; Byrd amendment, relevant; Grassley, older Americans employment; Grassley, M Account (No T/A); Roth, Jobs for America; Pressler, soybeans; Dole, Travelgate; Domenici, virus in four corners; Domenici, Technical/Petroglyps Monument; Domenici, Bureau of Reclamation; Helms, relevant; Brown, Cargo preference; Brown, Cargo preference; Bond, White House FTE's; Nickles, disaster assistance; Nickles, community policing; D'Amato, welfare, work fare; D'Amato, welfare, work fare; D'Amato, Department of Education and administrative expenses; a Gramm amendment on prison construction; a Chafee amendment on funding for Cliff Walk; Hatfield, relevant amendment.

Provided further that when the Senate resumes consideration of H.R. 2118 on Tuesday, June 22 at 9:00 a.m., there be 30 minutes remaining debate on the DeConcini amendment No. 484, with the time equally divided and controlled in the usual form; that when all time is used or yielded back, the Senate without any intervening action or debate, vote on or in relation to the DeConcini amendment; that upon disposition of the DeConcini amendment, Senator GRASSLEY be recognized to offer his amendment relating to "M" account; that the next Republican amendment be offered by Senator ROTH relating to Jobs for America; further, that final passage of H.R. 2118 occur not later than 7 p.m. on Tuesday, June 22, without intervening action or debate; that no motion to recommit be in order, and that no points of order be waived by virtue of this agreement.

The PRESIDING OFFICER. Is there objection?

Mr. HATFIELD. Reserving the right to object.

If the Senator will yield, I would like to ask the Senator to include one last amendment by Mr. HATCH relating to law enforcement funding.

Mr. BYRD. Very well. I so revise my request, Madam President.

The PRESIDING OFFICER. Is there objection to the unanimous consent request?

Hearing none, it is so ordered.

The text of the agreement is as follows:

Ordered, That the following amendments be the only amendments remaining in order to H.R. 2118, the Supplemental Appropriations Bill, that they be first degree amendments subject to relevant second-degree amendments:

Bingaman, Public Health Service; Bond, White House FTE's; Brown, Cargo preference; Brown, Cargo preference; Byrd, Relevant; Chafee, Funding for Cliff Walk; D'Amato, Department of Education administrative expenses; D'Amato, Welfare/Workfare; D'Amato, Welfare/Workfare; DeConcini, Defense/international narcotics; DeConcini, No. 484, citrus; DeConcini, Travelgate; Dole, Travelgate; Domenici, Virus in 4 Corners; Domenici, Technical/Petroglyps monument; Domenici, Bureau of Reclamation; Gramm, Prison construction; Grassley, M Account; Grassley, Older Americans; Harkin, Older Americans; Harkin/Feinstein, Refugees; Hatch, Law enforcement funding; Hatfield, Relevant; Heflin, Trio Program funding; Helms, Relevant; Inouye, Defense related; Kennedy, Education funding; Mitchell, Department of Justice; Nickles, Disaster assistance; Nickles, Community policing; Pressler, Soybeans; Pryor, Clarify current funding for educational agencies at base closings; and Roth, Jobs for America.

Ordered further, That at 9:00 a.m. on Tuesday, June 22, 1993, when the Senate resumes consideration of H.R. 2118, there be 30 minutes remaining for debate on the DeConcini amendment, No. 484, with the time to be equally divided and controlled in the usual form.

Ordered further, That when all time is used or yielded back, the Senate without intervening action or debate, vote on or in relation to the DeConcini amendment.

Ordered further, That upon disposition of the DeConcini amendment, the Senator from Iowa (Mr. GRASSLEY) be recognized to offer his amendment relating to "M" account.

Ordered further, That the next Republican amendment be an amendment to be offered by the Senator from Delaware (Mr. ROTH) relating to Jobs for America.

Ordered further, That final passage of H.R. 2118 occur not later than 7:00 p.m. on Tuesday, June 22, 1993, without intervening action or debate.

Ordered further, That no motion to recommit be in order.

Ordered further, That no points of order be waived by virtue of this amendment.

Mr. BYRD. I thank my friend, Senator HATFIELD, for his diligent efforts and his good work. I also thank his staff and ours, and the floor staff, and the majority leader for his assistance, and the majority whip, and all Senators who are now on the floor.

MORNING BUSINESS

Mr. BYRD. Madam President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak therein for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

AGREEMENT BETWEEN THE UNITED STATES AND LATVIA CONCERNING FISHERIES—MESSAGE FROM THE PRESIDENT—PM 27

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which, pursuant to 16 USC 1823, was referred jointly to the Committee on Commerce, Science, and Transportation and the Committee on Foreign Relations:

To the Congress of the United States:

In accordance with the Magnuson Fishery Conservation and Management Act of 1976 (Public Law 94-265; 16 U.S.C. 1801 *et seq.*), I transmit herewith an Agreement between the Government of the United States of America and the Government of the Republic of Latvia Concerning Fisheries off the Coast of the United States, with annex, signed at Washington on April 8, 1993. The agreement constitutes a governing international fishery agreement within the requirements of Section 201(c) of the Act.

United States fishing industry interests have urged prompt consideration of this agreement to take advantage of opportunities for seasonal cooperative fishing ventures. I recommend that the Congress give favorable consideration to this agreement at an early date.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 17, 1993.*

MESSAGE FROM THE HOUSE

At 5:58 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2404. An Act to authorize appropriations for foreign assistance programs, and for other purposes.

MEASURES READ THE FIRST TIME

The following bill, received from the House yesterday and previously undisposed of, was read the first time:

H.R. 5. An act to amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-927. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on rescissions and deferrals; pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, referred jointly, to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition and Forestry, the Committee on Environment and Public Works, the Committee on Finance, and the Committee on Foreign Relations.

EC-928. A communication from the Secretary of Agriculture, transmitting, pursuant to law, a report relative to the contracting of private attorneys; to the Committee on Agriculture, Nutrition and Forestry.

EC-929. A communication from the General Counsel of the Department of Defense, transmitting, pursuant to law, a draft of proposed legislation to authorize the transfer of eleven naval vessels to Argentina, Australia, Chile, Greece, Taiwan, and Turkey; to the Committee on Armed Services.

EC-930. A communication from the Secretary of Energy, transmitting, pursuant to law, a report relative to the Department's program activities with respect to arms control; to the Committee on Armed Services.

EC-931. A communication from the Acting Secretary of the Navy, transmitting, pursuant to law, a report relative to the increase in cost of two defense acquisition programs; to the Committee on Armed Services.

EC-932. A communication from the Acting General Counsel of the Department of Energy, transmitting, pursuant to law a draft of proposed legislation to authorize appropriations for the Department of Energy for national security programs for fiscal year 1994, and for other purposes; to the Committee on Armed Services.

EC-933. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, a report relative to the Mobility Requirements Study; to the Committee on Armed Services.

EC-934. A communication from the Under Secretary of Defense, transmitting, pursuant to law, a report relative to Selected Acquisition Reports; to the Committee on Armed Services.

EC-935. A communication from the Chairman of the Defense Base Closure and Realignment Commission, transmitting, pursuant to law, certified materials of the Commission including COBRA scenarios and information from the Defense Logistics Agency; to the Committee on Armed Services.

EC-936. A communication from the Chairman of the Defense Base Closure and Realignment Commission, transmitting, pursuant to law, certified materials of the Commission including COBRA scenarios and information from the Department of the Navy; to the Committee on Armed Services.

EC-937. A communication from the Chairman of the Defense Base Closure and Realignment Commission, transmitting, pursuant to law, certified materials of the Commission; to the Committee on Armed Services.

EC-938. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on direct spending or receipts legislation within five days of enactment; to the Committee on the Budget.

EC-939. A communication from the Assistant Secretary of State (Legislative Affairs), notice of a Certification for the country of Trinidad and Tobago; to the Committee on Commerce, Science and Transportation.

EC-940. A communication from the Acting Assistant General Counsel, Department of Energy, transmitting, pursuant to law, a notice of a meeting related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC-941. A communication from the Deputy Associate Director for Compliance (Royalty Management Program), Minerals Management Service, Department of the Interior, transmitting, pursuant to law, notice of the intention to make refunds of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-942. A communication from the Acting Assistant Secretary of Energy, Safety and Health, transmitting, pursuant to law, a report of a supplement to the Draft Environmental Impact Statement on the proposed expansion of the Strategic Petroleum Reserve; to the Committee on Energy and Natural Resources.

EC-943. A communication from the Secretary of Energy, transmitting, pursuant to law, a report on uncosted balances for fiscal year 1992; to the Committee on Energy and Natural Resources.

EC-944. A communication from the Acting Director of the United States Information Agency, transmitting, pursuant to law, notice of an extension of a ban on certain textiles from Bolivia; to the Committee on Finance.

EC-945. A communication from the Administrator of the Agency for International Development, transmitting, pursuant to law, a report relative to development assistance program allocations; to the Committee on Foreign Relations.

EC-946. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a draft of proposed legislation to amend the Foreign Assistance Act of 1961 to authorize the transfer of $20,000,000 in addition to U.S. War Reserve Stockpiles for Allies in Thailand to support the implementation of a bilateral agreement with Thailand; to the Committee on Foreign Relations.

EC-947. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report relative to the withdrawal of Russian and CIS forces from Estonia, Latvia and Lithuania; to the Committee on Foreign Relations.

EC-948. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report relative to funds for Morocco; to the Committee on Foreign Relations.

EC-949. A communication from the Secretary of Transportation, transmitting, pursuant to law, two reports of the Office of Inspector General for the period ending March 31, 1993; to the Committee on Governmental Affairs.

EC-950. A communication from the Chief Judge of the United States Tax Court, transmitting, pursuant to law, actuarial reports for the Judges' retirement and survivor annuity plans; to the Committee on Governmental Affairs.

EC-951. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, a report on audit, inspection and investigative activities for the six month period ending March 31, 1993; to the Committee on Governmental Affairs.

EC-952. A communication from the Chairman of the Board for International Broadcasting, transmitting, pursuant to law, the semiannual report of the Office of the Inspector General for the period October 1, 1992 through March 31, 1993; to the Committee on Governmental Affairs.

EC-953. A communication from the Acting Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-37, adopted by the Council on June 8, 1993; to the Committee on Governmental Affairs.

EC-954. A communication from the Administrator of the U. S. Agency for International Development, transmitting, pursuant to law, a report relative to audit management and the Inspector General's report; to the Committee on Governmental Affairs.

EC-955. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the Inspector General's report for the six month period ending March 31, 1993; to the Committee on Governmental Affairs.

EC-956. A communication from the Secretary of the Interior, transmitting, pursuant to law, the report of the Inspector General and a report on audit followup, both for the six month period ending March 31, 1993; to the Committee on Governmental Affairs.

EC-957. A communication from the Chairman of the Defense Base Closure and Realignment Commission, transmitting, pursuant to law, certified materials of the Commission including COBRA scenarios and information from the Department of the Navy and the Defense Logistics Agency; to the Committee on Armed Services.

EC-958. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report relative to direct spending or receipts legislation; to the Committee on the Budget.

EC-959. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting a draft of proposed legislation entitled "Foreign Relations Authorization Act, Fiscal Years 1994 and 1995"; to the Committee on Foreign Relations.

EC-960. A communication from the Assistant Secretary (Legislative Affairs), Department of State, transmitting, pursuant to law, notice of a Presidential determination relative to the refugees and conflict victims in Bosnia and Croatia; to the Committee on Foreign Relations.

EC-961. A communication from the Acting Chairman of the D.C. Council, transmitting, pursuant to law, copies of D.C. Act 10-39 adopted by the Council on June 1, 1993; to the Committee on Governmental Affairs.

EC-962. A communication from the Acting Assistant Attorney General, Department of Justice, transmitting, pursuant to law, a report on settlements for calendar year 1992; to the Committee on the Judiciary.

EC-963. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, the annual report for calendar year 1992; to the Committee on Rules and Administration.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-99. A joint resolution adopted by the Legislature of the State of Tennessee relative to the election of President Clinton and Vice-President Gore; ordered to lie on the table.

"SENATE JOINT RESOLUTION NO. 45

"Whereas, Bill Clinton of Arkansas and Al Gore of Tennessee have been elected and inaugurated as president and vice-president of the United States; and

"Whereas, This election is historic on many levels: the president and vice president are the first ticket from the South to be elected since Tennessee's own Andrew Jackson and John Calhoun of South Carolina were elected in 1832, Al Gore is the first vice-president from Tennessee in over one hundred twenty-five (125) years, and Bill Clinton and Al Gore are the first president and vice-president born after World War II; and

"Whereas, In addition to the sense of renewed hope and opportunity which is present at the beginning of all new administrations, there is a special sense of destiny and renewal present today as leadership passes from the World War II generation to a contemporary generation—youthful, vigorous, and enthusiastic; and

"Whereas, The presence of a governor as president offers the hope and expectation that the true needs of the people and the states will be addressed, that the federal and state governments can act as partners, not as adversaries, that the federal government will respect the rights and diversity of states and their peoples and will offer cooperation and assistance rather than unfunded mandates and dogmatic restrictions; and

"Whereas, Tennessee can take justified pride in launching the auspicious career of Al Gore and in offering its support in the presidential election to the Clinton/Gore team; and

"Whereas, Regardless of individual preferences in the election, all Tennesseans would join in wishing the new administration well, and in hoping that President Clinton and Vice-President Gore can bring the country together and foster a sense of community, address the genuine concerns that many Americans have about the economy, health care, the intrusive role of government into private lives of its citizens, national debt and the federal budget, the role of the United States in the world, and the myriad of other issues which confront any administration; and restore the bright spirit of hope, opportunity, progress, and humaneness which has dimmed so tragically over the years; now, therefore,

"Be it resolved by the Senate of the ninety-eighth General Assembly of the State of Tennessee, the House of Representatives concurring," That this general assembly, on behalf of itself and all the citizens of Tennessee, congratulate our President, Bill Clinton, and our own Vice-President, Al Gore, on their election, recognizing that one of the special glories and achievements of the United States has been the peaceful, voluntary transfer of governmental power for over two hundred years.

"Be it further resolved, That we also express the best wishes of the people of Tennessee for a successful administration by President Clinton and Vice-President Gore, recognizing that success for them will benefit all Tennesseans and all Americans, regardless of political affiliation, belief, or opinion.

REPORT OF COMMITTEE

The following report of committee was submitted:

By Mr. BYRD, from the Committee on Appropriations:

Special report entitled "Allocation to Subcommittees of Budget Totals from the Concurrent Resolution for Fiscal Year 1994" (Rept. No. 103-59).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Ms. MIKULSKI:

S. 1122. A bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to carry out a program for repayment by the Secretary of certain education costs incurred by certain Veterans' Health Administration employees, and for other purposes; to the Committee on Veterans Affairs.

By Mr. GORTON (for himself, Mr. NUNN, Mr. PACKWOOD, Mr. BREAUX, Mr. HATFIELD, Mr. JOHNSTON, Mr. SHELBY, Mr. BURNS, Mr. HEFLIN, Mr. THURMOND, Mr. HOLLINGS, Mr. CRAIG, Mr. LOTT, Mr. COCHRAN, Mr. SMITH, and Mr. LUGAR):

S. 1123. A bill to amend the Internal Revenue Code of 1986 to modify certain provisions relating to the treatment of forestry activities; to the Committee on Finance.

By Mr. D'AMATO (for himself, Mr. BOND, Mr. SHELBY, Mr. BENNETT, Mr. DOMENICI, and Mr. MACK):

S. 1124. A bill to enhance credit availability by streamlining Federal regulations applicable to financial institutions, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DODD (for himself, Mrs. KASSEBAUM, Mr. KENNEDY, Mr. JEFFORDS, and Mr. PELL):

S. 1125. A bill to help local school systems achieve Goal Six of the National Education Goals, which provides that by the year 2000, every school in America will be free of drugs and violence and will offer a disciplined environment conducive to learning, by ensuring that all schools are safe and free of violence; to the Committee on Labor and Human Resources.

By Mr. HOLLINGS (for himself, Mr. KERRY, and Mr. SARBANES):

S. 1126. A bill to improve the conservation and management of interjurisdictional fisheries along the Atlantic coast by providing for greater cooperation among the States in implementing conservation and management programs, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. MCCONNELL:

S. 1127. A bill to establish a rural community service program, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. AKAKA (for himself, Mr. DASCHLE, Mr. DECONCINI, Mr. INOUYE, and Mr. SHELBY):

S. 1128. A bill to amend title 38, United States Code, to permit the burial in cemeteries of the National Cemetery System of certain deceased Reservists; to the Committee on Veterans Affairs.

By Mr. PELL (by request):

S. 1129. A bill to amend the Foreign Assistance Act of 1961 to authorize the transfer of $20,000,000 in addition to U.S. War Reserve Stockpiles for Allies in Thailand to support the implementation of a bilateral agreement with Thailand; to the Committee on Foreign Relations.

By Mr. PRYOR (for himself, Mr. STEVENS, Mr. GLENN, Mr. AKAKA, Ms. MIKULSKI, and Mr. DOMENICI):

S. 1130. A bill to provide for continuing authorization of Federal employee leave transfer and leave bank programs, and for other purposes; to the Committee on Governmental Affairs.

By Mr. PRYOR (for himself and Mr. STEVENS):

S. 1131. A bill to extend the method of computing the average subscription charges under section 8906(a) of title 5, United States Code, relating to Federal employee health benefits programs; to the Committee on Governmental Affairs.

By Mr. RIEGLE:

S. 1132. A bill to provide for fair trade in motor vehicle parts, action under trade remedy laws for certain unfair trade practices, and for other purposes; to the Committee on Finance.

By Mr. BRADLEY (for himself, Mr. BIDEN, Mr. HATCH, Mrs. BOXER, Mr. BRYAN, Mrs. FEINSTEIN, Mr. HOLLINGS, Mr. KERREY, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. REID, Mr. ROBB, Mr. ROCKEFELLER, Mr. SIMON, Mr. WELLSTONE, Mrs. MURRAY, and Mr. CAMPBELL):

S. 1133. A bill to amend the Public Health Service Act to provide for the establishment of a residential support service program for special high-risk populations of pregnant women and their children, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. SMITH:

S.J. Res. 104. A joint resolution designating September 17, 1993, as "National POW/MIA Recognition Day" and authorizing the display of the National League of Families POW/MIA flag; 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. JOHNSTON (for himself and Mr. BREAUX):

S. Res. 119. A resolution to commend the Women's Track Team of Louisiana State University (L.S.U.) for winning the 1993 National Collegiate Athletic Association Outdoor Track Championship, and for other achievements over the past seven years; considered and agreed to.

By Mr. JOHNSTON (for himself and Mr. BREAUX):

S. Res. 120. A resolution to commend the Louisiana State University (L.S.U.) Tigers for winning the National Collegiate Athletic Association Baseball College World Series; considered and agreed to.

By Mr. REID (for himself, Mr. KENNEDY, Mr. BINGAMAN, Mr. SIMON, and Mr. BRADLEY):

S. Res. 121. A resolution to honor the work and life of Cesar Chavez; considered and agreed to.

By Mrs. KASSEBAUM (for herself and Mr. DOLE):

S. Res. 122. A resolution to express the sense of the Senate with respect to the broadcasting of video programming containing violence; to the Committee on Commerce, Science, and Transportation.

By Mr. DODD (for himself, Mr. PELL, Mr. LIEBERMAN, Mr. MCCAIN, Mrs. KASSEBAUM, Mr. KENNEDY, Mr. ROCKEFELLER, Mr. D'AMATO, Mr. MATHEWS, Mr. DECONCINI, Mr. DORGAN, Mr. SARBANES, Mr. LEVIN, Mr. DOLE, Mr. CAMPBELL, Mrs. FEINSTEIN, Mr. MOYNIHAN, Mr. PRESSLER, Mr. INOUYE, Mr. WOFFORD, Mr. CRAIG, Mr. LUGAR, Mr. SIMON, Mr. HATFIELD, Mr. MITCHELL, Mr. HATCH, Mr. HEFLIN, Mr. GRAHAM, Mr. ROBB, Mr. GLENN, Mr. KERRY, Mr. DURENBERGER, Mr. DASCHLE, Mrs. BOXER, and Mr. SASSER):

S. Con. Res. 31. A concurrent resolution concerning the emancipation of the Iranian Baha'i community; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. MIKULSKI:

S. 1122. A bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to carry out a program for repayment by the Secretary of certain education costs incurred by certain Veterans' Health Administration employees, and for other purposes; to the Committee on Veterans' Affairs.

DEPARTMENT OF VETERANS AFFAIRS HEALTH PROFESSIONALS EDUCATION DEBT REDUCTION ACT

• Ms. MIKULSKI. Mr. President, I am pleased to introduce legislation today to authorize a Health Professionals Education Debt Reduction Program within the Department of Veterans Affairs.

The bill I am introducing would authorize $10 million to enable VA to defray the costs of educational expenses for health care professionals serving the VA. This will enable VA to be a more attractive place of employment for nurses, medical technicians, physical therapists, and other health professionals entering the work force.

It will provide VA with a much-needed tool to recruit and retain these health care professionals—and at half the cost of the VA's existing scholarship program for health professionals.

Under my proposal, VA would provide up to $4,000 per year, with a 3-year limit, to repay educational expenses. Under the scholarship program, VA provides $12,000 per year, for 2 years—a total of $24,000.

This educational voucher would be provided after each year of service, just as the President's National Service proposal would do. Therefore, there is virtually no risk to the VA, unlike the scholarship program, which provides financial assistance prior to the individual's service to the VA.

Mr. President, the fiscal year 1993 VA appropriation included $5 million to initiate this program. VA expects it would be able to recruit 400 people in the first year with these funds.

Unfortunately, subsequent veterans legislation prohibited VA from going forward with the program. Therefore, VA is holding $5 million in reserve until an authorization is made. If an authorization is not enacted, VA will lose these funds altogether. Therefore, I believe it is urgent that this legislation be enacted as soon as possible.

I plan to testify before the Senate Veterans' Affairs Committee on June 23, and expect that the committee will markup the legislation soon thereafter.

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

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

S. 1122

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 "Department of Veterans Affairs Health Professionals Education Debt Reduction Act".

SEC. 2. PROGRAM OF ASSISTANCE IN THE PAYMENT OF EDUCATION DEBTS INCURRED BY CERTAIN VETERANS HEALTH ADMINISTRATION EMPLOYEES.

(a) PROGRAM.—(1) Chapter 76 of title 38, United States Code, is amended by adding at the end the following:

"SUBCHAPTER VI—EDUCATION DEBT REDUCTION PROGRAM

"§ 7661. Authority for program

"(a) The Secretary may carry out an education debt reduction program under this subchapter. The program shall be known as the Department of Veterans Affairs Education Debt Reduction Program (hereafter in this subchapter referred to as the 'Education Debt Reduction Program'). The purpose of the program is to assist personnel serving in health-care positions in the Veterans Health Administration in reducing the amount of debt incurred by such personnel in completing educational programs that qualify such personnel for such service.

"(b) Such assistance shall be in addition to the assistance available to individuals under the Educational Assistance Program established under this chapter.

"§ 7662. Eligibility; application

"(a) An individual eligible to participate in the Education Debt Reduction Program is any individual (other than a physician or dentist)—

"(1) who is serving in a position in the Veterans Health Administration under an appointment under section 7402(b) of this title; and

"(2) who owes—

"(A) any amount of principal or interest under a loan the proceeds of which were used by or on behalf of the individual to pay costs relating to a course of education or training at a qualifying educational institution which course led to a degree that qualified the individual for a position referred to in paragraph (1); or

"(B) any amount of principal or interest under a loan the proceeds of which are being used by or on behalf of the individual to pay costs relating to a course of education or training at a qualifying educational institution which course leads to a degree that qualifies the individual for such a position.

"(b) Any eligible individual seeking to participate in the Education Debt Reduction Program shall submit an application to the Secretary relating to such participation.

"§ 7663. Preference for assistance

"In selecting individuals for assistance under the Education Debt Reduction Program, the Secretary shall give preference to the following:

"(1) Individuals who have completed or are engaged in, as the case may be, a two-year or four-year course of education or training at an undergraduate institution leading to a degree that qualified or qualifies, as the case may be, the individuals for a position referred to in section 7662(a)(1) of this title.

"(2) Individuals who serve in the Veterans Health Administration—

"(A) in areas in which the recruitment or retention of an adequate supply of qualified health-care personnel is difficult (as determined by the Secretary); or

"(B) in positions for which the recruitment or retention of such a supply of such personnel is difficult (as so determined).

"§ 7664. Amount of assistance

"(a) Subject to subsection (b), the Secretary may pay to an individual selected to receive assistance under the Education Debt Reduction Program an amount not to exceed $4,000 (adjusted in accordance with section 7631 of this title) for each full year served by the individual in a position in the Veterans Health Administration under section 7402(b) of this title (other than a position referred to in paragraph (1) or (2) of such section) after the date of such individual's selection.

"(b)(1) An individual may receive assistance under the Education Debt Reduction Program only to assist the individual in paying amounts (including principal and interest) owed by the individual under a loan referred to in section 7662(a)(2) of this title.

"(2) An individual may receive assistance under the Education Debt Reduction Program for a year if—

"(A) the individual serves for the full year in a position referred to in subsection (a); and

"(B) maintains an acceptable level of performance during such service.

"(3) The total amount of assistance received by an individual under the Education Debt Reduction Program may not exceed $12,000 (adjusted in accordance with section 7631 of this title).".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following:

"SUBCHAPTER VI—EDUCATION DEBT REDUCTION PROGRAM

"7661. Authority for program.
"7662. Eligibility; application.
"7663. Preference for assistance.
"7664. Amount of assistance.".

(b) CONFORMING AMENDMENTS.—Section 7631 of title 38, United States Code, is amended—

(1) in subsection (a), by striking out "and the maximum Selected Reserve member stipend amount" and inserting in lieu thereof "the maximum Selected Reserve stipend amount, and the education debt reduction amount and limitation"; and

(2) in subsection (b)—

(A) by redesignating paragraph (4) as paragraph (5); and

(B) by inserting after paragraph (3) the following new paragraph (4):

"(4) The term 'education debt reduction amount and limitation' means the maximum

amount of assistance, and the limitation applicable to such assistance, for a person receiving assistance under subchapter VI of this chapter, as specified in section 7663 of this title and as previously adjusted (if at all) in accordance with this subsection.".

(c) REGULATIONS.—The Secretary of Veterans Affairs shall prescribe regulations necessary to carry out the Education Debt Reduction Program established under subchapter VI of chapter 76 of title 38, United States Code (as added by subsection (a)). The Secretary shall prescribe such regulations not later than 90 days after the date of the enactment of this Act.

(d) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the effectiveness of the Education Debt Reduction Program and the Department of Veterans Affairs Health Professional Scholarship Program established under subchapter II of chapter 76 of title 38, United States Code, in assisting the Secretary in the recruitment and retention of qualified healthcare professionals for positions in the Veterans Health Administration.

(e) AUTHORIZATION OF APPROPRIATIONS.—(1) There is authorized to be appropriated for the Department of Veterans Affairs $10,000,000 for each of fiscal years 1994 through 1998 to carry out the Education Debt Reduction Program.

(2) No funds may be used to provide assistance under the program unless expressly provided for in an appropriation Act.

(f) EXEMPTION FROM LIMITATION.—Section 523(b) of the Veterans Health Care Act of 1992 (Public Law 102-585; 38 U.S.C. 7601 note) shall not apply to the Education Debt Reduction Program.●

By Mr. GORTON (for himself, Mr. NUNN, Mr. PACKWOOD, Mr. BREAUX, Mr. HATFIELD, Mr. JOHNSTON, Mr. SHELBY, Mr. BURNS, Mr. HEFLIN, Mr. THURMOND, Mr. HOLLINGS, Mr. CRAIG, Mr. LOTT, Mr. COCHRAN, Mr. SMITH, and Mr. LUGAR):

S. 1123. A bill to amend the Internal Revenue Code of 1986 to modify certain provisions relating to the treatment of forestry activities.

REFORESTATION TAX ACT OF 1993

Mr. GORTON. Mr. President, today, with Senators NUNN, PACKWOOD, and a substantial number of other Members of this body, I am introducing the Reforestation Tax Act of 1993, legislation that is designed to expand and promote the intelligent management of our private forest land. Identical legislation has already been introduced into the House of Representatives by Congressman RON WYDEN of Oregon.

The President's Forest Conference held on April 2 of this year focused the Nation's attention on the plight of the timber industry. In the Pacific Northwest, concern for the spotted owl resulted in significant restrictions on the amount of public forest land available for timber production.

Out of the original 10 million-plus acres of Washington State forests owned by the Federal Government, almost 80 percent has been permanently set aside for parks, wilderness, or recreation areas, or for uses other than timber production. Over the last decade, sales of timber have shrunk from 5 billion board feet to less than 1 billion board feet per year. The timber industry in my own State has been brought to a near halt.

Despite this timber supply crisis, America still demands the products of our forest industry. Every sector of society uses pulp and paper, lumber, and construction materials—and we must ensure that we will be able to meet the demand for these forest products in the future.

Regardless of the outcome of the Forest Conference, reforestation and the use of proper forest management practices will continue to be an essential part of meeting the future demand for forest products. Our current tax laws, however, make that goal difficult to achieve.

The legislation I am introducing today with my distinguished colleagues will make four changes in the current tax law so that reforestation on private land is encouraged, not punished.

First, this bill will partially eliminate the tax on inflationary gains. This tax places a significant burden on timber growers and discourages capital investment. Realizing that both investment in, and management of, timber is a long-term, risky undertaking, this legislation reduces the gain on private timber sales by 3 percent for each year the timber is owned, up to a maximum of 50 percent.

While this provision will not completely offset the negative effects of inflation, it is a step in the right direction for timber growers who are being unfairly penalized. It is essential for long-term investment in timber and for ensuring a stable supply of timber products.

Second, this bill doubles the reforestation tax credit from the level set back in 1980, which has eroded over time. The new level is set at $20,000 and is indexed for future inflation.

Third, the bill applies this same treatment to the amortization of reforestation expenses. It replaces the current-law 7-year amortization for up to $10,000 of reforestation expenses with a 5-year amortization period of up to $20,000, and indexes that amount for future inflation.

Finally, the bill changes the passive loss rules which have historically discouraged sound management practices on private forest lands. In 1986, Congress enacted new passive loss rules to discourage investments in tax shelters. The law limited the deductibility of business losses for taxpayers who do not materially participate in a business. The IRS set up several tests to determine who then qualified as a material participant. Unfortunately, typical small timber growers do not qualify under the current rules.

But timber growing is not a tax shelter. The change in the passive loss rules contained in this bill will help private timber growers to be rightly characterized as material participants. This change will have a profound and positive effect on thousands of small business persons. The language contained in this bill is also the same language that was included in H.R. 11, the urban aid bill last year, which was vetoed by President Bush for wholly unrelated reasons.

The reforestation and appropriate management of private lands are crucial goals. To promote investment in these activities, this legislation will make changes in the current tax laws, which punish private reforestation. It is a step in the right direction for our timber growers, and for our environment.

Mr. President, this legislation is supported by private foresters, environmentalists and conservationists alike. Each of these groups see this bill as a way to improve our environment while at the same time, our economy.

Mr. President, I ask unanimous consent that the text of the legislation, along with a list of 32 organizations who support the Reforestation Tax Act, be printed in the RECORD.

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

S. 1123

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 "Reforestation Tax Act of 1993".

SEC. 2. PARTIAL INFLATION ADJUSTMENT FOR TIMBER.

(a) IN GENERAL.—Part I of subchapter P of chapter 1 of the Internal Revenue Code of 1986 (relating to treatment of capital gains) is amended by adding at the end the following new section:

"SEC. 1202. PARTIAL INFLATION ADJUSTMENT FOR TIMBER.

"(a) IN GENERAL.—At the election of any taxpayer who has qualified timber gain for any taxable year, there shall be allowed as a deduction from gross income an amount equal to the qualified percentage of such gain.

"(b) QUALIFIED TIMBER GAIN.—For purposes of this section, the term 'qualified timber gain' means the lesser of—

"(1) the net capital gain for the taxable year, or

"(2) the net capital gain for the taxable year determined by taking into account only gains and losses from timber.

"(c) QUALIFIED PERCENTAGE.—For purposes of this section, the term 'qualified percentage' means the percentage (not exceeding 50 percent) determined by multiplying—

"(1) 3 percent, by

"(2) the number of years in the holding period of the taxpayer with respect to the timber.

"(d) ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction under subsection (a) 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."

(b) COORDINATION WITH EXISTING LIMITATIONS.—

(1) Subsection (h) of section 1 of such Code (relating to maximum capital gains rate) is amended by inserting after "net capital gain" each place it appears the following: "(other than qualified timber gain with respect to which an election is made under section 1202)".

(2) Subsection (a) of section 1201 of such Code (relating to alternative tax for corporations) is amended by inserting after "net capital gain" each place it appears the following: "(other than qualified timber gain with respect to which an election is made under section 1202)".

(c) ALLOWANCE OF DEDUCTION IN COMPUTING ADJUSTED GROSS INCOME.—Subsection (a) of section 62 of such Code (relating to definition of adjusted gross income) is amended by adding after paragraph (14) the following new paragraph:

"(15) PARTIAL INFLATION ADJUSTMENT FOR TIMBER.—The deduction allowed by section 1202."

(d) CONFORMING AMENDMENT.—The table of sections for part I of subchapter P of chapter 1 of such Code is amended by adding at the end the following new item:

"Sec. 1202. Partial inflation adjustment for timber."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or exchanges after December 31, 1992.

SEC. 3. APPLICATION OF PASSIVE LOSS LIMITATIONS TO TIMBER ACTIVITIES.

(a) IN GENERAL.—Treasury regulations sections 1.469-5T(b)(2) (ii) and (iii) shall not apply to any closely held timber activity if the nature of such activity is such that the aggregate hours devoted to management of the activity for any year is generally less than 100 hours.

(b) DEFINITIONS.—For purposes of subsection (a)—

(1) CLOSELY HELD ACTIVITY.—An activity shall be treated as closely held if at least 80 percent of the ownership interests in the activity is held—

(A) by 5 or fewer individuals, or

(B) by individuals who are members of the same family (within the meaning of section 2032A(e)(2) of the Internal Revenue Code of 1986).

An interest in a limited partnership shall in no event be treated as a closely held activity for purposes of this section.

(2) TIMBER ACTIVITY.—The term "timber activity" means the planting, cultivating, caring, cutting, or preparation (other than milling) for market, of trees.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 4. AMORTIZATION OF REFORESTATION EXPENDITURES AND REFORESTATION TAX CREDIT.

(a) INCREASE IN MAXIMUM AMORTIZABLE AMOUNT.—

(1) IN GENERAL.—Paragraph (1) of section 194(b) of the Internal Revenue Code of 1986 (relating to maximum dollar amount) is amended by striking "$10,000 ($5,000" and inserting "$20,000 ($10,000".

(2) INFLATION ADJUSTMENT.—Subsection (b) of section 194 of such Code (relating to limitations) is amended by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) INFLATION ADJUSTMENT.—

"(A) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1993, each dollar amount contained in paragraph (1) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of living adjustment under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1992' for 'calendar year 1989' in subparagraph (B) of such section.

"(B) ROUNDING.—If any increase determined under subparagraph (A) is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50."

(3) APPLICABILITY TO REFORESTATION CREDIT.—Paragraph (1) of section 48(b) of such Code (relating to reforestation credit) is amended by striking "section 194(b)(1)" and inserting "paragraphs (1) and (2) of section 194(b)".

(b) DECREASE IN AMORTIZATION PERIOD.—

(1) IN GENERAL.—Section 194(a) of such Code is amended by striking "84 months" and inserting "60 months".

(2) CONFORMING AMENDMENT.—Section 194(a) of such Code is amended by striking "84-month period" and inserting "60-month period".

(c) AVAILABILITY OF DEDUCTION AND CREDIT TO TRUSTS.—Subsection (b) of section 194 of such Code (as amended by subsection (a)(2) of this section) is amended—

(1) by striking paragraph (4),

(2) in paragraph (5)—

(A) by inserting "AND TRUSTS" after "ESTATES", and

(B) by inserting "and trusts" after "estates", and

(3) by redesignating paragraph (5) as paragraph (4).

(d) EFFECTIVE DATE.—

(1) AMORTIZATION PROVISIONS.—Except as provided in paragraph (2), the amendments made by this section shall apply to additions to capital account made after December 31, 1992.

(2) TAX CREDIT PROVISIONS.—In the case of the reforestation credit under section 48(b) of the Internal Revenue Code of 1986, the amendments made by this section shall apply to property acquired after December 31, 1992.

LIST OF COSPONSORING ORGANIZATIONS FOR RTA

American Forest and Paper Association.
Forest Industries Council on Taxation.
Forest Farmers Association.
Southern Forest Products Association.
Southeastern Lumber Manufacturers Association.
Maine Forest Products Council.
Small Woodland Owners Association of Maine.
Arkansas Forestry Association.
Southern State Foresters.
Georgia Forestry Association.
Louisiana Forestry Association.
North Carolina Forestry Association.
South Carolina Forestry Association.
Mississippi Forestry Association.
Texas Forestry Association.
Virginia Forestry Association.
American Pulpwood Association.
National Association of State Foresters.
Hardwood Manufacturing Association.
National Hardwood Lumber Association.
Hardwood Research Council.
Hardwood Forest Foundation.
Alabama Forestry Commission.
Stewards of Family Farms, Ranches and Forests.
The Wilderness Society.
The National Woodland Owners Association.
The Oregon Small Woodlands Association.
The Washington Farm Forestry Association.
1,000 Friends of Oregon.
The Idaho Forest Owners Association.
The Forest Landowners of California.
The National Resources Defense Council.
Total: 32.

• Mr. PACKWOOD. Mr. President, I am pleased to join my distinguished colleague, Senator GORTON, in introducing a comprehensive proposal, the Reforestation Tax Act of 1993, to encourage investment in and sound management of privately owned forest land. Identical legislation was introduced in the House of Representatives by my colleague from Oregon, Congressman RON WYDEN.

Mr. President, the bill we are introducing today is similar to the Reforestation Tax Act of 1991, which Congressman WYDEN and I introduced in November 1991. Like its predecessor, this bill aims at enhancing a great natural resource, America's forests. Our forests provide wildlife habitat, maintain watershed, and are used for a wide variety of recreational activities, such as hiking, camping, fishing, and hunting.

Our forests also serve as the foundation of a multi-billion-dollar forest products industry. From lumber and construction materials to pulp and paper, timber provides a wide range of products that are essential to modern living,

The challenge for the future is to ensure we have enough forests to meet our wildlife habitat and watershed needs as well as sustain a reliable supply of timber for forest products. Harvest levels in many forest areas are undergoing large reductions in order to save endangered species, like the spotted owl. To fill this gap in our Nation's timber supply, we need to encourage private foresters to invest in and properly maintain their stock of trees.

Private forestry is a long-term, high-risk venture. Trees can take anywhere from 25 to 75 years to grow to maturity, depending on the type of tree and regional weather and soil conditions. The key to success is good management which is costly. And fire and disease can wipe out acres of trees at any time during the long growing period.

Our legislation will boost private investment in forests and aid in the cost of maintaining these forests. This will be accomplished by four measures:

Partially eliminates tax on inflationary gains: The gain from the sale of private timber would be reduced by 3 percent for each year the timber is owned, up to a maximum reduction of 50 percent of the gain. This will probably protect long-term investors in forest land from being taxed on inflationary gains.

Doubles the reforestation tax credit: The current law reforestation tax credit has been eroded by inflation because

it has not been increased since it was enacted in 1980. The bill doubles the reforestation expenditures eligible for the credit (from $10,000 to $20,000) and indexes this amount for inflation in the future.

Amortization of reforestation expenses: Similarly, the current law special 7-year amortization for up to $10,000 of reforestation expenses has not kept up with inflation since it was enacted in 1980. The bill increases this amount to $20,000, indexes it for future inflation, and reduces the amortization period to 5 years.

Passive loss rules: Proposed Treasury regulations discourage private foresters from employing sound forest management practices. The bill revises the regulations by providing that private foresters, like most other business entrepreneurs, can prove that they are materially participating in the forestry business.

This legislation is a key to the preservation and expansion of investment in this vital natural resource. It has been endorsed by the following conservation, environmental, and forestry organizations:

The National Woodland Owners Association.

The Oregon Small Woodlands Association.

The Washington Farm Forestry Association.

The Forest Farmers Association.

1,000 Friends of Oregon.

The Idaho Forest Owners Association.

The Forest Landowners of California.

The Natural Resources Defense Council.

The Izaak Walton League of America.

I urge my colleagues to join us in this effort to encourage long-term investment in private forest land and cosponsor this important legislation.●

By Mr. D'AMATO (for himself, Mr. BOND, Mr. SHELBY, Mr. BENNETT, Mr. DOMENICI, and Mr. MACK):

S. 1124. A bill to enhance credit availability by streamlining Federal regulations applicable to financial institutions, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

DEPOSITORY INSTITUTIONS REGULATORY IMPROVEMENTS ACT OF 1993

● Mr. D'AMATO. Mr. President, today, I, along with Senators BOND, SHELBY, BENNETT, DOMENICI, and MACK, am introducing legislation that will directly enhance the availability of credit to business. It will accomplish this goal in two ways. First, it will give the banking regulators additional flexibility to remove unnecessary and costly regulatory burdens from depository institutions. Second, it will provide statutory protection to banks and other lenders from unintended liability when they make loans secured by property later found to be contaminated. Both of these problems—regulatory burden and lender liability—have unnecessarily constricted credit in our economy. This legislation provides relief on both fronts.

Title I of the bill provides a balanced approach to the regulatory burden issue. It gives the bank regulators discretion to modify those regulations and reporting requirements that are found to be duplicative, obsolete, or otherwise no longer necessary for safety and soundness, yet which impose considerable cost on our financial institutions. For each dollar spent complying with these unnecessary regulations, financial institutions could have lent between $12 and $15 to businesses and individuals seeking credit.

This title also directs the banking agencies to consider regulatory burdens and costs and their impact on credit availability when promulgating regulations and standards. It provides enhanced ability for banks to accept deposits from State and local governmental entities. It gives the regulators additional flexibility in scheduling examinations and requires more coordination when multiple examinations are necessary. Finally, it requires several studies that should lead to additional improvements and streamlining of our regulatory system.

These provisions were carefully drawn to avoid interfering with the agencies' responsibilities to ensure the safe and sound operation of our Nation's financial institutions, yet provide meaningful relief from unnecessary or antiquated constraints imposed by layer upon layers of regulations.

Title II of the bill deals with the lender liability issue. Under some court decisions, banks and other lenders have been held liable for the cleanup costs of contaminated property held as security for a loan. This liability has been imposed regardless of whether the bank actually caused the contamination, or took steps to determine whether there was contamination prior to making the loan. As a result, many lenders won't make a loan to borrowers who use potential contaminants in their businesses, such as gas stations, dry cleaners, photo processing laboratories, and similar businesses. Credit has also been denied to homeowners and others living in areas of suspected pollution.

This same problem confronts the FDIC, RTC, and other Federal banking agencies. When these agencies close down a failed bank or savings and loan, they take over the failed institution's assets. If these assets include property acquired by the bank or savings and loan in a foreclosure proceeding, the liability for contamination may pass to the Federal banking agency, despite the fact that the agency had absolutely nothing to do with creating the pollution.

Mr. President, this legislation is not new. In 1991, Senator Garn introduced similar legislation that passed the Senate as part of the Federal Deposit Insurance Corporation Improvement Act, S. 543. Last year, the Senate approved an amendment to the government-sponsored enterprise bill, that contained a modified version of this proposal. Unfortunately, due to time constraints and jurisdictional disputes in the other body, these provisions were not included in the final legislation.

For purposes of further Senate consideration of this issue, I am including in title II of my bill the text of the lender liability provisions that passed the Senate in 1992 as part of the GSE bill. I hope that this will result in speedy consideration of this issue by the Banking Committee, including any further modifications in the language that might be necessary, and eventually enactment by the Congress.

Title III of this bill contains several technical and conforming amendments to the banking and housing laws that have been suggested by the Federal Deposit Insurance Corporation and Senate legislative counsel. This title is primarily of a housekeeping nature and does not make substantive changes in the law.

Mr. President, the issues raised by this bill need to be addressed and addressed soon. I am looking forward to speedy committee action and floor consideration, so that we can get credit flowing to business and our economy on the move again. Finally, I would ask unanimous consent to insert in the RECORD at this point a more detailed section-by-section analysis of my bill.

S. 1124

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 "Depository Institutions Regulatory Improvements Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Incorporated definitions.

TITLE I—REGULATORY IMPROVEMENTS

Subtitle A—Reduction of Regulatory Burdens

Sec. 101. Regulation of real estate lending.
Sec. 102. Real estate appraisal amendment.
Sec. 103. Public deposits.
Sec. 104. Transition periods for new regulations.
Sec. 105. Annual examinations.
Sec. 106. Coordinated examinations.
Sec. 107. Reduction of reports of condition burdens.
Sec. 108. Branch closures.
Sec. 109. Bank Secrecy Act.
Sec. 110. Minimizing regulatory burdens.
Sec. 111. Repeal of outdated statutory provision.
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SEC. 2. INCORPORATED DEFINITIONS.

Unless otherwise specifically provided in title I of this Act, for purposes of title I of this Act—

(1) the terms "appropriate Federal banking agency", "Federal banking agencies", and "insured depository institution" have the same meanings as in section 3 of the Federal Deposit Insurance Act; and

(2) the term "insured credit union" has the same meaning as in section 101 of the Federal Credit Union Act.

TITLE I—REGULATORY IMPROVEMENTS

Subtitle A—Reduction of Regulatory Burdens

SEC. 101. REGULATION OF REAL ESTATE LENDING.

Section 18(o) of the Federal Deposit Insurance Act (12 U.S.C. 1828(o)) is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

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

"(4) CONSIDERATION OF PARTICULAR IMPACT.—In prescribing standards under paragraph (1), each appropriate Federal banking agency shall—

"(A) consider the impact that such standards have on the availability of credit for small business, residential, and agricultural purposes, and on low- and moderate-income communities; and

"(B) to the extent possible, consistent with safety and soundness principles, seek to minimize the effect that such standards have in reducing the availability of credit for such purposes and in such areas.".

SEC. 102. REAL ESTATE APPRAISAL AMENDMENT.

Section 1122 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3351) is amended—

(1) by redesignating subsections (b) through (e) as subsections (c) through (f), respectively;

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

"(b) RECIPROCITY.—The Appraisal Subcommittee shall encourage the States to develop reciprocity agreements so as to readily authorize appraisers that are licensed or certified in one State (and that are in good standing with their State appraiser certifying or licensing regulatory body) to perform appraisals in other States."; and

(3) in subsection (a)—

(A) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C);

(B) by striking "A State" and inserting the following:

"(1) IN GENERAL.—A State"; and

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

"(2) FEES FOR TEMPORARY PRACTICE.—A State appraiser certifying or licensing regulatory body shall not impose excessive fees or burdensome requirements for temporary practice under this subsection, as determined by the Appraisal Subcommittee.".

SEC. 103. PUBLIC DEPOSITS.

Section 13(e) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)) is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively;

(2) by striking "No agreement" and inserting the following:

"(1) IN GENERAL.—No agreement"; and

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

"(2) EXCEPTION.—Agreements to provide for the collateralization of or security for deposits made by Federal, State, or local governmental entities shall not be deemed invalid under paragraph (1) solely because the agreements were not made contemporaneously with the acceptance of the deposit.".

SEC. 104. TRANSITION PERIODS FOR NEW REGULATIONS.

In determining the effective date for regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions, each Federal banking agency shall consider—

(1) the administrative burden that will be placed on the depository institution;

(2) the ability of depository institutions of different sizes to meet the requirements imposed by the new regulations, giving particular consideration to the more limited resources of smaller depository institutions; and

(3) the time needed by the depository institutions to generate new computer forms or systems, set up new internal systems, and hire or train personnel to comply with the new regulation.

SEC. 105. ANNUAL EXAMINATIONS.

Section 10(d) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)) is amended—

(1) by striking paragraphs (3) and (4) and inserting the following:

"(3) STATE EXAMINATIONS ACCEPTABLE.—The examinations required by paragraph (1) may be satisfied by an examination of the insured depository institution conducted by the State during the 12-month period, if the appropriate Federal banking agency determines that the State examination carries out the purposes of this subsection.

"(4) 2-YEAR RULE FOR CERTAIN SMALL INSTITUTIONS.—

"(A) IN GENERAL.—Paragraphs (1), (2), and (3) shall apply with '24-month' substituted for '12-month' if—

"(i) the insured depository institution has total assets of less than $250,000,000;

"(ii) the institution is well capitalized, as defined in section 38;

"(iii) when the institution was most recently examined, it was found to be well managed, and its composite condition was found to be outstanding;

"(iv) the insured depository institution is not currently subject to a formal enforcement proceeding or order by the Corporation or the appropriate Federal banking agency; and

"(v) no person acquired control of the institution during the 12-month period in which a full-scope, onsite examination would be required, but for this paragraph.

"(B) ADJUSTMENT REQUIRED.—The dollar amount referred to in subparagraph (A)(i) shall be adjusted annually after December 31, 1993, by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics."; and

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

"(6) CERTAIN INSTITUTIONS WITHIN DEPOSITORY INSTITUTION HOLDING COMPANIES.—At the discretion of the appropriate Federal banking agency, an insured depository institution controlled by a depository institution holding company shall be exempt from the requirements of this subsection if—

"(A) the agency is satisfied that adequate internal controls and examination procedures exist within the holding company structure; or

"(B) the insured depository institutions controlled by the holding company which represent a substantial majority of the total assets of all of the insured depository institution assets controlled by that holding company have been examined pursuant to the requirements of this subsection.".

SEC. 106. COORDINATED EXAMINATIONS.

(a) COORDINATED FEDERAL AND STATE EXAMINATIONS.—Section 10(d) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)) is amended by adding at the end the following new paragraph:

"(7) COORDINATED EXAMINATIONS.—To minimize the disruptive effects of examinations on the operations of depository institutions, each appropriate Federal banking agency shall, to the extent practicable—

"(A) coordinate all examinations to be conducted by that agency at an insured depository institution; and

"(B) work with other appropriate Federal banking agencies and appropriate State bank supervisors to coordinate examinations.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 3(r) of the Federal Deposit Insurance Act (12 U.S.C. 1813(r)) is amended to read as follows:

"(r) STATE BANK SUPERVISOR.—The term 'State bank supervisor' means any officer, agency, or other entity of any State that has primary regulatory authority over State banks or State savings associations in such State.".

SEC. 107. REDUCTION OF REPORTS OF CONDITION BURDENS.

(a) REGULATORY REVIEW OF CALL REPORT BURDENS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Federal Financial Institutions Examination Council shall review the regulatory burden and costs incurred by insured depository institutions and insured credit unions in preparing reports of condition.

(2) FACTORS TO BE CONSIDERED.—In conducting its review, each appropriate Federal banking agency shall consider all relevant factors that it deems necessary to correctly determine the extent of the burden and costs, including—

(A) the dollar cost to insured depository institutions and insured credit unions in preparing such reports;

(B) the time and resources expended to meet regulatory directives;

(C) the frequency with which the agency has modified the type of information required to be reported in such reports and the

costs and burdens associated with complying with such modifications; and

(D) the extent to which such costs and burdens, viewed within the overall context of the total regulatory costs incurred by the institution, impact upon the availability of credit.

(3) CORRECTIVE MEASURES.—After conducting its review under paragraph (1), each appropriate Federal banking agency shall, consistent with safety and soundness principles, revise its call report requirements to remove any unnecessary burdens and costs.

(b) REPEAL OF PUBLICATION REQUIREMENTS.—

(1) NATIONAL BANKS.—Section 5211 of the Revised Statutes (12 U.S.C. 161) is amended—

(A) in the fifth sentence of subsection (a), by striking "; and the statement of resources and liabilities" and all that follows through "required by the Comptroller"; and

(B) in subsection (c), by striking the fourth sentence.

(2) STATE NON-MEMBER INSURED BANKS.—Section 7(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(1)) is amended by striking the fourth sentence.

(3) FEDERAL RESERVE BANKS.—The last sentence of the sixth undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 324) is amended by striking "and shall be published" and all that follows through "may prescribe".

(c) CHANGE IN FORM OF REPORT OF CONDITION.—

(1) NATIONAL BANKS.—Section 5211(a) of the Revised Statutes (12 U.S.C. 161(a)) is amended by adding at the end the following: "In determining the effective date for regulations issued under this subsection, the Comptroller of the Currency shall consider the administrative burden that will be placed on the association, the ability of associations of different sizes to meet the requirements of the new regulations, giving particular consideration to the more limited resources of smaller associations, and the time required for the association to generate new computer forms or systems, set up new internal systems, and hire or train personnel to comply with the new regulations.".

(2) STATE NON-MEMBER INSURED BANKS.—Section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)) is amended by adding at the end the following new paragraph:

"(11) CHANGE IN FORM OF REPORT OF CONDITION.—In determining the effective date for regulations issued under this subsection, the Board of Directors shall consider—

"(A) the administrative burden that will be placed on the insured depository institution;

"(B) the ability of depository institutions of different sizes to meet the requirements of the new regulations, giving particular consideration to the more limited resources of smaller depository institutions; and

"(C) the time required for the depository institution to generate new computer forms or systems, set up new internal systems, and hire or train personnel to comply with the new regulations.".

(3) STATE MEMBER BANKS.—The sixth undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 324) is amended by adding at the end the following: "In determining the effective date for regulations issued under this subsection, the Board of Governors of the Federal Reserve System shall consider the administrative burden that will be placed on the bank, the ability of banks of different sizes to meet the requirements of the new regulations, giving particular consideration to the more limited resources of smaller banks, and the time required for the bank to generate new computer forms or systems, set up new internal systems, and hire or train personnel to comply with the new regulations.".

(4) SAVINGS ASSOCIATIONS.—Section 5(v) of the Home Owners' Loan Act (12 U.S.C. 1464(v)) is amended by adding at the end the following new paragraph:

"(9) CHANGES IN FORM OF REPORT OF CONDITION.—In determining the effective date for regulations issued under this subsection, the Director shall consider—

"(A) the administrative burden that will be placed on the savings association;

"(B) the ability of savings associations of different sizes to meet the requirements of the new regulations, giving particular consideration to the more limited resources of smaller savings associations; and

"(C) the time required for the savings association to generate new computer forms or systems, set up new internal systems, and hire or train personnel to comply with the new regulations.".

SEC. 108. BRANCH CLOSURES.

(a) DEFINITION OF "BRANCH".—Section 42 of the Federal Deposit Insurance Act (12 U.S.C. 1831r-1) is amended by adding at the end the following new subsection:

"(d) DEFINITIONS.—For purposes of this section, the term 'branch' does not include—

"(1) an automated teller machine;

"(2) a branch acquired through merger, consolidation, purchase, assumption, or similar method, if such branch is located in a local market area currently served by another branch of the acquiring institution;

"(3) a branch that is closed and reopened in another location within the same local market area that would continue to provide banking services to substantially all of the customers served by the branch that is closed; or

"(4) a branch that is closed in connection with—

"(A) the sale of an insured depository institution in default, for which the Corporation or the Resolution Trust Corporation has been appointed as receiver;

"(B) an emergency acquisition under—

"(i) section 11(n); or

"(ii) subsections (f) or (k) of section 13; or

"(C) any assistance provided by the Corporation under section 13(c).".

(b) EFFECTIVE DATE.—The amendments made by this section shall have the same effective date as section 42 of the Federal Deposit Insurance Act.

SEC. 109. BANK SECRECY ACT.

(a) STAFF COMMENTARIES.—Chapter 53 of title 31, United States Code, is amended by adding at the end the following new section:

"SEC. 5329. STAFF COMMENTARIES.

"The Secretary of the Treasury shall review all regulations promulgated under this subchapter on an annual basis and seek comment from the public pursuant to this review. The Secretary shall publish, on an annual basis, all written rulings interpreting this subchapter, as well as a staff commentary to the regulations issued under this subchapter.".

(b) EXEMPTION PROCESS.—Section 5318(a)(5) of title 31, United States Code, is amended—

(1) by inserting "or exception" after "an appropriate exemption"; and

(2) by inserting the following before the first period: "after receiving comments from the entities covered by this subchapter. The Secretary shall take into account the effect that changes to the exemption or exception process will have on the cost and efficiency of the reporting process".

(c) INFLATION ADJUSTMENTS ON CTR AMOUNTS.—Section 5313(a) of title 31, United States Code, is amended by adding at the end the following: "The Secretary shall review the reporting requirements of this subsection not later than September 1 of each year to determine if the reporting amount prescribed by the Secretary should be adjusted to account for inflation, the cost effectiveness of the requirement, or the usefulness of the requirement for law enforcement purposes. The Secretary shall submit a written report to the Congress in each year during which a change is made, disclosing how the reporting threshold decision was reached. The report shall include an analysis of how the change will affect domestic financial institutions.".

SEC. 110. MINIMIZING REGULATORY BURDENS.

Section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)) is amended by adding at the end the following new paragraph:

"(12) MINIMIZING REGULATORY BURDENS.—In prescribing reporting and other requirements pursuant to this subsection, the Federal banking agencies shall minimize the regulatory burden imposed upon insured depository institutions, consistent with safety and soundness principles.".

SEC. 111. REPEAL OF OUTDATED STATUTORY PROVISION.

Section 5204 of the Revised Statutes (12 U.S.C. 56) is amended—

(1) in the second sentence, by striking "deducting therefrom its losses and bad debts" and inserting "subject to other provisions of law"; and

(2) by striking the third sentence.

SEC. 112. ELIMINATION OF DUPLICATIVE DISCLOSURES FOR HOME EQUITY LOANS.

Section 4(a) of the Real Estate Settlement Procedures Act (12 U.S.C. 2603(a)) is amended by adding at the end the following: "Disclosures made under section 127A(a) of the Truth in Lending Act may be used in lieu of the standard real estate settlement form otherwise required under this section in the case of federally related mortgage loans secured by a subordinate lien on residential property.".

SEC. 113. UNAUTHORIZED ELECTRONIC FUND TRANSFERS.

Section 909(a)(1) of Electronic Fund Transfer Act (15 U.S.C. 1693g(a)(1)) is amended to read as follows:

"(1) $50, or in cases where the cardholder has substantially contributed to the unauthorized use by writing a personal identification or other security code on the card, $500; or".

SEC. 114. HOMEOWNERSHIP DEBT COUNSELING NOTIFICATION.

Section 106(c)(5)(B) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(5)(B)) is amended—

(1) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively;

(2) by striking "The notification" and inserting the following:

"(i) IN GENERAL.—The notification"; and

(3) by adding at the end the following:

"(ii) ONCE YEARLY REQUIREMENT FOR CREDITORS.—Creditors shall not be required to provide the notification required under subparagraph (A) more than once annually.".

SEC. 115. CLARIFICATION OF DISCLOSURE REQUIREMENTS.

Section 6(a) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605(a)) is amended—

(1) in paragraph (1)(B)—

(A) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively;

(B) by striking "and" at the end of subclause (II), as so redesignated, and inserting "or";

(C) by striking "for each" and inserting the following: "at the option of the person making the federally related mortgage loan—

"(i) for each"; and

(D) by adding at the end the following new clause:

"(ii) a statement that the person making the loan has previously assigned, sold, or transferred the servicing of federally related mortgage loans; and"; and

(2) in paragraph (2), by adding at the end the following: "The Secretary shall permit the person originating the loan, at the option of such person, to provide a statement that the servicing may be assigned, sold, or transferred during the 12-month period beginning upon origination in lieu of the percentage estimates otherwise required to be disclosed under this paragraph.".

SEC. 116. EXEMPTION OF BUSINESS LOANS.

The Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.) is amended by inserting after section 6 the following new section:

"SEC. 7. EXEMPTED TRANSACTIONS.

"This title does not apply to credit transactions involving extensions of credit—

"(1) primarily for business, commercial, or agricultural purposes; or

"(2) to government or governmental agencies or instrumentalities.".

SEC. 117. EFFECTIVE DATE FOR INTER-AFFILIATE TRANSACTIONS.

Section 11(a)(2) of the Home Owners' Loan Act (12 U.S.C. 1468(a)(2)) is amended by adding at the end the following new subparagraphs:

"(C) TRANSITION RULE FOR WELL CAPITALIZED SAVINGS ASSOCIATIONS.—

"(i) IN GENERAL.—A savings association that is well capitalized (as defined in section 38 of the Federal Deposit Insurance Act), as determined without including goodwill in calculating core capital, shall be treated as a bank for purposes of section 23A(d)(1) and section 23B of the Federal Reserve Act.

"(ii) LIABILITY OF COMMONLY CONTROLLED DEPOSITORY INSTITUTIONS.—Any savings association that engages under clause (i) in a transaction that would not otherwise be permissible under this subsection, and any affiliated insured bank that is commonly controlled (as defined in section 5(e)(9) of the Federal Deposit Insurance Act), shall be subject to subsection (e) of section 5 of the Federal Deposit Insurance Act as if paragraph (6) of that subsection did not apply.".

Subtitle B—Studies and Reports

SEC. 151. REPORT ON CAPITAL STANDARDS AND THEIR IMPACT ON THE ECONOMY.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Treasury, after consultation with the Federal banking agencies, shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives on the effect of the implementation of risk based capital standards on—

(1) the safety and soundness of insured depository institutions; and

(2) the availability of credit, particularly to consumers and small business concerns.

(b) RECOMMENDATIONS.—The report required by subsection (a) shall contain any recommendations that the Secretary of the Treasury considers relevant.

SEC. 152. STERILE RESERVES STUDIES.

(a) FEDERAL RESERVE STUDY.—Not later than 180 days after the date of enactment of this Act, the Board of Governors of the Federal Reserve System, in consultation with the Chairperson of the Federal Deposit Insurance Corporation, shall conduct a study and report to Congress on—

(1) the necessity, for monetary policy purposes, of continuing to require insured depository institutions to maintain sterile reserves;

(2) the appropriateness of paying a market rate of interest to insured depository institutions on sterile reserves or, in the alternative, providing payment of this interest into the appropriate deposit insurance fund;

(3) the monetary impact that the failure to pay interest on sterile reserves has had on insured depository institutions, including an estimate of the total dollar amount of interest and potential income lost by insured depository institutions; and

(4) the impact that failure to pay interest on sterile reserves has had on the ability of the banking industry to compete with nonbanking providers of financial services and with foreign banks.

(b) BUDGETARY IMPACT STUDY.—Not later than 180 days after the date of enactment of this Act, the Director of the Office of Management and Budget and the Congressional Budget Office, in consultation with the Committees on the Budget of the Senate and the House of Representatives, shall jointly conduct a study and report to the Congress on the budgetary impact of—

(1) paying a market rate of interest to insured depository institutions on sterile reserves; and

(2) paying such interest into the respective deposit insurance funds.

SEC. 153. PAPERWORK REDUCTION REVIEW.

Each appropriate Federal banking agency, in consultation with insured depository institutions and other interested parties, shall—

(1) not later than 180 days after the date of enactment of this Act, conduct a review of the extent to which current regulations require insured depository institutions to produce unnecessary internal written policies; and

(2) take prompt steps to eliminate such requirements, where appropriate.

SEC. 154. REGULATORY REVIEW OF CAPITAL COMPLIANCE BURDEN.

Not later than 180 days after the date of enactment of this Act, the Federal Financial Institutions Examination Council, in consultation with insured depository institutions and other interested parties, shall—

(1) review the extent to which current compliance requirements associated with risk-based capital rules have an unnecessarily costly and burdensome effect on community banks; and

(2) where appropriate, reduce such costs and burdens.

SEC. 155. STREAMLINED LENDING PROCESS FOR CONSUMER BENEFIT.

(a) FEDERAL RESERVE STUDY.—Not later than 12 months after the date of enactment of this Act, the Board of Governors of the Federal Reserve System (hereafter in this section referred to as the "Board"), in consultation with the Secretary of Housing and Urban Development, shall conduct a study and report to the Congress on ways to streamline the credit-granting process.

(b) FOCUS.—In carrying out subsection (a), the Board shall—

(1) identify ways to streamline the home mortgage, small business, and consumer lending processes to—

(A) reduce consumer inconvenience, cost, and time delays; and

(B) minimize cost and burdens on insured depository institutions and credit unions;

(2) take such regulatory action as appropriate, consistent with safety and soundness principles, to meet the objectives of paragraph (1); and

(3) provide to the Congress legislative recommendations on changes necessary to carry out this section.

(c) COMMENT.—In carrying out this section, the Board shall solicit comments from other Federal banking agencies, consumer groups, insured depository institutions, credit unions, and other interested parties.

TITLE II—ENHANCED CREDIT AVAILABILITY AND DEPOSIT INSURANCE PROTECTION

SEC. 201. ENHANCED CREDIT AVAILABILITY AND DEPOSIT INSURANCE PROTECTION.

(a) CERCLA AMENDMENT.—The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) is amended by inserting after section 126 the following new section:

"SEC. 127. INSURED DEPOSITORY INSTITUTION AND OTHER LENDER LIABILITY.

"(a) LIABILITY LIMITATIONS.—

"(1) IN GENERAL.—The liability of an insured depository institution or other lender under this Act or subtitle I of the Solid Waste Disposal Act for the release or threatened release of petroleum or a hazardous substance at, from, or in connection with property—

"(A) acquired through foreclosure;

"(B) held, directly or indirectly, in a fiduciary capacity;

"(C) held by a lessor pursuant to the terms of an extension of credit; or

"(D) subject to financial control or financial oversight pursuant to the terms of an extension of credit,

shall be limited to the actual benefit conferred on such institution or lender by a removal, remedial, or other response action undertaken by another party.

"(2) SAFE HARBOR.—An insured depository institution or other lender shall not be liable under this Act or subtitle I of the Solid Waste Disposal Act and shall not be deemed to have participated in management, as described in section 101(20)(A) of this Act or section 9003(h)(9) of the Solid Waste Disposal Act, based solely on the fact that the institution or lender—

"(A) holds a security interest or abandons or releases its security interest in the property before foreclosure;

"(B) has the unexercised capacity to influence operations at or on property in which it has a security interest;

"(C) includes in the terms of an extension of credit (or in the contract relating thereto), covenants, warranties, or other terms and conditions that relate to compliance with environmental laws;

"(D) monitors or enforces the terms and conditions of the extension of credit;

"(E) monitors or undertakes one or more inspections of the property;

"(F) requires cleanup of the property prior to, during, or upon the expiration of the term of the extension of credit;

"(G) provides financial or other advice or counseling in an effort to mitigate, prevent, or cure default or diminution in the value of the property;

"(H) restructures, renegotiates, or otherwise agrees to alter the terms and conditions of the extension of credit;

"(I) exercises whatever other remedies that may be available under applicable law for the breach of any term or condition of the extension of credit; or

"(J) declines to take any of the actions described in this paragraph.

"(b) ACTUAL BENEFIT.—For purposes of this section, the actual benefit conferred on an institution or lender by a removal, remedial, or other response action shall be equal to the net gain, if any, realized by such institution or lender due to such action. For purposes of this subsection, the 'net gain' shall not exceed the amount realized by the institution or lender on the sale of property.

"(c) EXCLUSION.—Notwithstanding subsection (a), but subject to the provisions of section 107(d), a depository institution or lender that causes or significantly and materially contributes to the release of petroleum or a hazardous substance that forms the basis for liability described in subsection (a), may be liable for removal, remedial, or other response action pertaining to that release.

"(d) ENVIRONMENTAL ASSESSMENTS.—

"(1) DEPOSITORY INSTITUTIONS.—The Federal Deposit Insurance Corporation, in consultation with the Administrator of the Environmental Protection Agency, shall promulgate regulations to implement this section. Such regulations shall include requirements for insured depository institutions to develop and implement adequate procedures to evaluate actual and potential environmental risks that may arise from or at property prior to making an extension of credit secured by such property. The regulations may provide for different types of environmental assessments as may be appropriate under the circumstances, in order to account for the levels of risk that may be posed by different classes of collateral. Failure to comply with the environmental assessment regulations promulgated under this subsection shall be deemed to be a violation of a regulation promulgated under the Federal Deposit Insurance Act.

"(2) LENDERS.—The Federal Deposit Insurance Corporation, in consultation with the Administrator of the Environmental Protection Agency, shall promulgate regulations that are substantially similar to those promulgated under paragraph (1) to assure that lenders develop and implement procedures to evaluate actual and potential environmental risks that may arise from or at property prior to making an extension of credit secured by such property. The regulations may provide for exclusions or different types of environmental assessments in order to take into account the level of risk that may be posed by particular classes of collateral.

"(3) FINAL REGULATIONS.—Final regulations required to be promulgated pursuant to paragraphs (1) and (2) shall be issued not later than 180 days after the date of enactment of this section.

"(e) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) PROPERTY ACQUIRED THROUGH FORECLOSURE.—The term 'property acquired through foreclosure' or 'acquires property through foreclosure' means property acquired, or the act of acquiring property, from a nonaffiliated party by an insured depository institution or other lender—

"(A) through purchase at sales under judgment or decree, power of sales, nonjudicial foreclosure sales, or from a trustee, deed in lieu of foreclosure, or similar conveyance, or through repossession, if such property was security for an extension of credit previously contracted;

"(B) through conveyance pursuant to an extension of credit previously contracted, including the termination of a lease agreement; or

"(C) through any other formal or informal manner by which the insured depository institution or other lender temporarily acquires, for subsequent disposition, possession of collateral in order to protect its interest. Property is not acquired through foreclosure if the insured depository institution or lender does not seek to sell or otherwise divest such property at the earliest practical, commercially reasonable time, taking into account market conditions and legal and regulatory requirements.

"(2) LENDER.—The term 'lender' means—

"(A) a person (other than an insured depository institution) that—

"(i) makes a bona fide extension of credit to a nonaffiliated party; and

"(ii) substantially and materially complies with the environmental assessment requirements imposed under subsection (d), after final regulations under that subsection become effective;

and the successors and assigns of such person;

"(B) the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Agricultural Mortgage Corporation, or other entity that in a bona fide manner is engaged in the business of buying or selling loans or interests therein, if such Association, Corporation, or entity requires institutions from which it purchases loans (or other obligations) to comply substantially and materially with the requirements of subsection (d), after final regulations under that subsection become effective; and

"(C) any person regularly engaged in the business of insuring or guaranteeing against a default in the repayment of an extension of credit, or acting as a surety with respect to an extension of credit, to nonaffiliated parties.

"(3) FIDUCIARY CAPACITY.—The term 'fiduciary capacity' means acting for the benefit of a nonaffiliated person as a bona fide—

"(A) trustee;

"(B) executor;

"(C) administrator;

"(D) custodian;

"(E) guardian of estates;

"(F) receiver;

"(G) conservator;

"(H) committee of estates of lunatics; or

"(I) any similar capacity.

"(4) EXTENSION OF CREDIT.—The term 'extension of credit' includes a lease finance transaction—

"(A) in which the lessor does not initially select the leased property and does not during the lease term control the daily operations or maintenance of the property; or

"(B) which conforms with regulations issued by the appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) or the appropriate State banking regulatory authority.

"(5) INSURED DEPOSITORY INSTITUTION.—The term 'insured depository institution' has the same meaning as in section 3(c) of the Federal Deposit Insurance Act, and shall also include—

"(A) a federally insured credit union;

"(B) a bank or association chartered under the Farm Credit Act of 1971; and

"(C) a leasing or trust company that is an affiliate of an insured depository institution (as such term is defined in this paragraph).

"(6) RELEASE.—The term 'release' has the same meaning as in section 101(22), and also includes the threatened release, use, storage, disposal, treatment, generation, or transportation of a hazardous substance.

"(7) HAZARDOUS SUBSTANCE.—The term 'hazardous substance' has the same meaning as in section 101(14).

"(8) SECURITY INTEREST.—The term 'security interest' includes rights under a mortgage, deed of trust, assignment, judgment lien, pledge, security agreement, factoring agreement, lease, or any other right accruing to a person to secure the repayment of money, the performance of a duty, or some other obligation.

"(f) SAVINGS CLAUSE.—Nothing in this section shall affect the rights or immunities or other defenses that are available under this Act or other applicable law to any party subject to the provisions of this section. Nothing in this section shall be construed to create any liability for any party. Nothing in this section shall create a private right of action against a depository institution or lender or against a Federal banking or lending agency.

"(g) EFFECTIVE DATE.—This section shall become effective upon the date of its enactment.".

(b) FEDERAL DEPOSIT INSURANCE ACT AMENDMENT.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

"SEC. 44. FEDERAL BANKING AND LENDING AGENCY LIABILITY.

"(a) GOVERNMENTAL ENTITIES.—

"(1) BANKING AND LENDING AGENCIES.—Except as provided in paragraph (2), a Federal banking or lending agency shall not be liable under any law imposing strict liability for the release or threatened release of petroleum or a hazardous substance at or from property (including any right or interest therein) acquired—

"(A) in connection with the exercise of receivership or conservatorship authority, or the liquidation or winding up of the affairs of an insured depository institution, including any of its subsidiaries;

"(B) in connection with the provision of loans, discounts, advances, guarantees, insurance or other financial assistance; or

"(C) in connection with property received in any civil or criminal proceeding, or administrative enforcement action, whether by settlement or order.

"(2) APPLICATION OF STATE LAW.—Nothing in this section shall be construed as preempting, affecting, applying to, or modifying any State law, or any rights, actions, cause of action, or obligations under State law, except that liability under State law shall not exceed the value of the agency's interest in the asset giving rise to such liability. Nothing in this section shall be construed to prevent a Federal banking or lending agency from agreeing with a State to transfer property to such State in lieu of any liability that might otherwise be imposed under State law.

"(3) LIMITATION.—Notwithstanding paragraph (1), and subject to section 107(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, a Federal banking or lending agency that causes or significantly and materially contributes to the release of petroleum or a hazardous substance that forms the basis for liability described in paragraph (1), may be liable for removal, remedial, or other response action pertaining to that release.

"(4) SUBSEQUENT PURCHASER.—The immunity provided by paragraph (1) shall extend to the first subsequent purchaser of property described in such paragraph from a Federal banking or lending agency, unless such purchaser—

"(A) would otherwise be liable or potentially liable for all or part of the costs of the removal, remedial, or other response action due to a prior relationship with the property;

"(B) is or was affiliated with or related to a party described in subparagraph (A);

"(C) fails to agree to take reasonable steps necessary to remedy the release or threatened release in a manner consistent with the purposes of applicable environmental laws; or

"(D) causes or materially and significantly contributes to any additional release or threatened release on the property.

"(5) FEDERAL OR STATE ACTION.—Notwithstanding paragraph (4), if a Federal agency or State environmental agency is required to take remedial action due to the failure of a subsequent purchaser to carry out, in good faith, the agreement described in paragraph (4)(C), such subsequent purchaser shall reimburse the Federal or State environmental agency for the costs of such remedial action. However, any such reimbursement shall not exceed the full fair market value of the property following completion of the remedial action.

"(b) LIEN EXEMPTION.—Notwithstanding any other provision of law, any property held by a subsequent purchaser referred to in subsection (a)(4) or held by a Federal banking or lending agency shall not be subject to any lien for costs or damages associated with the release or threatened release of petroleum or a hazardous substance known to exist at the time of the transfer.

"(c) EXEMPTION FROM COVENANTS TO REMEDIATE.—A Federal banking or lending agency shall be exempt from any law requiring such agency to grant covenants warranting that a removal, remedial, or other response action has been, or will in the future be, taken with respect to property acquired in the manner described in subsection (a)(1).

"(d) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) FEDERAL BANKING OR LENDING AGENCY.—The term 'Federal banking or lending agency' means the Corporation, the Resolution Trust Corporation, the Board of Governors of the Federal Reserve System, a Federal Reserve Bank, a Federal Home Loan Bank, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration Board, the Farm Credit Administration, the Farm Credit System Insurance Corporation, the Farm Credit System Assistance Board, the Farmers Home Administration, the Rural Electrification Administration, and the Small Business Administration, in any of their capacities, and their agents.

"(2) HAZARDOUS SUBSTANCE.—The term 'hazardous substance' has the same meaning as in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

"(3) RELEASE.—The term 'release' has the same meaning as in section 101(22) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and also includes the threatened release, use, storage, disposal, treatment, generation, or transportation of a hazardous substance.

"(e) SAVINGS CLAUSE.—Nothing in this section shall affect the rights or immunities or other defenses that are available under this Act or other applicable law to any party subject to the provisions of this section. Nothing in this section shall be construed to create any liability for any party. Nothing in this section shall create a private right of action against a depository institution or lender or against a Federal banking or lending agency.".

TITLE III—TECHNICAL AND CONFORMING AMENDMENTS

SEC. 301. TRANSFERRED DEPOSITS.

Section 3(n) of the Federal Deposit Insurance Act (12 U.S.C. 1813(n)) is amended by striking "and assumed" and inserting "or assumed".

SEC. 302. TECHNICAL AMENDMENT.

Section 3(q)(2)(E) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)(2)(E)) is amended by striking "Depository" and inserting "Financial".

SEC. 303. CERTIFIED STATEMENTS.

Section 7(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(3)) is amended by striking the third sentence and inserting the following new sentence: "Two dates shall be selected within the semiannual period of January to June inclusive, and two dates shall be selected within the semiannual period of July to December inclusive.".

SEC. 304. CROSS REFERENCE CORRECTION.

Section 8(o) of the Federal Deposit Insurance Act (12 U.S.C. 1818(o)) is amended in the second sentence by striking "subsection (b)" and inserting "subsection (d)".

SEC. 305. COURT COSTS; BONDS; FILING FEES.

Section 9(b)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1819(b)(4)) is amended to read as follows:

"(4) BONDS OR FEES.—The Corporation shall not be required to—

"(A) post any bond or security to—

"(i) initiate or respond to any action for a temporary restraining order or an injunction; or

"(ii) pursue any appeal;

"(B) pay any filing fees in United States district courts, bankruptcy courts, or courts of appeal; or

"(C) pay any fees for service of process by the United States Marshal.".

SEC. 306. DELETION OF OBSOLETE PROVISION.

Section 18(g)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)(1)) is amended by striking out everything beginning with "During the period commencing on October 15, 1968," through the period at the end.

SEC. 307. FEDERAL RESERVE ACT AMENDMENT.

Section 2 of the Federal Reserve Act (12 U.S.C. 222) is amended in the sixth sentence of the first paragraph by inserting ", after receiving approval from the Board of Directors of the Federal Deposit Insurance Corporation pursuant to section 5(a) of the Federal Deposit Insurance Act," before "thereupon".

SEC. 308. ANNUAL REPORT OF APPRAISAL SUBCOMMITTEE.

Section 1103(a)(4) of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3332(a)(4)) is amended by striking "January" and inserting "March".

SEC. 309. INSURANCE OF BRIDGE BANKS.

Section 5(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1815(a)(3)) is amended—

(1) by amending the heading to read as follows: "APPLICATION AND APPROVAL NOT REQUIRED IN CERTAIN CASES.—"; and

(2) by inserting "any bridge bank or" before "any depository institution".

SEC. 310. ADDITIONAL TECHNICAL AMENDMENTS TO THE FEDERAL BANKING AND HOUSING LAWS.

(a) FEDERAL DEPOSIT INSURANCE ACT AMENDMENTS.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended—

(1) in section 3—

(A) in subsection (i)(1), by striking "(11)(h)" and inserting "(11)(m)"; and

(B) in subsection (*l*)(4), by striking "bank's" and inserting "a bank's";

(2) in section 5(b)(5), by striking the semicolon at the end and inserting a comma;

(3) in section 5(e)(4), by redesignating clauses (i) and (ii) as subparagraphs (A) and (B);

(4) in section 7(a)(3), by striking "Chairman of the" before "Director of the Office of Thrift Supervision";

(5) in section 7(j)(2)(A), in the third sentence—

(A) by striking "this section (j)(2)" and inserting "the preceding 2 sentences"; and

(B) by striking "this subsection (j)(2)" and inserting "the preceding 2 sentences";

(6) in section 7(j)(7)(A), by striking "monoplize" and inserting "monopolize";

(7) in section 7(*l*)(7), by striking "the ratio of the value of" and inserting "the ratio of";

(8) in section 7(m)(5)(A) by striking "savings association institution" and inserting "institution";

(9) in section 7(m)(7), by inserting "the" before "Federal";

(10) in section 8(a)(3), by striking "subparagraph (B)" and inserting "paragraph (2)(B)";

(11) in section 8(a)(7)—

(A) by inserting a comma after "Board of Directors"; and

(B) by striking "the period the period" and inserting "the period";

(12) in section 8(b)(4), by striking "subparagraph (3) of this subsection" and inserting "paragraph (3)";

(13) in section 8(b)(6)(F), by inserting "appropriate Federal" before "banking agency";

(14) in section 8(c)(2), by striking "injuction" and inserting "injunction";

(15) in section 8(g)(2), by striking "depository institution" each place it appears and inserting "bank";

(16) in section 8(o), by striking "board of directors" each place it appears and inserting "Board of Directors";

(17) in section 8(p), by striking "banking" each place it appears and inserting "depository";

(18) in section 8(r)(2), by striking "therof" and inserting "thereof";

(19) in section 10(b)(1), by striking "claim" and inserting "claims";

(20) in section 10(b)(2)(B), by inserting "and" at the end;

(21) in section 11(d)(2)(B)(iii), by striking "is" and inserting "are";

(22) in section 11(d)(8)(B)(ii), by inserting "provide" before "a statement";

(23) in section 11(d)(14)(B), by striking "statute of limitation" and inserting "statute of limitations";

(24) in section 11(d)(16)(B)(iv), by striking "dispositions" and inserting "disposition";

(25) in section 11(e)(8)(D)(v)(I), by inserting a closing parenthesis after "1934";

(26) in section 11(e)(12)(B), by striking "directors or officers" and inserting "director's or officer's";

(27) in section 11(f)(3)(A), by striking "TO" in the heading and inserting "WITH";

(28) in section 11(i)(3)(A), by striking "other claimant or category or claimants" and inserting "other claimant or category of claimants";

(29) in section 11(n)(4)(E)(i), by inserting "and" at the end;

(30) in section 11(n)(12)(A), by striking "subparagraphs" and inserting "subparagraph";

(31) in the second sentence of section 11(q)(1), by striking "decided" and inserting "held";

(32) in section 13(c)(1)(B), by striking "a in default insured bank" and inserting "an insured bank in default";

(33) in section 13(c)(2)(A)—

(A) by striking "another" and inserting "an";

(B) by striking "with an insured institution" and inserting "with another insured depository institution"; and

(C) by striking "by an insured institution" and inserting "by another insured depository institution";

(34) in section 13(f)(2)(B)(i), by striking "the in default insured bank" and inserting "the insured bank in default";

(35) in section 13(f)(2)(B)(iii), by striking "of of" and inserting "of";

(36) in section 13(f)(3), by striking "CLOSING" in the heading and inserting "DEFAULT";

(37) in section 13(f)(6)(A), by striking "bank that has in default" and inserting "bank that is in default";

(38) in section 13(f)(6)(B)(i), by striking the semicolon at the end and inserting a period;

(39) in section 13(f)(7)—

(A) in subparagraph (A), by striking "or" at the end; and

(B) in subparagraph (B), by striking the period at the end and inserting "; or";

(40) in section 13(f)(12)(A), by striking "is less than" and inserting "are less than";

(41) in section 15(c)(1), by striking "OBLIGATIONS LIABILITIES" in the heading and inserting "OBLIGATIONS, GUARANTEES, AND LIABILITIES";

(42) in section 18(b), by striking "if such bank" and inserting "if such insured depository institution";

(43) in section 18(c)(1)(B), by inserting "or" at the end;

(44) in section 18(c)(4), by striking "other two banking agencies" each place it appears and inserting "other Federal banking agencies";

(45) in section 18(c)(6), by striking "other two banking agencies" and inserting "other banking agencies";

(46) in section 18(c)(9), by striking "with the following information:" and inserting "with—";

(47) in section 18(f)—

(A) by striking "such bank" and inserting "such insured depository institution"; and

(B) by striking "the bank" and inserting "the insured depository institution";

(48) in section 18(k)(4)(A)(ii)(II), by striking "or" at the end;

(49) in section 20(a)(3), by inserting "or" at the end;

(50) in section 21(c), by striking "the bank" and inserting "the insured depository institution";

(51) in section 21(d)(2), by striking "the bank" and inserting "the insured depository institution";

(52) in section 21(e), by striking "the bank" and inserting "the insured depository institution";

(53) in section 25(a), by striking "the bank" each place it appears and inserting "the depository institution, insured branch, or bank";

(54) in section 28(c)(2)(A)(i) by striking ", or" and inserting "; or";

(55) in section 28(d)(4)(C), by striking "subparagraphs" and inserting "subparagraph";

(56) in section 28(e)(4), "any other" and inserting "and any other";

(57) in section 30(e)(1)(A), by striking "venders" and inserting "vendors";

(58) in section 31(b)(1), by striking "Board of Directors" and inserting "board of directors";

(59) in section 33(c)(1), by striking the comma at the end and inserting a semicolon;

(60) in section 34(a)(1)(A)(iii), by striking "and" and inserting "or";

(61) in section 34(a)(2), by inserting the period at the end;

(62) in section 38(f)(6), by striking "Commisssion" and inserting "Commission";

(63) in section 40(c)(4)(A), by striking "subsections (p)(12)(B) and (C)" and inserting "subparagraphs (B) and (C) of subsection (p)(12)"; and

(64) in section 40(d)(8)(A), by striking "meeting" and inserting "meeting the".

(b) FEDERAL HOME LOAN BANK ACT.—Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended—

(1) in subsection (a), by inserting in the heading "THRIFT DEPOSITOR PROTECTION" before "OVERSIGHT BOARD";

(2) in subsection (a)(6)(C), by inserting a period at the end;

(3) in subsection (a)(11), by striking "United States District Court" and inserting "United States district court";

(4) in subsection (b)(11)(B)(iii), by striking the comma after "chapter 5";

(5) in subsection (b)(11)(E)(iv)(II), by striking "knowledgable" and inserting "knowledgeable";

(6) in subsection (b)(11)(G), by inserting "ADVISORY PERSONNEL.—" before "The Corporation shall";

SECTION-BY-SECTION ANALYSIS

TITLE I—REDUCTION OF REGULATORY BURDEN

Sec. 101.—Regulation of Real Estate Lending

The Federal regulators are required to promulgate uniform regulations prescribing standards for loans secured by real estate. This amendment provides that, to the extent possible, and consistent with safety and soundness, the regulators should minimize the impact of such regulations on the availability of credit for small business, for residential and agricultural purposes, and on low- and moderate-income communities.

Sec. 102.—Real Estate Appraisal Amendment

Current law requires that real estate serving as collateral for federally-related loans that are above certain de minimus levels, must be appraised by a State licensed or State certified appraiser. This amendment states that the Federal Appraisal Subcommittee of the Federal Financial Institutions Examination Council (FFIEC) should encourage the States to develop reciprocity agreements so that appraisers that are licensed or certified by one State may perform appraisals in other States. The amendment also provides that a State agency may not impose excessive fees on "out-of-State" appraisers.

Sec. 103.—Public Deposits

Section 13(e) of the Federal Deposit Insurance Act permits the FDIC to disavow certain agreements unless the agreement is in writing, is approved by the board of directors of the bank, was executed contemporaneously with the acquisition of the asset, and has been an official record of the institution. This provision has caused concern among local governmental entities that seek to collateralize government deposits in excess of $100,000. These entities are concerned that since the collateral pledged by the bank is often changed during life of the deposit, the "contemporaneous" requirement is not satisfied, and therefore the FDIC could refuse to honor the collateralization agreement if the bank fails.

This amendment provides that with respect to deposits made by public entities, a collateralization agreement shall not be deemed invalid simply because the agreement is not made contemporaneously with acceptance of the deposit.

Sec. 104.—Transition Period for New Regulations

This section provides that in determining the effective date of new regulations, the Federal banking agencies shall consider the administrative burden that will be placed on depository institutions, the ability of institutions of different sizes to meet new regulatory requirements, and the time needed by depository institutions to generate new computer forms or systems, set up internal systems, and hire or train personnel.

Sec. 105.—Annual Examinations

(a) *Annual Examinations Requirement:* Current law requires the Federal regulatory agencies to conduct onsite examinations every 12 months, except that institutions that have total assets of $100 million or less, that are well capitalized, that have a Camel rating of 1, and that have not undergone a change of control within one year of its last examination, may be examined every 18 months.

This amendment permits the regulatory agencies to examine institutions with total assets of $250 million or less every 24 months, provided the institution is well capitalized, has a Camel rating of 1, and has not undergone a change of control during the one year period following its last exam. The institution must also not be under a formal enforcement order to qualify for this exception. The $250 million dollar cut off will adjusted annually for inflation.

(b) *State Examinations Acceptable:* Current law provides that the Federal regulators may accept State examinations in lieu of Federal examinations in alternative years. This amendment provides that the Federal regulators may accept State examinations without the "alternative year" limitation.

(c) *Depository Institutions Within Holding Companies:* The bill adds a new provision that would give the Federal agencies the discretion to exempt a depository institution from the annual examination requirement if: (i) the institution is controlled by a holding company; (ii) the holding company has adequate internal controls and examination procedures; and (iii) depository institutions representing a substantial majority of the total assets of all insured institutions controlled by that holding company have been examined by Federal bank regulatory agencies.

Sec. 106.—Coordinated Examinations

This section provides that each Federal banking agency shall, to the extent practicable, avoid duplicating all examinations and work with other Federal and State bank supervisors to coordinate examinations.

Sec. 107.—Reduction of Call Report Burdens

(a) *Unnecessary Burdens and Costs:* The bill mandates that the Federal Financial Institutions Examination Council is to review the regulatory burden and costs associated with the preparation of call reports, including the extent to which such costs impact upon credit availability. After conducting its review, each agency is to revise its call report requirements to remove any unnecessary burdens and costs.

(b) *Repeal of Obsolete Provisions:* This section repeals provisions of current law that require bank call reports to be published in newspapers of local circulation. These reports are publicly available to interested parties upon request.

(c) *Change in Form of Call Report:* The bill provides that each of the Federal bank regulators shall consider the administrative burden that will be placed on insured institutions when determining the effective date of new regulations making changes in the call report requirements.

Sec. 108.—Branch Closures

Current law requires insured depository institutions to submit a notice to its Federal regulator at least 90 days prior to closing any branch. It must also post a notice in the lobby of the branch to be closed at least 30 days prior to closure and include the notice in an account statement or in a separate mailing to customers of that branch.

This section provides that, for purposes of these provisions, a branch does not include an ATM machine, or a branch acquired through merger if the branch is located in a local market currently served by another branch of the acquiring institution. Further, the amendment provides that a branch closing does not include a branch that is relocated in the same market area. Finally, a branch that is closed in connection with an emergency acquisition or Government resolution of a failing institution would be exempt.

Sec. 109.—Bank Secrecy Act

(a) *Staff Commentaries:* This section requires the Secretary of the Treasury to review Bank Secrecy Act regulations on an annual basis and seek public comment. The Treasury would be required to publish all written interpretive rulings and staff commentaries.

(b) *Exception Process:* Current law authorizes the Secretary to promulgate exemptions from foreign currency transaction reports. The amendment provides that the Secretary may promulgate exemptions or exceptions after receiving comments from the entities covered, and that he will take into account the effect that changes to the exemption or exception process will have on the cost and efficiency of the reporting process.

(c) *Inflation Adjustment for CTR Amounts:* The bill provides that the Secretary shall review reporting requirements for monetary transactions each year to determine if the trigger amount should be adjusted for inflation, and submit a written report to Congress each year a change is made.

Sec. 110.—Minimizing Regulatory Burden

The bill provides that in prescribing reporting requirements the FDIC shall minimize the regulatory burden imposed upon insured depository institutions, consistent with safety and soundness.

Sec. 111.—Repeal of Outdated Statutory Provision

This section eliminates an out-dated requirement in existing law that mandates that national banks calculate bad debt according to a specific prescription. This statutory prescription has been superseded by current regulatory requirements concerning loan loss allowances and classification of loans.

Sec. 112.—Elimination of Duplicate Disclosures for Home Equity Loans

This section provides that disclosures required under Truth-in-Lending may be used in lieu of disclosures under the Real Estate Settlement Procedures Act with respect to second mortgage loans.

Sec. 113.—Unauthorized Electronic Fund Transfers

Current law limits consumer liability for unauthorized electronic fund transfers to $50. This amendment raised the liability limit to $500, but only if the consumer substantially contributed to the unauthorized use by writing on the card his or her personal identification or other security code.

Sec. 114.—Homeownership Debt Counseling Notification

This section provides that creditors shall not be required to provide notification of the availability of homeownership debt counseling more than once annually.

Sec. 115.—Clarify Disclosure Requirements

Current law requires the maker of a home mortgage loan to disclose to all applicants the percentage of loans in which servicing has been assigned, sold, or transferred to another party, for the past 3 years.

This amendment would permit the maker to state that he or she has previously assigned, sold or transferred servicing rights instead of listing the percentages of prior loans for which servicing has been transferred.

Sec. 116.—Exemption of Business and Government Loans From RESPA

This amendment provides an exemption from RESPA for credit transactions that are primarily for business, commercial or agricultural purposes, or to government agencies or instrumentalities.

Sec. 117.—Effective Date for Inter-Affiliate Transactions

Under current law, transactions between a bank and affiliated companies are subject to certain restrictions. However these restrictions do not apply to transactions among banks that are owned by the same holding company. These restrictions also apply to transactions between a thrift institution and affiliated companies, except that the exception for transactions between the thrift and affiliated depository institutions does not go into effect until January 1, 1995. Under this amendment, the exception would become immediately available for well capitalized thrift institutions. Further, if a well capitalized thrift makes use of this exception, it and affiliated banks would become subject to cross liability provisions between banks and thrifts that otherwise would not be effective until August 9, 1994.

Subtitle B—Studies and Reports

Sec. 151.—Report on Capital Standards

This section directs the Secretary of the Treasury, after consultation with the Federal banking agencies, to report to Congress on how implementing the risk based capital standards has effected the safety and soundness of insured institutions and the availability of credit to consumers and small businesses.

Sec. 152.—Sterile Reserves Study

This section directs the Federal Reserve Board, in consultation with the FDIC, to conduct a study on paying interest on sterile reserves. It also directs the OMB and the CBO to conduct a joint study of this issue.

Sec. 153.—Paperwork Reduction Review

Each Federal banking agency, in consultation with insured depository institutions and other interested parties, is to conduct a review of the extent to which current regulations require insured institutions to produce unnecessary internal written policies and take steps to eliminate such requirements where appropriate.

Sec. 154.—Regulatory Review of Capital Compliance Burden

The FFIEC is to review the extent to which current compliance requirements with risk based capital rules have an unnecessarily costly and burdensome effect on community banks and where appropriate reduce such costs and burdens.

Sec. 155.—Streamlined Lending Process for Consumer Benefit

The Federal Reserve Board, in consultation with the Secretary of HUD, is to conduct a study and report to the Congress, on ways to streamline the credit-granting process; to reduce consumer inconvenience, cost and time delays; and to minimize cost and burdens on insured institutions and credit unions. The Federal Reserve is to take such regulatory action, as appropriate, to meet these objectives, and to provide to the Congress legislative recommendations.

TITLE II—ENHANCED CREDIT AVAILABILITY AND DEPOSIT INSURANCE PROTECTION

This title contains the lender liability provisions that passed the Senate last year as part of the Government Sponsored Enterprises Act.

Sec. 201.—Enhanced Credit Availability and Deposit Insurance Protection

This section adds a new section 127 to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund Act), as follows:

Sec. 127(a)(1). Liability Limitation.—This paragraph limits the liability of depository institutions and other lenders under CERCLA and subtitle I of the Solid Waste Disposal Act. The limitation covers liability relating to: (i) property acquired through foreclosure; (ii) property held in a fiduciary capacity; (iii) property leased to another pursuant to a lease agreement that is functionally equivalent to an extension of credit; or (iv) property that is otherwise subject to the financial control or oversight of the institution pursuant to the terms of an extension of credit. Liability is limited to the "actual benefit" conferred on a lender by a cleanup action undertaken by another party.

Sec. 127(a)(2). Safe Harbor.—This paragraph delineates certain "safe harbors." Depository institutions and other lenders are protected from liability that might otherwise be alleged on the basis of having engaged in one or more of the activities described in these safe harbors. The failure to engage in any of the activities described as a safe harbor does not affect protection otherwise afforded by the section.

The safe harbors are: (i) holding a security interest or abandoning or relinquishing a security interest prior to foreclosure; (ii) having the unexercised capacity to influence operations at or on property in which the party has a security interest; (iii) including in the extension of credit terms or conditions relating to the borrower's compliance with environmental laws; (iv) monitoring or enforcing the terms and conditions of the extension of credit; (v) monitoring or undertaking one or more inspections of the property; (vi) requiring the borrower to cleanup the property prior to or during, or upon expiration of the term of the extension of credit; (vii) providing financial or other advice or counseling in an effort to mitigate, prevent or cure default or diminution in the value of the property; (viii) restructuring, renegotiating or otherwise altering the terms and conditions of the extension of credit; (x) exercising other remedies at law or in equity that might be available for the borrower's breach of any term or condition of the extension of credit.

Sec. 127(b). Actual Benefit.—The "actual benefit" conferred on an institution or lender is equal to the net gain, if any, realized by such party as a result of the required corrective action. In no case may the actual benefit exceed the amount realized by the institution or lender on the sale of the property. A reduction in actual or potential liability is not considered to be an actual benefit realized. Rather, the "actual benefit" realized is the net increased market value of the property, realized by the institution or lender upon its sale or other disposition, and attributable to the action of others in conducting

a legally mandated removal, remedial, response or corrective action taken in accordance with Federal law.

Sec. 127(c). Exclusion.—A depository institution or other lender that causes or significantly and materially contributes to a release that forms the basis for liability under CERLA or Title I of the Solid Waste Disposal Act may be liable for cleanup costs pertaining to that release.

Sec. 127(d). Environmental Assessments.—The FDIC, in consultation with the EPA, is directed to promulgate regulations requiring depository institutions and other lenders to develop procedures to evaluate actual and potential environmental risks that may arise from property prior to making an extension of credit secured by such property. The regulations may provide for different types of environmental assessments as may be appropriate under the circumstances.

Sec. 128(e). Definitions.—This subsection contains the following definitions:

(1) Property Acquired Through Foreclosure.—"Property acquired through foreclosure" is defined as property acquired from a nonaffiliated party through foreclosure, termination of a lease agreement, or equivalent means. However, it does not include property that the depository institution or lender does not seek to sell or otherwise divest at the earliest practical, commercially reasonable time, after taking into account market conditions and legal requirements.

(2) Lender.—A "lender" is defined as a person (including a corporation) that is not a depository institution, that makes a bona fide extension of credit to a nonaffiliated party, and that substantially and materially complies with environmental assessment regulations promulgated under this legislation (section 127(d)). It includes assigns and successors.

A "lender" also includes the Federal National Mortgage Corporation, the Federal Home Loan Mortgage Corporation, the Federal Agricultural Mortgage Corporation, and any other entity that is engaged in the business of buying or selling loans or interests therein, provided the entity requires institutions from which it purchases such mortgages to comply with environmental assessment regulations mandated by section 127(d).

Finally, a "lender" includes any company regularly engaged in the business of insuring or guaranteeing against a default in the repayment of an extension of credit, or acting as a surety with respect to an extension of credit, to nonaffiliated parties.

(3) Fiduciary Capacity.—The term "fiduciary capacity" means acting for the benefit of a nonaffiliated person as a bona fide trustee, executor, administrator, custodian, receiver, conservator, or in a similar capacity.

(4) Extension of Credit.—An "extension of credit" includes a lease finance transaction in which the lessor does not initially select the leased property and does not during the lease term control the daily operations or maintenance of the property. It also includes a lease finance transaction that conforms with regulations issued by the appropriate Federal banking agency or State bank regulatory authority.

(5) Insured Depository Institution.—An "insured depository institution" includes FDIC insured banks and thrifts, federally insured credit unions, Farm credit banks and credit associations, and a leasing or trust company that is an affiliate of an insured depository institution.

(6) Release.—A "release" is defined to include the threatened release, use, storage, disposal, treatment, generation, or transportation of a hazardous substance.

(7) Hazardous Substance.—A "hazardous substance" is defined as in CERCLA.

(8) Security Interest.—A "security interest" includes rights under a mortgage, deed of trust, assignment, judgment lien, pledge, security agreement, factoring agreement, lease, or any other right accruing to a person to secure the repayment of money, the performance of a duty, or some other obligation.

Sec. 127(f). Savings Clause.—This subsection makes it clear that defenses available under CERCLA, the Solid Waste Disposal Act, or other applicable law are not affected by this legislation. Nothing in this legislation shall be construed to create any liability for any party, or create a private right of action against a depository institution or lender, or against a Federal banking or lending agency.

Sec. 201(b).—Federal Deposit Insurance Act Amendments

This section adds a new section 44 to the Federal Deposit Insurance Act to provide limitations on liability for Federal banking and lending agencies:

Sec. 44(a)(1). Governmental Entities.—A Federal banking or lending agency shall not be liable under any law imposing strict liability for the release or threatened release of petroleum or a hazardous substance at or from property, or any right or interest in property, acquired in connection with the exercise of receivership or conservatorship authority; in connection with the provision of loans, guarantees, insurance or other financial assistance; or in connection with property received in any civil or criminal proceeding.

Sec. 44(a)(2). Application of State Law.—This legislation does not preempt any State law, or any right or action under State law, except that liability under State law cannot exceed the value of the agency's interest in the asset giving rise to the liability. Further, this legislation does not prevent a Federal banking or lending agency from agreeing with a State to transfer property to a State in lieu of any liability that might otherwise be imposed under State law.

Sec. 44(a)(3). Limitation.—A Federal banking or lending agency that causes or significantly and materially contributes to the release of petroleum or a hazardous substance that forms the basis for liability under a law described in paragraph 44(a)(1) may be liable for a removal, remedial, or other response action pertaining to that release.

Sec. 44(a)(4). Subsequent Purchaser.—The first subsequent purchaser of property from a Federal banking or lending agency is also granted protection against liability so long as this purchaser would not otherwise be liable or potentially liable for the cleanup, is not related or affiliated with a responsible or potentially responsible party, and agrees to take reasonable steps to remedy the contamination. The subsequent purchaser may not cause or materially and significantly contribute any additional release on the property.

Sec. 44(a)(5). Federal or State Action.—If a Federal or State agency is required to take remedial action due to the failure of a subsequent purchaser to carry out his or her agreement to remediate, the purchaser is required to reimburse the Federal or State agency for the cost of the remedial action, up to the full fair market value of the property.

Sec. 44(b). Lien Exemption.—This subsection provides an exemption for statutory lien provisions for subsequent purchasers that comply with the requirements of this legislation.

Sec. 44(c). Exemption from Covenants to Remediate.—This subsection provides that a Federal banking or lending agency shall be exempt from any law requiring such agency to grant covenants warranting that a removal, remedial, or other response action has been, or will in the future be, taken.

Sec. 44(d). Definitions.—This subsection contains the following definitions:

(1) Federal Banking or Lending Agency.—A "Federal banking or lending agency" is defined to mean the FDIC, the RTC, the Federal Reserve Board, a Federal Reserve Bank, a Federal Home Loan Bank, the OCC, the OTS, and NCUA Board, the Farm Credit Administration, the Farm Credit System Insurance Corporation, the Farm Credit System Assistance Board, the Farmers Home Administration, the Rural Electrification Administration, and the Small Business Administration.

(2) Hazardous Substance.—The term "hazardous substance" is defined to have the same meaning as in CERCLA.

(3) Release.—The word "release" has the same meaning as in CERCLA except that it also includes the threatened release, use, storage, disposal, treatment, generation, or transportation of a hazardous substance.

Sec. 44(e). Savings Clause.—This subsection provides that this legislation shall not affect the rights or immunities or other defenses that are available under the FDI Act or other applicable law. Nothing in this legislation creates any liability for any party. Nothing in this legislation creates a private right of action against a depository institution or lender or against a Federal banking or lending agency.

TITLE III—TECHNICAL AND CONFORMING AMENDMENTS TO THE BANKING LAWS

Sec. 301.—Transferred Deposits

Current law defines a "transferred deposit" as a deposit in a new bank or other insured depository institution made available to a depositor by the FDIC as payment of the insured deposit in a closed bank, and assumed by such new bank or depository institution. In certain resolutions, the FDIC uses another bank as a paying agent, but that bank does not assume liability for the deposit. This amendment clarifies that a transferred deposit does not have to be assumed by the transferee institution.

Sec. 302.—Technical Amendment

This amendment corrects an improper cross reference in section 3(q)(2)(E) of the Federal Deposit Insurance Act. This section of the FDI Act currently refers to the "Depository Institutions Supervisory Act." The correct name is the "Financial Institutions Supervisory Act."

Sec. 303.—Certified Statements

Currently, FDIC assessments are based on the data that institutions present in the semi-annual certified statements. These statements are often revised necessitating a rebate or increased payment as appropriate. The FDIC however, would prefer to use the data from the call report filed one quarter prior to the date of the semi-annual report as the basis for assessments, which would eliminate the need to adjust the assessment amounts. This amendment deletes the requirement to base assessments on certified statements filed in July and January of each year.

Sec. 304.—Cross Reference

This section corrects a cross reference in section 8(o) of the Federal Deposit Insurance Act.

Sec. 305.—Court Costs; Bonds; Filing Fees

This section provides that the FDIC is not required to post any bond or security to initiate or respond to any action for a temporary restraining order or an injunction, or to pursue any appeal, to pay any filing fees in U.S. courts, or to pay any fees for service of process by the United States Marshall.

Sec. 306.—Obsolete Provision

This amendment strikes from the law provisions that expired in 1968.

Sec. 307.—Federal Deposit Insurance

Under FDICIA, every bank, including national banks, must apply to the FDIC for insurance. This amendment makes a conforming change to section 2 of the Federal Reserve Act. This section states that national banks shall automatically become insured after becoming a member of the Federal Reserve System.

Sec. 308.—Annual Report of the Appraisal Subcommittee

The Appraisal Subcommittee of the FFIEC is required to submit an annual report every January 31. This amendment changes the date of such report on March 31.

Sec. 309.—Insurance of Bridge Banks

This amendment clarifies that a bridge bank does not have to apply to the FDIC for approval of deposit insurance.

Sec. 310.—Corrections to the Federal Deposit Insurance Act

This section corrects various minor drafting errors in the FDI Act and other banking and housing laws, but does not make substantive changes in that Act.•

By Mr. DODD (for himself, Mrs. KASSEBAUM, Mr. KENNEDY, Mr. JEFFORDS, and Mr. PELL):

S. 1125. A bill to help local school systems achieve Goal Six of the National Education Goals, which provides that by the year 2000, every school in America will be free of drugs and violence and will offer a disciplined environment conducive to learning, by ensuring that all schools are safe and free of violence; to the Committee on Labor and Human Resources.

SAFE SCHOOLS ACT OF 1993

Mr. DODD. Mr. President, I rise today to introduce a piece of legislation that has been proposed by President Clinton to stem and, hopefully, end the epidemic of violence in our Nation's public schools. The "Safe Schools Act of 1993" would provide funds to local school districts to help achieve one of our six national education goals which were identified in the "Goals 2000" legislation. Goal No. 6 is to eliminate drugs and violence in our elementary and secondary schools, so that by the year 2000, every school child in this country would be able to get an education without the fear of violence.

Under this proposal, school districts would have the flexibility to design their own programs; they will not be designed by Washington. They would have the ability to choose from a menu that includes planning and implementing comprehensive school safety strategies, collaborating with community programs and agencies in developing and implementing violence-prevention activities such as conflict resolution and peer mediation; also, where necessary, making physical changes to ensure school safety—regretfully, I say, Mr. President, such things as metal detectors have become all too necessary in many of our schools. To ensure a comprehensive approach, we put a cap of 30 percent on the total dollars to go for those kinds of physical improvements.

We are more interested in the conflict resolution and mediation efforts to try to reduce and prevent the violence that is occurring.

This bill, which I am introducing this afternoon, is historic for two reasons. First, this would create the first Federal program ever—regretfully, ever—to direct funds to local school districts specifically to increase the safety of our children in the school environment. But second, Mr. President, and most important, this legislation signals the commitment of the Clinton administration to tackle the enormously difficult problem of youth violence.

The presence of Education Secretary Riley, Attorney General Reno, and drug czar Lee Brown in the President's Cabinet, should ensure all Americans that this issue will be discussed at the highest levels of Government in a thoughtful and provocative way. By their recent words and deeds, these individuals have demonstrated their determination to make our children, and more important, their safety, a priority of this administration.

Mr. President, I welcome their commitment and pledge. This is one U.S. Senator who will work to create a partnership between Congress and the executive branch to make certain that we develop a comprehensive, thoughtful strategy to help curb this horrible epidemic.

Specifically, Mr. President, under the legislation being proposed today, a school district in our country facing high rates of violent crime involving children could apply for a grant from the Education Department to assist them in combatting violence. The Secretary of Education would also be able to reserve up to 5 percent of each year's appropriation for national leadership initiatives such as public awareness campaigns and program evaluations.

Mr. President, I have come to the floor of the U.S. Senate this afternoon, as I have come several times in the last few months to speak out about violence and our Nation's children. But the rising tide of violence continues unabated. Schools are a primary focus of this violence. One in five students—one in five, Mr. President—carries a weapon to school on a regular basis. One in six high school seniors has been threatened with a weapon at school, and nearly 3 million crimes occur on or near school campuses every year. That is one every 6 seconds.

Furthermore, Mr. President, every single day in this country, somewhere between 100,000 and 150,000 students bring a gun to school. Between 100,000 and 150,000 guns every day are brought by children to our elementary and secondary schools—most of them bring them not to perpetrate some violence, but to protect themselves because of the fear of aggression.

Mr. President, these statistics, as terrible as they are, lose their impact after a while. We say them and I think we become numb to their real meaning; just as we have become, in many ways, oblivious to the blood and gore that is a daily diet on our televisions from the early morning right through prime time.

As our esteemed senior colleague from New York, Senator MOYNIHAN, has pointed out, we keep "defining deviancy down"—to quote him—until the truly appalling, inhumane, the unthinkable, eventually become routine, and therefore acceptable conditions under which we all live.

So, Mr. President, we adjust—or we think we adjust. We buy more sophisticated antitheft devices for our cars. Everybody is now buying "The Club." It is advertised daily on television. We buy new security devices for our homes. We move further out into the suburbs, hoping to escape, somehow.

My fellow colleagues and you, I and others in this country know there is no escape from a culture where aggression and violence continue to escalate. There seems to be an acceptance of such degrading conditions as homelessness, poverty, drugs, and crime, and, worse, a sense that as long as it stays out of my immediate neighborhood, as long as it stays somewhere else, as long as it is not my peers, not my children, I do not need to get involved, because it is not going to touch me.

I cannot think of any more foolish or ignorant idea. If you believe somehow that we are going to be able to contain the violence in the bowels of our cities, and believe that it is not already spilling over into our rural and suburban neighborhoods, you have been living on a distant planet, because exactly that is what is happening. It is encroaching and crossing those lines.

A recent Harris poll found one in five Americans know a child who has been shot by another child. It is time I think we spoke up and at least began to try to do something about this. How is a child ever to learn, ever to learn, if he or she is frightened to go to school?

In the case of one little elementary school in my State, the Munoz Marin School in Bridgeport, CT, you have to be bused if you live a block-and-a-half away from that school, because of fear of violence to those children. They have to be bused a block-and-a-half away in downtown Bridgeport, CT. I

might add that the school is a new, modern school, not a rundown 50-year-old building. But yet there is such fear of violence in that neighborhood that those children have to be bused a block-and-a-half to go to school.

I am not going to suggest that this bill will solve these problems. But we will help the districts that are strapped financially and do not have the resources. it is hard enough to buy pencils, paper, and erasers.

I have mentioned to colleagues before that I have a sister who teaches in the largest inner-city school in my State. Just a few weeks ago I asked her what she did over the weekend, in a casual conversation with a sibling. She said she went out and bought pencils, paper, and toilet paper.

I said, "How much?"

She said, "Ninety dollars worth."

I asked, "What for?"

She said, "For my classrooms."

A public school teacher out buying toilet paper, pencils and paper for students out of her own pocket money, out of her own salary because these districts are so strapped that they do not have the resources.

So this bill may at least begin to make a difference, because these kids will never learn if they are frightened for their own safety when they go to school every day. if they are frightened they will never learn.

A little over a year ago, little Cesar Sandoval, a kindergartner, in New Haven, CT, was riding on a school bus when a stray bullet struck him in the skull. Cesar's parents, I might add, Mr. President, had come to the United States from Guatemala. We have heard a lot about Guatemala recently. It is a country that has had a significant amount of violence over the years. A lot of human rights abuses occurred in Guatemala.

This child's family came to the United States, because they wanted a better life. They wanted to be safer. They wanted a decent income and good schools. Mr. Sandoval works as a dish washer for $200 a week. His wife works as well. They are struggling, trying to educate the family, make a better life in America and their 5-year-old, Cesar, on his way to school is struck in the head by a stray bullet.

Thank God he is going to live. but it has been a trauma and a tragedy for that family. The mother told reporters she left Guatemala because there was no food, no jobs, no safety, and the schools were not any good. They come to my State, come to the United States, and this is what happens to her child.

So the violence continues to rage. In a 1-week period this year, two children from a Bridgeport elementary school were murdered. All across the country, in small towns and large cities, it continues. In January, in the small town of Portland, CT, a man hijacked a school van, shot and critically wounded a 13-year-old before he was stopped by police. Within days of this on the other side of the country, in Portland, OR, one student stabbed another in the back of the head during an argument in a school hallway.

So, as we listen to these stories, it is easy I suppose to become overwhelmed by the enormity of the problem. But just because we do not have all the answers there is no excuse not to begin to try to take some action. This administration's bill gives us, I think, a wonderful beginning, for the two most important institutions in a child's life are family and school. We must do all we can to support families and to help them rear their children well. We must invest obviously in our schools.

Under this legislation, Mr. President, school districts will receive up to $3 million per year for up to 2 years. To receive funds for a second year, the school would have to develop a comprehensive long-term plan for preventing violence and making schools safe. The proposal calls for an authorization of $75 million in fiscal year 1994. This money will provide thousands of schools with access to preventative strategies.

Hundreds of research studies have shown we can teach cooperation to children. Such training results in students with greater commitment, helpfulness, and concern for each other, regardless of differences in ability, ethnicity, gender, or social class. Students taught to cooperate develop the capacity for empathy and compassion, feel better about themselves and have positive attitudes toward their peers and toward the schools which they go to.

Most important, cooperative strategies such as conflict resolution and peer mediation can overcome the hostility and alienation so prevalent in children living in difficult or dangerous circumstances. Quite simply, teaching these skills fosters constructive human relationships.

So, Mr. President, it is now up to us. We have been given a chance. The President has offered an idea. The issue is whether or not we will take him up on it and proceed with this legislation. We have a choice on whether we want our schools to promote aggression or mediation, conflict or cooperation, self-indulgence or compassion, bigotry, or tolerance.

Mr. President, I am confident that if my colleagues take a look at this legislation I am sure they will all want to support it.

I note, Mr. President, I offer this bill on behalf of the President, but am introducing for myself, Senator KASSEBAUM, Senator KENNEDY, Senator JEFFORDS, and Senator PELL. We look forward to moving this critical piece of legislation forward quickly and making our schools a safe place for our children.

Mr. President, I ask unanimous consent that the text of the bill and a section-by-section analysis be printed in the RECORD.

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

S. 1125

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act may be cited as the "Safe Schools Act of 1993".

SAFE SCHOOLS PROGRAM AUTHORIZED

SEC. 2. (a) With funds appropriated under subsection (b)(1), the Secretary shall make competitive grants to eligible local educational agencies to carry out projects designed to achieve Goal Six of the National Education Goals by helping to ensure that all schools are safe and free of violence.

(b)(1) There are authorized to be appropriated to carry out this Act $75,000,000 for fiscal year 1994, $100,000,000 for fiscal year 1995, and such sums as may be necessary for fiscal year 1996 and each of the two succeeding fiscal years.

(2) The Secretary is authorized each fiscal year to reserve no more than five percent of the amount appropriated under subsection (b)(1) to carry out national leadership activities described in section 6.

ELIGIBLE APPLICANTS

SEC. 3. (a) To be eligible to receive a grant under this Act, a local educational agency shall demonstrate in its application under section 4(a) that it—

(1) receives assistance under section 1006 of the Elementary and Secondary Education Act of 1965 (hereinafter referred to as the "ESEA") or meets the criteria of clauses (i) and (ii) of section 1006(a)(1)(A);

(2) serves an area in which there is a high rate of—

(A) homicides committed by persons between the ages 5 to 18, inclusive;

(B) referrals of youth to juvenile court;

(C) youth under the supervision of the courts;

(D) expulsions and suspensions of students from school;

(E) referrals of youth, for disciplinary reasons, to alternative schools; or

(F) victimization of youth by violence, crime, or other forms of abuse; and

(3) has serious school crime, violence, and discipline problems, as indicated by other appropriate data.

(b) For the purpose of this Act—

(1) "the term local educational agency" has the same meaning given in section 1471(12) of the ESEA;

(2) the term "Secretary" means the Secretary of Education.

APPLICATIONS AND PLANS

SEC. 4. (a) In order to receive a grant under this Act, an eligible local educational agency shall submit to the Secretary an application that includes—

(1) an assessment of the current violence and crime problems in the schools to be served by the grant and in the community to be served by the applicant;

(2) an assurance that the applicant has written policies regarding school safety, student discipline, and the appropriate handling of violent or disruptive acts;

(3) a description of the schools and communities to be served by the grant, the activities and projects to be carried out with grant funds, and how these activities and projects will help to reduce the current violence and crime problems in the schools and communities served;

(4) if the local educational agency receives funds under Goals 2000: Educate America Act, an explanation of how activities assisted under this Act will be coordinated with and support its systemic education improvement plan prepared under that Act;

(5) the applicant's plan to establish school-level advisory committees, which include faculty, parents, staff, and students, for each school to be served by the grant and a description of how each committee will assist in assessing that school's violence and discipline problems as well as in designing appropriate programs, policies, and practices to combat those problems;

(6) the applicant's plan for collecting baseline and future data, by individual schools, to monitor violence and discipline problems and to measure its progress in achieving the purpose of this Act;

(7) an assurance that grant funds under this Act will be used to supplement and not to supplant State and local funds that would, in the absence of funds under this Act, be made available by the applicant for the purposes of the grant;

(8) an assurance that the applicant will cooperate with, and provide assistance to, the Secretary in gathering statistics and other data the Secretary determines are necessary to determine the effectiveness of projects and activities under this Act or the extent of school violence and discipline problems throughout the Nation; and

(9) such other information as the Secretary may require.

(b) In order to receive funds under this Act for the second year of a project, a grantee shall submit to the Secretary its comprehensive, long-term, school safety plan for combating and preventing school violence and discipline problems. Such plan must contain—

(1) a description of how the grantee will coordinate its school crime and violence prevention efforts with education, law-enforcement, judicial, health, social service, and other appropriate agencies and organizations serving the community; and

(2) if the grantee receives funds under the Goals 2000: Educate America Act, an explanation of how the grantee's comprehensive plan under this subsection is consistent with and supports its systemic education improvement plan prepared under that Act, if such explanation differs from that provided in the grantee's application.

GRANTS AND USE OF FUNDS

SEC. 5. (a) Grants under this Act may not exceed—

(1) two years in duration; and

(2) $3 million for each year.

(b)(1) A local educational agency may use funds awarded under section 2(a) for one or more of the following activities—

(A) identifying and assessing school violence and discipline problems, including coordinating needs assessment activities with education, law-enforcement, judicial, health, social service, and other appropriate agencies and organizations;

(B) conducting school safety reviews or violence prevention reviews of programs, policies, practices, and facilities to determine what changes are needed to reduce or prevent violence and promote safety and discipline;

(C) planning for comprehensive, long-term strategies for combating and preventing school violence and discipline problems through the involvement and coordination of school programs with other education, law-enforcement, judicial, health, social service, and other appropriate agencies and organizations;

(D) community education programs involving parents, businesses, local government, the media, and other appropriate entities about the local educational agency's plan to promote school safety and reduce and prevent school violence and discipline problems and the need for community support;

(E) coordination of school-based activities designed to promote school safety and reduce or prevent school violence and discipline problems with related efforts of education, law-enforcement, judicial, health, social service, and other appropriate agencies and organizations;

(F) developing and implementing violence prevention activities, including—

(i) conflict resolution and social skills development for students, teachers, aides, other school personnel, and parents;

(ii) disciplinary alternatives to expulsion and suspension of students who exhibit violent or anti-social behavior;

(iii) student-led activities such as peer mediation, peer counseling, and student courts; or

(iv) alternative after-school programs that provide safe havens for students, which may include cultural, recreational, and educational and instructional activities;

(G) educating students and parents about the dangers of guns and other weapons and the consequences of their use;

(H) developing and implementing innovative curricula to prevent violence in schools and training staff how to stop disruptive or violent behavior if it occurs;

(I) supporting "safe zones of passage" for students between home and school through such measures as Drug- and Weapon-Free School Zones, enhanced law enforcement, and neighborhood patrols;

(J) counseling programs for victims and witnesses of school violence and crime;

(K) minor remodeling to promote security and reduce the risk of violence, such as removing lockers, installing better lights, and upgrading locks;

(L) acquiring and installing metal detectors and hiring security personnel;

(M) reimbursing law enforcement authorities for their personnel who participate in school violence prevention activities;

(N) evaluating its project under this Act;

(O) the cost of administering its project under this act; and

(P) other activities that meet the purposes of this Act.

(2) A local educational agency may use no more than—

(A) a total of 33 percent of its grant for activities described in paragraphs (1)(K), (L), and (M); and

(B) 5 percent of its grant for activities described in paragraph (1)(O).

(3) A local educational agency may not use funds under this Act for construction.

NATIONAL LEADERSHIP

SEC. 6. To carry out the purpose of this Act, the Secretary is authorized to use funds reserved under section 2(b)(2) to conduct national leadership activities such as research, program development and evaluation, data collection, public awareness activities, training and technical assistance, and peer review of applications under this Act. The Secretary may carry out such activities directly, through interagency agreements, or through grants, contracts, or cooperative agreements.

EFFECTIVE DATE

SEC. 7. This Act shall take effect upon enactment.

SECTION-BY-SECTION ANALYSIS

Section 2. Section 2(a) of the bill would authorize the Secretary of Education ("the Secretary") to make competitive grants to eligible local educational agencies (LEAs) to carry out projects designed to achieve Goal Six of the National Education Goals by helping to ensure that schools are safe and free of violence. (Goal Six states that by the year 2000, every school in America will be free of drugs and violence and will offer a disciplined environment conducive to learning.) Section 2(b) of the bill would authorize to be appropriated $75 million for fiscal year 1994, $100,000,000 for fiscal year 1995, and such sums as may be necessary for fiscal year 1996 and the two succeeding fiscal years, to carry out the Act. Section 2(b) would also authorize the Secretary to reserve no more than five percent of the amount appropriated for each fiscal year to carry out National leadership activities described in section 6.

Section 3. Section 3 of the bill describes those LEAs that would be eligible to receive a grant under the Act. Such LEAs must demonstrate in their application that they: (1) receive assistance under section 1006 of the Elementary and Secondary Education Act of 1965 (concentration grants) or satisfy the eligibility criteria for such assistance in section 1006(a)(1)(A); (2) serve an area in which there is a high rate of homicides committed by persons between the ages 5 to 18 (inclusive), referrals of youth to juvenile court, youth under the supervision of the courts, expulsions and suspensions of students from school, referrals of youth (for disciplinary reasons) to alternative schools, or victimization of youth by violence, crime, or other forms of abuse; and (3) have serious school crime, violence, and discipline problems, as indicated by other appropriate data.

Section 4. Section 4(a) of the bill would require eligible LEAs that desire to receive a grant to submit to the Secretary an application that includes: (1) an assessment of the current violence and crime problems in the schools to be served by the grant and in the community to be served by the applicant; (2) an assurance that the applicant has written policies regarding school safety, student discipline, and the appropriate handling of violent or disruptive acts; (3) a description of the schools and communities to be served by the grant, the activities and projects to be carried out with grant funds, and how these activities and projects will help to reduce the current violence and crime problems in the schools and communities served; (4) if the LEA receives funds under the Goals 2000: Educate America Act, an explanation of how activities assisted under the Safe Schools Act of 1993 are coordinated with and support the LEA's improvement plan prepared under the Educate America Act; (5) the applicant's plan to establish school-level advisory committees, including faculty, parents, staff, and students, for each school to be served by the grant and a description of how each committee will assist in assessing that school's violence and discipline problems as well as in designing appropriate programs, policies, and practices to combat these problems; (6) the applicant's plan for collecting baseline and future data, by individual schools, to monitor violence and discipline problems and to measure its progress in achieving the purpose of this Act; (7) an assurance that grant funds will be used to supplement and not to supplant State and local funds that would, in the absence of funds under the Act, be made available by the applicant for the purposes of the grant; (8) an assurance that the applicant will cooperate with, and provide assistance to, the Secretary in gathering statistics and other data the Secretary determines are necessary to determine the

effectiveness of projects and activities under this Act of the extent of school violence and discipline problems throughout the Nation; and (9) other information the Secretary may require.

Section 4(b) of the bill would require that in order for a grantee to receive funds under the Act for a second year, a grantee must submit to the Secretary its comprehensive, long-term, school safety plan for combating and preventing school violence and discipline problems. The plan must contain a description of how the grantee will coordinate its efforts with education, law-enforcement, judicial, health, social service, and other appropriate agencies and organizations serving the community and, if the grantee receives funds under the Goals 2000: Educate America Act, the plan must also explain how the grantee's comprehensive plan under this Act is consistent with and supports its systemic education improvement plan prepared under that Act, if such explanation differs from that provided in the grantee's application.

Section 5. Section 5(a) of the bill would limit grants under this Act to two years in duration and to no more than $3 million for each year. Section 5(b) of the bill would list the purposes for which LEAs could use their grant funds. These purposes include: identifying and assessing school violence and discipline problems (including coordinating needs assessment activities with education, law-enforcement, judicial, health, social service, and other appropriate agencies and organizations); conducting school safety reviews or violence prevention reviews of programs, policies, practices, and facilities to determine what changes are needed to reduce or prevent violence and promote safety and discipline; planning for comprehensive, long-term strategies for combating and preventing school violence and discipline problems through the involvement and cooperation of school programs with other education, law-enforcement, judicial, health, social service, and other appropriate agencies and organizations; community education programs involving parents, businesses, local government, the media, and other appropriate entities about the LEA's plan to promote school safety and reduce and prevent school violence and discipline problems and about the need for community support; coordination of school-based activities designed to promote school safety and reduce or prevent school violence and discipline problems with related efforts of education, law-enforcement, judicial, health, social service, and other appropriate agencies and organizations; developing and implementing violence prevention activities; educating students and parents about the dangers of guns and other weapons as well as the consequences of their use; developing and implementing innovative curricula to prevent violence in schools and training staff how to stop disruptive or violent behavior if it occurs; supporting "safe zones of passage" for students between home and school through such measures as Drug- and Weapon-Free School Zones, enhanced law enforcement, and neighborhood patrols; counseling programs for victims and witnesses of school violence and crime; minor remodeling to promote security and reduce the risk of violence, such as removing lockers, installing better lights, and upgrading locks; acquiring and installing metal detectors and hiring security personnel; reimbursing law enforcement authorities for their personnel who participate in school violence prevention activities; project evaluation and administration; and other activities that meet the purpose of the Act. An LEA could not use more than a total of 33 percent of its grant for minor remodeling, to acquire and install metal detectors and hire security personnel, and to reimburse law enforcement authorities for their personnel who participate in school violence prevention activities. In addition an LEA could not use more than 5 percent of its grant for administrative costs. Further, no grant funds could be used for construction.

Section 6. Section 6 of the Act would authorize the Secretary to use funds reserved under section 2(b)(2) to carry out the purpose of the Act by supporting national leadership activities such as research, problem development and evaluation, data collection, public awareness activities, training and technical assistance, and peer review of applications under this Act. The Secretary would be authorized to carry our such activities directly, though interagency agreements, or through grants, contracts, or cooperative. agreements.

Section 7. Section 7 of the Act provides that the bill would be effective on enactment.

• Mr. PELL. Mr. President, I am pleased to join my colleagues as an original cosponsor of the Clinton administration's Safe Schools Act of 1993. It is important legislation to provide students with the world-class education they need and deserve.

Over 3 million crimes occur at or near schools each year; approximately one every 6 seconds. Even in my own State of Rhode Island school violence has become a problem of increasing proportion and concern among citizens. Too often it results in an environment in which teachers cannot teach, and students cannot learn.

In 1989 when then-Governor Clinton, President Bush, and the Nation's Governors developed the sixth national education goal—that by the year 2000, all schools be safe and drug-free—they were right on the mark. Developing a school's capacity to establish an orderly environment for education may provide some of the highest returns in improving educational outcomes and reducing the achievement gap among students of different backgrounds and income.

The Safe Schools Act provides funds first to keep students from harms way and second, to foster an ethic of discipline in students so that they will not be harmful to others. The initiative supports a balance of both reduction and prevention as part of comprehensive, long-term, community-wide strategies developed at the local level. And it acknowledges the important role of community-based health and social organizations in making all schools safe and drug-free.

The Safe Schools Act merits our strong support and swift enactment.•

By Mr. HOLLINGS (for himself, Mr. KERRY, and Mr. SARBANES):

S. 1126. A bill to improve the conservation and management of interjurisdictional fisheries along the Atlantic coast by providing for greater cooperation among the States in implementing conservation and management programs, and for other purposes; to the Committee on Commerce, Science, and Transportation.

ATLANTIC COASTAL FISHERIES COOPERATIVE MANAGEMENT ACT

• Mr. HOLLINGS. Mr. President, I am pleased today to introduce the Atlantic Coastal Fisheries Cooperative Management Act. The goal of the bill is straightforward—to conserve Atlantic coastal fisheries by strengthening Federal-State partnerships. To achieve that goal, however, we must deal with a complex issue, the effective management of interjurisdictional fisheries.

Several marine fish species, including striped bass, weakfish, bluefish, lobster, and red drum, move along the Atlantic coast and traverse the waters of numerous States. Many are prized catches for both sport and commercial fishermen. In addition, these fish often are found close to shore, making them accessible to casual anglers and weekend boaters. Also, such species are vulnerable to marine pollution and the destruction of coastal habitat. As a result of overfishing and environmental threats, the populations of several Atlantic coastal fishery resources, such as striped bass and weakfish, have suffered serious declines.

Because no single governmental entity has exclusive management authority for widely distributed Atlantic coastal fishery resources, the harvesting of such resources is frequently subject to disparate, inconsistent, and intermittent State and Federal regulation. The Interjurisdictional Fisheries Act of 1986 called for the States to develop cooperative fishery management plans through interstate commissions like the Atlantic States Marine Fisheries Commission (Commission). However, there currently is no effective mechanism to enforce such plans. As a result, the failure by some Atlantic States to implement existing plans has reduced the effectiveness of conservation efforts and discouraged other States from coming into full compliance.

In 1984, this situation led Congress to enact legislation to protect and rebuild one depleted fishery resource, Atlantic striped bass. Under the Atlantic Striped Bass Conservation Act, an interstate plan developed by the Commission set strict guidelines for State regulation of striped bass harvests in coastal waters. State regulatory and enforcement programs then became subject to an annual review by the Commission to determine whether they met those plan guidelines. States that fail to comply face a Federal moratorium on striped bass fishing in their coastal waters. Today, as a result of those tough measures, striped bass stocks appear to be recovering. The abundance of mature fish is on the increase, and fishermen all along the Atlantic coast can enjoy the opportunity

to catch, and sometimes take home, a good-sized striper.

Now, the time has come to apply the lessons learned from striped bass to the management of other Atlantic coastal fisheries. The bill I am introducing today will provide Federal and State managers with the tools needed to accomplish that goal. It proposes that the Secretary of Commerce, in cooperation with the Secretary of the Interior, develop and implement a program to support the Commission's interstate fishery management efforts. In addition, the Secretary of Commerce would be authorized to impose necessary restrictions on fishing in Federal waters.

More specifically, the bill calls for the Commission to prepare and adopt interstate fishery management plans for Atlantic coastal fishery resources. Each plan would identify State requirements for compliance and establish a timetable for implementation. The Commission would monitor State efforts and notify the Secretaries of Commerce and the Interior when a State is out of compliance. Within 30 days of receiving the Commission's notification, the Secretary of Commerce is to conduct a review and make a finding: First, as to whether the State in question has failed to carry out its responsibilities under the plan; and second, if so, that the failure threatens the conservation and management of the fishery involved. Upon making an affirmative finding, the Secretary of Commerce would be authorized to declare a federally enforced moratorium for the fishery involved within the waters of that State. The moratorium would be lifted when the State comes into compliance with the applicable plan.

The bill authorizes Federal assistance to support the Commission and the States in carrying out their respective responsibilities. It provides for appropriations of $3 million for fiscal year 1994, $5 million for fiscal year 1995, and $7 million for fiscal year 1996. In addition, the legislation amends the Interjurisdictional Fisheries Act to authorize funding for the interstate fisheries commissions through fiscal year 1995. Finally, the bill extends indefinitely the provisions of the Atlantic Striped Bass Conservation Act.

The Atlantic Coastal Fisheries Cooperative Management Act builds upon the framework and cooperative infrastructure already established among the Atlantic Coastal States, the Commission and the Federal Government. The legislation would strengthen the management of coastal fishery resources, contributing to their conservation and sustainable use and to the interests of fishermen and the Nation as a whole.

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. 1126

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 "Atlantic Coastal Fisheries Cooperative Management Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) Coastal fishery resources that migrate, or are widely distributed, across the jurisdictional boundaries of two or more of the Atlantic States and of the Federal Government are of substantial commercial and recreational importance and economic benefit to the Atlantic coastal region and the Nation.

(2) Increased fishing pressure, environmental pollution, and the loss and alteration of habitat have reduced severely certain Atlantic coastal fishery resources.

(3) Because no single governmental entity has exclusive management authority for Atlantic coastal fishery resources, harvesting of such resources is frequently subject to disparate, inconsistent, and intermittent State and Federal regulation that has been detrimental to the conservation and sustainable use of such resources and to the interests of fishermen and the Nation as a whole.

(4) The responsibility for managing Atlantic coastal fisheries rests with the States, which carry out a cooperative program of fishery oversight and management through the Atlantic States Marine Fisheries Commission. It is the responsibility of the Federal Government to support such cooperative interstate management of coastal fishery resources.

(5) The failure by one or more Atlantic States to fully implement a coastal fishery management plan can adversely affect the status of Atlantic coastal fisheries, and can discourage other States from fully implementing coastal fishery management plans.

(6) it is in the national interest to provide for more effective Atlantic State fishery resource conservation and management.

(b) PURPOSE.—The purpose of this Act is to support and encourage the development, implementation, and enforcement of effective interstate conservation and management of Atlantic coastal fishery resources.

SEC. 3. DEFINITIONS.

In this Act, the following definitions apply:

(1) The term "coastal fishery management plan" means a plan for managing a coastal fishery resource, or an amendment to such plan, prepared and adopted by the Commission, that—

(A) contains information regarding the status of the resource and related fisheries;

(B) specifies conservation and management actions to be taken by the States; and

(C) recommends actions to be taken by the Secretary in the exclusive economic zone to conserve and manage the fishery.

(2) The term "coastal fishery resource" means any fishery, any species of fish, or any stock of fish that moves among, or is broadly distributed across, waters under the jurisdiction of two or more States or waters under the jurisdiction of one or more States and the exclusive economic zone.

(3) The term "Commission" means the Atlantic States Marine Fisheries Commission established under the interstate compact consented to and approved by the Congress in Public Laws 77–539 and 81–721.

(4) The term "Councils" means Regional Fishery Management Councils established under section 302 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852).

(5) The term "exclusive economic zone" means the exclusive economic zone of the United States established by Proclamation Number 5030, dated March 10, 1993. For the purposes of this Act, the inner boundary of that zone is a line coterminous with the seaward boundary of each of the coastal States, and the outer boundary of that zone is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured.

(6) The term "fish" means finfish, mollusks, crustaceans, and all other forms of marine animal life other than marine mammals and birds.

(7) The term "fishery" means—

(A) One or more stocks of fish that can be treated as a unit for purposes of conservation and management and that are identified on the basis of geographical, scientific, technical, commercial, recreational, or economic characteristics; or

(B) any fishing for such stocks.

(8) The term "fishing" means—

(A) The catching, taking, or harvesting of fish;

(B) the attempted catching, taking, or harvesting of fish;

(C) any other activity that can be reasonably expected to result in the catching, taking, or harvesting of fish; or

(D) any operations at sea in support of, or in preparation for, any activity described in subparagraphs (A) through (C).

Such term does not include any scientific research activity.

(9) The term "implement and enforce" means to enact and implement laws or regulations as required to conform with the provisions of a coastal fishery management plan and to assure compliance of coastal fishery management plan and to assure compliance with such laws or regulations by persons participating in a fishery that is subject to such plan.

(10) The term "person" means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

(11) The term "Secretaries" means the Secretary of Commerce and the Secretary of the Interior.

(12) The term "Secretary" means the Secretary of Commerce.

(13) The term "State" means Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, the District of Columbia, or the Potomac River Fisheries Commission.

SEC. 4. STATE-FEDERAL COOPERATION IN ATLANTIC COASTAL FISHERY MANAGEMENT.

(A) FEDERAL SUPPORT FOR STATE COASTAL FISHERIES PROGRAMS.—The Secretary in cooperation with the Secretary of the Interior shall develop and implement a program to support the interstate fishery management efforts of the Commission. The program shall include activities to support and enhance State cooperation in collection, management, and analysis of fishery data; law enforcement; habitat conservation; fishery research, including biological and socioeconomic research; and fishery management planning.

(b) FEDERAL REGULATION IN EXCLUSIVE ECONOMIC ZONE.—(1) In the absence of an approved and implemented fishery management plan under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), and after consultation with the appropriate Councils, the Secretary may implement regulations to govern fishing in the exclusive economic zone that are—

(A) necessary to support the effective implementation of a coastal fishery management plan; and

(B) consistent with the national standards set forth in section 301 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1851).

The regulations may include measures recommended by the Commission to the Secretary that are necessary to support the provisions of the coastal fishery management plan. Regulations issued by the Secretary to implement an approved fishery management plan prepared by the appropriate Councils or the Secretary under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) shall supersede any conflicting regulations issued by the Secretary under this subsection.

(2) The provisions of sections 307, 308, 309, 310, and 311 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857, 1858, 1859, 1860, and 1861) regarding prohibited acts, civil penalties, criminal offenses, civil forfeitures, and enforcement shall apply with respect to regulations issued under this subsection as if such regulations were issued under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

SEC. 5. STATE IMPLEMENTATION OF COASTAL FISHERY MANAGEMENT PLANS.

(a) COASTAL FISHERY MANAGEMENT PLANS.—The Commission shall prepare and adopt coastal fishery management plans to provide for the conservation and management of coastal fishery resources. In preparing a coastal fishery management plan for a fishery that is located in both State waters and the exclusive economic zone, the Commission shall consult with appropriate Councils to determine areas where such coastal fishery management plan may complement Council fishery management plans. The coastal fishery management plan shall specify the requirements necessary for States to be in compliance with the plan. Upon adoption of a coastal fishery management plan, the Commission shall identify each State that is required to implement and enforce that plan.

(b) STATE IMPLEMENTATION AND ENFORCEMENT.—(1) Each State identified under subsection (a) with respect to a coastal fishery management plan shall implement and enforce the measures of such plan within the time frame established in the plan.

(2) Within 90 days after the date of enactment of this Act, the Commission shall establish a schedule of time frames within which States shall implement and enforce the measures of coastal fishery management plans in existence before such date of enactment. No such time frame shall exceed 12 months after the date on which the schedule is adopted.

(c) COMMISSION MONITORING OF STATE IMPLEMENTATION AND ENFORCEMENT.—The Commission shall, at least annually, review each State's implementation and enforcement of coastal fishery management plans for the purpose of determining whether such State is effectively implementing and enforcing each such plan. Upon completion of such reviews, the Commission shall report the results of the reviews to the Secretaries.

SEC. 6. STATE NONCOMPLIANCE WITH COASTAL FISHERY MANAGEMENT PLANS.

(a) NONCOMPLIANCE DETERMINATION.—The Commission shall determine that a State is not in compliance with the provisions of a coastal fishery management plan if it finds that the State has not implemented and enforced such plan within the time frames established under the plan or under section 5.

(b) NOTIFICATION.—Upon making any determination under subsection (a), the Commission shall within 10 working days notify the Secretaries of such determination. Such notification shall include the reasons for making the determination and an explicit list of actions that the affected State must take to comply with the coastal fishery management plan. The Commission shall provide a copy of the notification to the affected State.

(c) WITHDRAWAL OF NONCOMPLIANCE DETERMINATION.—After making a determination under subsection (a), the Commission shall continue to monitor State implementation and enforcement. Upon finding that a State has complied with the actions required under subsection (b), the Commission shall immediately withdraw its determination of noncompliance. The Commission shall promptly notify the Secretaries of such withdrawal.

SEC. 7. SECRETARIAL ACTION.

(a) SECRETARIAL REVIEW OF COMMISSION DETERMINATION OF NONCOMPLIANCE.—Within 30 days after receiving a notification from the Commission under section 6(b) and after review of the Commission's determination of noncompliance, the Secretary in consultation with the Secretary of the Interior shall make a finding on—

(1) whether the State in question has failed to carry out its responsibility under section 5; and

(2) if so, whether the measures that the State has failed to implement and enforce are necessary for the conservation and management of the fishery in question.

(b) CONSIDERATION OF COMMENTS.—In making a finding under subsection (a), the Secretary shall solicit and consider the comments of the Commission, the affected State, and the appropriate Councils.

(c) MORATORIUM.—(1) Upon making a finding under subsection (a) that a State has failed to carry out its responsibility under section 5 and that the measures it failed to implement and enforce are necessary for conservation and management, the Secretary shall declare a moratorium on fishing in the fishery in question within the waters of the noncomplying State. The Secretary shall specify the moratorium's effective date, which shall be any date within 6 months after declaration of the moratorium.

(2) If after a moratorium is declared under paragraph (1) the Secretaries are notified by the Commission that the Commission is withdrawing under section 6(c) the determination of noncompliance, the Secretary in consultation with the Secretary of the Interior shall immediately determine whether the State is in compliance with the applicable plan. If so, the moratorium shall be terminated.

(d) IMPLEMENTING REGULATIONS.—The Secretary in consultation with the Secretary of the Interior may issue regulations necessary to implement this section. Such regulations may provide for the possession and use of fish which have been produced in an aquaculture operation, subject to applicable State regulations.

(e) PROHIBITED ACTS DURING MORATORIUM.—During the time in which a moratorium under this section is in effect, it is unlawful for any person to—

(1) violate the terms of the moratorium or of any implementing regulation issued under subsection (d);

(2) engage in fishing for any species of fish to which the moratorium applies for any species of fish to which the moratorium applies within the waters of the State subject to the moratorium;

(3) land, attempt to land, or possess fish that are caught, taken, or harvested in violation of the moratorium or of any implementing regulation issued under subsection (d);

(4) fail to return to the water immediately, with a minimum of injury, any fish to which the moratorium applies that are taken incidental to fishing for species other than those to which the moratorium applies;

(5) possess within the State subject to the moratorium, including the waters of that State, any fish to which the moratorium applies;

(6) refuse to permit any officer authorized to enforce the provisions of this Act to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of this Act;

(7) forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer in the conduct of any search or inspection under this Act;

(8) resist a lawful arrest for any act prohibited by this section;

(9) ship, transport, offer for sale, sell, purchase, import, or have custody, control, or possession of, any fish taken or retained in violation of this Act; or

(10) interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this section.

(f) CIVIL AND CRIMINAL PENALTIES.—(1) Any person who commits any act that is unlawful under subsection (e) shall be liable to the United States for a civil penalty as provided by section 308 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1858).

(2) Any person who commits an act prohibited by paragraphs (6), (7), (8), or (10) of subsection (e) is guilty of an offense punishable as provided by section 309(a)(1) and (b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1859(a)(1) and (b)).

(g) CIVIL FORFEITURES.—(1) Any vessel (including its gear, equipment, appurtenances, stores, and cargo) used, and any fish (or the fair market value thereof) taken or retained, in any manner, in connection with, or as the result of, the commission of any act that is unlawful under subsection (e), shall be subject to forfeiture to the United States as provided in section 310 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1860).

(2) Any fish seized pursuant to this Act may be disposed of pursuant to the order of a court of competent jurisdiction or, if perishable, in a manner prescribed in regulation.

(h) ENFORCEMENT.—A person authorized by the Secretary, the Secretary of the department in which the Coast Guard is operating, or the Secretary of the Interior may take any action to enforce a moratorium declared under subsection (c) of this section that an officer authorized by the Secretary under section 311(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1861(b)) may take to enforce that Act. The Secretaries may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels), and facilities of any other

Federal department or agency and of any agency of a State in carrying out that enforcement.

SEC. 8. FINANCIAL ASSISTANCE.

The Secretaries may provide financial assistance to the Commission and to the States to carry out their respective responsibilities under this Act, including—

(1) the preparation, implementation, and enforcement of coastal fishery management plans; and

(2) State activities that are specifically required within such plans.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

To carry out the provisions of this Act, there are authorized to be appropriated $3,000,000 for fiscal year 1994, $5,000,000 for fiscal year 1995, and $7,000,000 for fiscal year 1996.

SEC. 10. ATLANTIC STRIPED BASS CONSERVATION ACT.

Section 9 of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) is repealed.

SEC. 11. INTERJURISDICTIONAL FISHERIES ACT OF 1986.

Section 308(c) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(c)) is amended by inserting ", and $600,000 for each of the fiscal years 1994 and 1995," immediately after "and 1993".●

● Mr. KERRY. Mr. President, as the vice chairman of the Senate's National Ocean Policy Study, I am pleased to cosponsor legislation introduced today by the distinguished chairman of the Commerce Committee and chairman of the National Ocean Policy Study, Senator HOLLINGS. The Atlantic Coastal Fisheries Cooperative Management Act of 1993 creates a partnership between the States and the Federal Government to improve the conservation and management of our valuable nearshore fisheries along the Atlantic coast.

Management of coastal fisheries that migrate through two or more jurisdictions has always presented a difficult coordination problem. In recognition of the need to manage fish stocks over their full range, the Atlantic States Marine Fisheries Commission was established to develop interstate plans and to coordinate state management efforts for interjurisdictional coastal fisheries. The interstate plans provide guidelines for State fishing regulations. Unfortunately, however, there are no enforcement mechanisms to encourage accountability and compliance among all the jurisdictions along the migratory range of these fisheries.

A system of coordinated management, with enforcement mechanisms and appropriate resources, would allow the Atlantic States Marine Fisheries Commission, in consultation with the regional fisheries management councils, to develop effective fishery management plans for interjurisdictional fisheries. Upon adoption, the States would implement the plans. The provisions of the bill give the States access to the resources of the Federal Government to enforce Commission rules, encourage the implementation of conservation measures, and provide financial assistance to facilitate these efforts.

This measure is necessary due to the increased fishing pressure, the environmental pollution, and the loss and alteration of habitat that have reduced significantly certain Atlantic coastal fishery resources. The legislation provides enforcement mechanisms and resources to develop and implement plans which encompass the entire migratory range of a fishery, addressing current incompatible and inconsistent State and Federal regulations. The goal is to achieve sustainable fisheries in which all jurisdictions involved do their fair share in conservation and management up and down the Atlantic Coast.

There is no dispute that many of the Atlantic Coast stocks, and the commercial and recreational fisheries that rely upon them, are in trouble and face a gloomy future. This legislation allows for fishery management plans which have already been written by the Atlantic States Marine Fisheries Commission but have not been fully implemented by the States to be fully implemented and enforced, based upon the model put in place by the Striped Bass Act of 1984. The Striped Bass Act is so successful because it achieves accountability by authorizing the Secretary of Commerce to impose a moratorium on fishing striped bass in any State that does not implement the management plan. Accountability is the key to success in managing our interjurisdictional fisheries. For this reason, I cannot overemphasize how important the legislation before us is in achieving sustainable fisheries.

For too long a disproportionate share of the conservation burden has been carried by States like Massachusetts, with the stocks continuing to decline, and we in good conscience cannot allow this situation to continue. Massachusetts has always strived to be proactive in its fisheries management, many times taking action unilaterally to try and address fisheries management problems that were clearly interjurisdictional in nature. The result is that many of those efforts are dissipated by others not taking complementary action. A migratory range-wide plan in which all parties along that range—States and Federal Government alike—join together to take concerted action to ensure the sustainability of the fisheries is long overdue and is essential if we are to have any hope for rebuilding many of these stocks.

The benefits of coordinated action and shared responsibility for these stocks will be felt by all, but especially in our small coastal communities which have relied on the seas' resources for their livelihood and recreation. These communities have suffered due to poor fisheries management practices, lack of a coordinated effort which encompasses the entire migratory range of the fisheries, and an inability to enforce management plans. It is time for all of us to put aside our individual interests and pull together to rebuild our fisheries, renew our coastal communities, and restore confidence in our ability to wisely manage our living resources. The bill we are introducing will take us a long way in that direction.

Again, I compliment the distinguished chairman of the Commerce Committee and his staff for their work in producing this bill, and for their leadership on this issue. I look forward to working closely with Senator HOLLINGS and the other cosponsors to achieve passage of this important legislation.●

By Mr. MCCONNELL:

S. 1127. A bill to establish a rural community service program, and for other purposes; to the Committee on Labor and Human Resources.

RURAL COMMUNITY SERVICE PROGRAM

● Mr. MCCONNELL. Mr. President, I rise today to introduce legislation which will establish a Rural Community Service Program under title XI of the Higher Education Act, Public Law 102–325. I offer this bill on behalf of rural communities in my State, and all rural areas across America.

While an Urban Community Service Program is already authorized under this act, a similar program does not exist for rural areas. The urban program allows big city colleges and universities to use their skills and talents to address urban problems such as limited access to health care, unemployment, and crime.

Mr. President, these problems are about as unique to our inner cities as advertisements are to Sunday newspapers. While limited access to health care, unemployment, and crime are equally indigenous to the hills and hollows of Appalachia, colleges and universities in rural communities are not provided with a similar opportunity to solve their troubles as are their counterparts in sprawling metropolises.

A recent article in the Lexington Herald-Leader highlights some alarming trends that have occurred in rural areas over the past decade. For brevity's sake, I will summarize the article and its findings. First, young rural workers currently earn less money than their city counterparts. Rural incomes were highest in 1973 when workers earned only 78 percent of the average urban income; by 1987 the gap between mean income of rural and urban workers doubled.

Second, populations in rural counties drastically decreased during the 1980's. It is estimated that between 1980 and 1988, 500,000 people per year left rural counties. College educated residents were five times more likely to leave than those with high school diplomas.

Finally, rural Americans became poorer. By 1990, the rate of poverty in rural counties was 16.3 percent, 22 percent higher than for cities. Areas that

depended upon employment from the coal, agriculture, oil, and timber industries were hardest hit by unemployment. Over the past decade, coal mining jobs decreased by 47 percent, and oil and gas employment is today half of what it was in 1980.

The bill I am offering provides incentives for rural colleges and universities to work with private and civic organizations to solve pressing problems in their communities. I have outlined some of the particular rural issues these institutions might address, including: work force preparation; rural poverty and education; health care access and prevention; problems faced by elderly and disabled individuals in rural settings; and rural development and farming.

Subject to the availability of appropriations, matching grants will be given to eligible institutions for a period of no more than 5 years. In addition, the Secretary of Education is directed to award grants in a manner that achieves equitable geographic distribution.

Because of the similarities between the Urban Community Service Program and its rural counterpart that I propose, it might be helpful to list some of the projects awarded under the fiscal year 1992 urban program:

California State University, the University and the City—Serving the Needs of Our Mutual Community: This is a project that addresses the immediate needs of urban communities in Los Angeles and San Francisco, including underperforming schools, minority business development, and conflict resolution. It is a statewide collaborative effort led by CSU/LA, and involves a network of Government agencies and private industries.

University of Louisville, Housing and Neighborhood Development Strategies [HANDS]: This project specifically targets the Russell neighborhood and the LaSalle housing project in an effort to alleviate poverty and develop self-sufficiency through a combination of programs emphasizing education, job and leadership training, and homeownership counseling. The program involves nonprofit community organizations.

Southern Connecticut State University, Neighborhood Youthbridge: This project is an intensive effort by seven post-secondary schools, in collaboration with neighborhood-based organizations, to decrease school dropout rates, and improve low achievement levels.

Mr. President, I want to share with my colleagues a letter I recently received from Dr. Deborah Floyd, president of Prestonsburg Community College [PCC], in support of a rural community service program. Dr. Floyd wrote to me:

I currently serve as a board member to the Community Colleges of Appalachia, a consortium of community colleges from 13 states across the Appalachian region of the United States. In my opinion, the proposed * * * bill has the potential to positively affect the entire region of Appalachia and beyond by empowering rural Americans with knowledge, skills, attitudes, and financial assistance to make their dreams and goals for a better, healthy, and prosperous life a reality * * *.

In closing, let me thank Dr. Floyd and Ms. Page Estes, PCC's director of planning and development, for their invaluable insights and assistance in the drafting of this bill. I strongly urge my colleagues to lend their support to the establishment of a Rural Community Service Program.

I ask unanimous consent that the bill be printed in the RECORD.

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

S. 1127

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

SECTION 1. RURAL COMMUNITY SERVICE.

Title XI of the of the Higher Education Act of 1965 (20 U.S.C. 1136 et seq.) is amended by adding at the end the following new part:

"PART C—RURAL COMMUNITY SERVICE

"SEC. 1171. FINDINGS; PURPOSE.

"(a) FINDINGS.—The Congress finds that—

"(1) the Nation's rural centers are facing increasingly pressing problems and needs in the areas of economic development, community infrastructure and service, social policy, public health, housing, crime, education, environmental concerns, planning and work force preparation;

"(2) there are, in the Nation's rural institutions, people with underutilized skills, knowledge, and experience who are capable of providing a vast range of services towards the amelioration of the problems described in paragraph (1);

"(3) the skills, knowledge, and experience in these rural institutions, if applied in a systematic and sustained manner, can make a significant contribution to the solution of such problems; and

"(4) the application of such skills, knowledge, and experience is hindered by the limited funds available to redirect attention to solutions to such rural problems.

"(b) PURPOSE.—It is the purpose of this part to provide incentives to rural academic institutions to enable such institutions to work with private and civic organizations to devise and implement solutions to pressing and severe problems in their communities.

"SEC. 1172. PROGRAM.

"The Secretary is authorized to carry out a program of providing assistance to eligible institutions to enable such institutions to carry out the authorized activities described in section 1174 in accordance with the provisions of this part.

"SEC. 1173. APPLICATIONS FOR RURAL COMMUNITY SERVICE GRANTS.

"(a) APPLICATION.—

"(1) IN GENERAL.—Each eligible institution desiring a grant under this part shall submit to the Secretary an application at such time, in such form, and containing or accompanied by such information and assurances, as the Secretary may require by regulation.

"(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

"(A) describe the activities and services for which assistance is sought; and

"(B) contain assurances that the eligible institution will enter into a consortium to carry out the provisions of this part that includes, in addition to the eligible institution, one or more of the following entities:

"(i) A community college.

"(ii) A rural local educational agency.

"(iii) A local government.

"(iv) A business or other employer.

"(v) A nonprofit institution.

"(3) WAIVER.—The Secretary may waive the consortium requirements described in paragraph (2) for any applicant who can demonstrate to the satisfaction of the Secretary that the applicant has devised an integrated and coordinated plan which meets the purpose of this part.

"(b) PRIORITY IN SELECTION OF APPLICATIONS.—The Secretary shall give priority to applications that propose to conduct joint projects supported by other local, State, and Federal programs.

"(c) SELECTION PROCEDURES.—The Secretary, by regulation, shall develop a formal procedure for the submission of applications under this part and shall publish in the Federal Register an announcement of that procedure and the availability of funds under this part.

"SEC. 1174. AUTHORIZED ACTIVITIES.

"Grant funds made available under this part shall be used to support planning, applied research, training, resource exchanges or technology transfers, the delivery of services, or other activities the purpose of which is to design and implement programs to assist rural communities to meet and address their pressing and severe problems, such as any of the following:

"(1) Work force preparation.

"(2) Rural poverty and the alleviation of such poverty.

"(3) Health care, including health care delivery and access as well as health education, prevention and wellness.

"(4) Underperforming school systems and students.

"(5) Problems faced by the elderly and individuals with disabilities in rural settings.

"(6) Problems faced by families and children.

"(7) Campus and community crime prevention, including enhanced security and safety awareness measures as well as coordinated programs addressing the root causes of crime.

"(8) Rural housing.

"(9) Rural infrastructure.

"(10) Economic development.

"(11) Rural farming and environmental concerns.

"(12) Other problem areas which participants in the consortium described in section 1173(a)(2)(B) concur are of high priority in rural areas.

"(13)(A) Problems faced by individuals with disabilities and economically disadvantaged individuals regarding accessibility to institutions of higher education and other public and private community facilities.

"(B) Amelioration of existing attitudinal barriers that prevent full inclusion of individuals with disabilities in their community.

"SEC. 1175. PEER REVIEW.

"The Secretary shall designate a peer review panel to review applications submitted under this part and make recommendations for funding to the Secretary. In selecting the peer review panel, the Secretary may consult with other appropriate Cabinet-level Federal officials and with non-Federal organizations, to ensure that the panel will be geographically balanced and be composed of representatives from public and private institutions of higher education, labor, business, and State and local government, who have expertise in rural community service or in education.

"SEC. 1176. DISBURSEMENT OF FUNDS.

"(a) MULTIYEAR AVAILABILITY.—Subject to the availability of appropriations, grants under this part may be made on a multiyear basis, except that no institution, individually or as a participant in a consortium, may receive a grant for more than 5 years.

"(b) EQUITABLE GEOGRAPHIC DISTRIBUTION.—The Secretary shall award grants under this part in a manner that achieves equitable geographic distribution of such grants.

"(c) MATCHING REQUIREMENT.—An applicant under this part and the local governments associated with its application shall contribute to the conduct of the program supported by the grant an amount from non-Federal funds equal to at least one-fourth of the amount grant, which contribution may be in cash or in kind, fairly evaluated.

"SEC. 1177. DESIGNATION OF RURAL GRANT INSTITUTIONS.

"The Secretary shall publish a list of eligible institutions under this part and shall designate such institutions of higher education as 'Rural Grant Institutions'. The Secretary shall establish a national network of Rural Grant Institutions so that the results of individual projects achieved in 1 rural area can be generalized, disseminated, replicated and applied throughout the Nation.

"SEC. 1178. DEFINITIONS.

"As used in this part:

"(1) RURAL AREA.—The term 'rural area' means any area that is—

"(A) outside an urbanized area, as such term is defined by the Bureau of the Census; and

"(B) outside any place that—

"(i) is incorporated or Bureau of the Census designated; and

"(ii) has a population of 75,000 or more.

"(2) ELIGIBLE INSTITUTION.—The term 'eligible institution' means an institution of higher education, or a consortium of such institutions any one of which meets all the requirements of this paragraph, which—

"(A) is located in a rural area;

"(B) draws a substantial portion of its undergraduate students from the rural area in which such institution is located, or from contiguous areas;

"(C) carries out programs to make post-secondary educational opportunities more accessible to residents of such rural areas, or contiguous areas;

"(D) has the present capacity to provide resources responsive to the needs and priorities of such rural areas and contiguous areas;

"(E) offers a range of professional, technical, or graduate programs sufficient to sustain the capacity of such institution to provide such resources; and

"(F) has demonstrated and sustained a sense of responsibility to such rural area and contiguous areas and the people of such areas.

"SEC. 1179. AUTHORIZATION OF APPROPRIATIONS; FUNDING RULE.

"(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary in each fiscal year to carry out the provisions of this part.

"(b) FUNDING RULE.—If in any fiscal year the amount appropriated pursuant to the authority of subsection (a) is less than 50 percent of the funds appropriated to carry out part A in such year, then the Secretary shall make available in such year from funds appropriated to carry out part A an amount equal to the difference between 50 percent of the funds appropriated to carry out part A and the amount appropriated pursuant to the authority of subsection (a).".•

By Mr. AKAKA (for himself, Mr. DASCHLE, Mr DECONCINI, Mr. INOUYE, and Mr. SHELBY):

S. 1128. A bill to amend title 38, United States Code, to permit the burial in cemeteries of the National Cemetery System of certain deceased reservists; to the Committee on Veterans' Affairs.

RELATING TO THE BURIAL OF DECEASED RESERVISTS

• Mr. AKAKA. Mr. President, in behalf of myself and Senators DASCHLE, DECONCINI, INOUYE, and SHELBY, I am today introducing legislation to extend eligibility for burial in national cemeteries to career members of the Reserve and Guard who have served at least 20 years and are eligible for retirement pay.

Representative Claude Harris and I introduced legislation in the last Congress that would have provided reservists with a headstone/gravemarker and burial flag as well as eligibility for interment in the national cemetery system. While Congress ultimately enacted the provisions relating to headstones, gravemarkers, and burial flags as part of Public Law 102-547, the provision relating to burial eligibility was not enacted. That is why I am reintroducing this provision in the bill I am offering today. Similar legislation was recently introduced in the House by Representative HENRY BONILLA.

Mr. President, an estimated 235,000 reservists gallantly served in the Persian Gulf war. Their outstanding performance alongside active duty soldiers amply fulfilled the aim of our total force policy. The desert conflict foreshadowed the inevitable trend in this post-cold-war era toward greater reliance on the Reserve component, particularly during an era of fiscal austerity.

The growing importance of the Guard and Reserve has thrown a spotlight on an injustice done toward career reservists, the backbone of the Ready Reserve, the men and women who devote at least 20 years of their lives to the defense of this Nation.

Under current law, any honorably discharged active duty member of the armed services who serves at least 24 months of continuous active duty service is eligible for veterans status. If they meet certain criteria, he or she becomes eligible for a range of veterans benefits and services offered through the Department of Veterans Affairs [VA], from pensions to home loans to health care to burial in national cemeteries.

Unfortunately, most members of the Guard and Reserve, in spite of years of service, have never had the opportunity to meet the 2-year continuous duty requirement, even though they may have served much more time than that in the aggregate. Part of the problem is that reservists are not on the same playing field when it comes to counting active duty service.

For example, an active duty soldier accrues active duty service time beginning with basic training. He or she also receives credit for time served while attending schools that are required for his or her military specialty. Reservists, on the other hand, cannot count short periods of active duty or all periods of active duty for training purposes toward the 24-month requirement for veterans benefits, even though such periods are counted toward retirement pay. It is clear that such a policy ignores the fact that today's Guard and Reserve train to the same standards as their counterparts, and are increasingly taking missions for the active military. In effect, today's reservists are continuous members of the total force, but are not fully recognized for their contributions.

While there may be legitimate reasons for imposing the 24-month active duty requirement for the purposes of eligibility for many veterans benefits, this certainly should not apply to burial in a national cemetery, particularly for those reservists who devote at least two decades to the Nation's defense as citizen soldiers, and who have each accrued, in the aggregate, enough active duty service to qualify for retirement pay. Indeed the average reservist will have more than 4½ years of active duty time during an enlistment of 20 or more years.

Mr. President, VA has opposed this legislation on two grounds: first, that there is limited space at national cemeteries; second, that it will cost too much.

Regarding the availability of burial plots, there are 226,000 sites available at the 59 open cemeteries, out of a total of 114 national facilities, with a potential of 1.72 million sites if undeveloped land is developed. In addition, there are 40 State veterans cemeteries which currently conform to VA eligibility rules, which our bill would open to career reservists. VA's interment rate is about 70,000 per year. Whether you believe the Congressional Budget Office [CBO] figure, 828, or the 6th Quadrennial Review of Military Compensation figure, 365, concerning the estimated number of additional burials that would result from our legislation, the increase would represent less than 1 percent of VA's current interment rate.

Using the most conservative estimates developed by CBO last year, the total annual cost of the burial benefit would amount only to $400,000—a figure so low that CBO does not score it for budget purposes. Surely, Mr. President, we can afford to pay this small price to honor the memory of those who devoted at least 20 years of their lives in defense of our freedoms.

Thank you, Mr. President. I invite my colleagues to cosponsor this measure.●

● Mr. DECONCINI. Mr. President, I was honored to work with my good friend and colleague from Hawaii, Senator AKAKA, in the 102d Congress to enact landmark legislation to provide Government headstones, markers, and burial flags for career members of the Guard and Reserve. Today, Senators AKAKA, INOUYE, DASCHLE, SHELBY, and I are introducing new legislation to extend the eligibility for burial in national cemeteries to these same career members of the Guard and Reserve.

As our budget for defense is being cut, the number of men and women on active duty has significantly decreased. Consequently, there are more people serving on reserve. Our reserve forces have essentially become the backbone of our defense. Knowing that thousands of individuals are waiting in the wings to serve their country is a security that must not be overlooked. The intention of this bill is to recognize the dedication the American reservists contribute. In honor of their commitment we would like to provide the opportunity for reservists of 20 years or more to be eligible for burial in a national cemetery.

While there are numerous demands for the scarce resources available this year, priority ought to be given to the well-deserving members of our National Reserve. They supply us with loyal protection, and in return we should offer them our national cemeteries for burial.

Mr. President, I commend my distinguished friend from Hawaii, Senator AKAKA, for his leadership on this issue. I pledge to assist him in any way that I can. It's simply the right thing to do. I urge all my colleagues to support this effort.●

By Mr. PELL (by request):

S. 1129. A bill to amend the Foreign Assistance Act of 1961 to authorize the transfer of $20,000,000 in addition to U.S. War Reserve Stockpiles for Allies in Thailand to support the implementation of a bilateral agreement with Thailand; to the Committee on Foreign Relations.

SUPPORT OF BILATERAL AGREEMENT WITH THAILAND

● Mr. PELL. Mr. President, by request, I introduce for appropriate reference a bill to amend the Foreign Assistance Act of 1961 to authorize the transfer of $20 million in addition to United States war reserve stockpiles for Allies in Thailand to support the implementation of a bilateral agreement with Thailand.

This legislation has been requested by the Department of State, and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the sectional analysis and the letter from the Assistant Secretary of State for Legislative Affairs, which was received on June 10, 1993.

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

S. 1129

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 514(b)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h), as amended by section 569 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993 (Public Law 102-391, October 6, 1992; 106 Stat. 1681), is amended by striking out "of which amount not less than $200,000,000 shall be available for stockpiles in Israel, and up to $189,000,000 may be made available for stockpiles in the Republic of Korea" and inserting in lieu thereof "of which amount not less than $200,000,000 shall be available for stockpiles in Israel, and up to $169,000,000 and $20,000,000 may be available for stockpiles in the Republic of Korea and Thailand, respectively".

SECTIONAL ANALYSIS

The War Reserve Stockpiles for Allies (WRSA) program enables the United States to preposition stocks in critical areas that support U.S. strategy of forward presence and enhances our own and host nation military readiness. The Thai WRSA program also supports U.S. access to staging facilities in Thailand, which is particularly important in the wake of the loss of Philippine bases.

The U.S.-Thai Memorandum of Agreement, signed in January 1987, obligated each party to contribute $10 million a year for five years subject to availability of appropriated funds and other legislative requirements. The Thais have met their obligations; we remain $20 million short due to lack of authorization related to the 1991 coup. All coup-related restrictions, however, were lifted by a Presidential Determination in September 1992 after the Thais held elections and seated a new government.

The stocks have already been allocated and do not impact U.S. requirements. The funding for transportation has already been set aside. Until moved to Thailand, however, the U.S. must pay for storage, security and maintenance. These stocks, primarily large caliber munitions, will be transported to Thailand as part of LOGEX-36. This will permit realistic training in and evaluation of resupply and logistics interoperability capabilities that would be invaluable in case of a contingency in the area. Without the stocks, it would be a substantially less useful headquarters exercise.

Stockpiled items remain U.S. Government property and enhance U.S. and host country defense readiness. They are available to host country forces only with U.S. authorization and on a reimbursable basis, to respond to military emergencies. The host government assumes the cost of storage, maintenance, and security, thereby saving U.S. forces significant O&M expenses. The United States control physical access to actual storage facilities.

Hon. ALBERT GORE,
President of the Senate.

DEAR MR. PRESIDENT: Enclosed is a draft of legislation "To amend the Foreign Assistance Act of 1961 to authorize the transfer of $20,000,000 in additions to U.S. War Reserve Stockpiles for Allies in Thailand to support the implementation of a bilateral agreement with Thailand."

PURPOSE OF LEGISLATION

This legislation would authorize the transfer during FY 1993 of $20 million of additions to War Reserve Stockpiles for Allies in Thailand to continue to implement our portion of the 1987 U.S.-Thailand War Reserve Stockpile Memorandum of Agreement and to ensure successful completion of the upcoming August 1993 U.S. Thailand joint logistics exercise LOGEX-36.

The War Reserve Stockpiles for Allies program enables the United States to preposition defense stocks in critical areas that support the U.S. strategy of forward presence and enhances our own and host nation military readiness. The Thailand War Reserve Stockpiles for Allies program also supports U.S. access to staging facilities in Thailand, which is particularly important in the wake of the loss of Philippine bases.

The U.S. Thailand Memorandum of Agreement, signed in January 1987, obligated each party subject to availability of funds, to contribute $10 million a year for five years. The Thais have met their obligations; we remain $20 million short due to lack of authorization related to the 1991 coup. All coup-related restrictions, however, were lifted by a Presidential determination in September 1992 after the Thais held elections and seated a new civilian government.

The stocks have already been allocated and do not impact any other U.S. requirements. Until moved to Thailand, however, the U.S. must pay for storage, security and maintenance. These stocks, primarily large caliber munitions, will be transported to Thailand as part of LOGEX-36. This will permit realistic training in and evaluation of resupply and logistics interoperability capabilities that would be invaluable in case of a contingency in the area. Without the stocks, it would be a substantially less useful headquarters exercise.

Stockpiled items remain U.S. Government property and enhance U.S. and host country defense readiness. They are available to host country forces only with U.S. authorization and on a reimbursable basis, to respond to military emergencies. The host government assumes the cost of storage, maintenance, and security, thereby saving U.S. forces significant O&M expenses. The United States controls physical access to actual storage facilities.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of the proposal for the consideration of the Congress.

Sincerely,

WENDY R. SHERMAN,
Assistant Secretary, Legislative Affairs.●

By Mr. PRYOR (for himself, Mr. STEVENS, Mr. GLENN, Mr. AKAKA, Ms. MIKULSKI, and Mr. DOMENICI):

S. 1130. A bill to provide for continuing authorization of Federal employee leave transfer and leave bank programs, and for other purposes; to the Committee on Governmental Affairs.

FEDERAL EMPLOYEES LEAVE SHARING ACT

• Mr. PRYOR. Mr. President, today, I am very pleased to introduce a bill which will reauthorize the Federal Employees Leave Sharing Act of 1988. Leave sharing allows Federal employees to transfer annual leave to coworkers facing personal or family medical emergencies through the voluntary leave transfer and voluntary leave bank program. Thanks to the generosity of Federal employees, over 23,000 employees facing unpaid absences from work received donations of annual leave in 1991 and 1992.

The Office of Personnel Management [OPM] recently sent Congress a report on the 5-year experimental program and recommended that the program be made permanent. OPM reached this conclusion after surveying 65 Federal agencies participating in the voluntary leave transfer program and 6 agencies participating in the voluntary leave bank program. Both employees and agencies alike give the program high marks.

Besides making the program permanent, my bill makes a few technical changes in the law which the Office of Personnel Management recommended to improve the operation of the voluntary leave transfer and leave bank programs. First, the definition of "medical emergency" would be amended to exclude advanced leave from the phrase "unavailability of paid leave." Second, the 40 hour annual and sick leave "set aside" accounts would be eliminated. Third, agencies would be permitted to operate a leave transfer program, a leave bank program. or both. Fourth, the restriction prohibiting the interagency transfers of leave among agencies covered by the leave transfer and leave bank programs would be eliminated.

Before the Federal leave sharing experiment, Federal employees coping with a personal or family medical emergency were forced to take leave without pay or quit their jobs. However, leave sharing has allowed Federal employees to be absent from work to care for a sick child or an ailing parent, while maintaining their family income.

I want to commend Federal employees for making the experimental leave sharing program work. The program is due to expire on October 31, 1993. Therefore, I urge my colleagues to support the permanent reauthorization of the leave sharing program and some minor changes to the program.•

• Mr. STEVENS. Mr. President, I am pleased to cosponsor this bill along with Senator PRYOR. I am sure each of us or someone very close to us has experienced the trauma associated with a personal emergency. The burden is even greater when we do not have sufficient monetary resources to carry us through the difficult period. More than 23,000 Federal employees during 1991 and 1992 maintained some income thanks to leave sharing during a period of temporary disability or family medical crisis. Moreover, Mr. President, leave sharing not only helps employees who are experiencing difficulties, it also helps their fellow employees by providing a way for them to get involved by demonstrating their compassion and generosity.

Leave sharing also accomplishes something very important for the Government: It enables Federal agencies to retain employees who would otherwise have to leave Federal service because of illness or extended care of ill family members. These employees would have to be replaced at a substantial cost. In short, the leave sharing program demonstrates a flexibility that can make employees more productive and shows the public and taxpayers that the Government can be innovative and cost-effective.

Mr. President, I look forward to the passage of this bill. I am proud to cosponsor the permanent reauthorization of a program which has proven itself to be a true success story in the Federal Government.•

By Mr. PRYOR (for himself and Mr. STEVENS):

S. 1131. A bill to extend the method of computing the average subscription charges under section 8906(a) of title 5, United States Code, relating to Federal employee health benefits programs; to the Committee on Governmental Affairs.

LEGISLATION RELATING TO FEDERAL EMPLOYEE HEALTH BENEFITS PROGRAMS

• Mr. PRYOR. Mr. President, today, I am introducing a bill which temporarily extends through contract year 1998 the proxy premium formula for determining the Federal Government's share of premiums under the Federal Employees Health Benefits Program [FEHBP].

Under the FEHBP, the Government and the enrollees share premium costs. The Government's share is set by law at 60 percent of the average of six specific large plans. When one of the Big Six, Aetna's Governmentwide indemnity plan, withdrew from the program in 1989, Congress created a temporary formula to maintain the Government premium contribution at its existing level for contract years 1990 and 1991. Congress later extended this formula through contract year 1993. By creating a proxy premium for the missing Aetna plan and increasing that by the average increase in the other five plans each year, the Government share for plan premiums has been stabilized.

The administration's fiscal year 1994 budget assumed that the proxy plan authority would expire at the end of 1993 and FEHBP premiums would be based on the average of the remaining Big Five plans. As a result, enrollee premiums would increase by about $25 per month. However, the baseline assumptions used by the Congressional Budget Office assumed the proxy plan would be continued for the next 5 years.

When H.R. 2264, the Omnibus Budget Reconciliation Act of 1993, passed the House on May 27, it included an extension of the proxy premium law through contract year 1998. However, the timing of the Office of Personnel Management's [OPM] negotiation of rate and benefit changes for FEHBP for the 1994 contract year is such that relying solely on enactment of the House reconciliation provision may force OPM to delay time sensitive negotiations which are scheduled for completion by August 13, 1993. Therefore, I am introducing this bill to extend the temporary formula and ask that the Congress act expeditiously on this measure. I want to stress that this bill is budget neutral and simply maintains the status quo while the President and the Congress consider the broader issues of how FEHBP will fit into comprehensive health care reform.•

By Mr. RIEGLE:

S. 1132. A bill to provide for fair trade in motor vehicle parts, action under trade remedy laws for certain unfair trade practices, and for other purposes; to the Committee on Finance.

FAIR TRADE IN MOTOR VEHICLE PARTS ACT OF 1993

• Mr. RIEGLE. Mr. President, today, I rise to introduce legislation to provide for fair trade in the motor vehicles parts industry. The Fair Trade in Motor Vehicle Parts Act in 1993 is result oriented legislation which will deal effectively with the growing U.S. deficit in the motor vehicles parts industry due to unfair trade practices.

The cumulative U.S. trade deficit since 1980 is over $1.1 trillion. Our cumulative trade deficit with Japan alone was $511 billion at the end of 1992. Our cumulative trade deficit with Taiwan was $128 billion. And our cumulative deficit with Korea was $49 billion. Moreover, these deficits are not improving. For example, in 1992 the United States trade deficit with Japan was $49 billion, up 14 percent from 1991.

A large part of the U.S. trade deficit is in the motor vehicle parts industry. In 1992, the United States trade deficit with Japan in the auto parts sector was $9.8 billion—almost $10 billion in just one sector. The auto parts deficit alone accounted for 20 percent of our total trade deficit with Japan last year. Further, the United States trade deficit in the auto parts sector with Japan has been steadily increasing, and there are no indications that this trend is going to subside. Between 1985 and 1986, the United States trade deficit with Japan in the auto parts sector increased 95 percent, and between 1986 and 1987 the deficit increased another 31 percent. Our auto parts deficit continued nonstop throughout the 1980's and into the

1990's. As a result, our cumulative trade deficit with Japan in the auto parts sector since 1985 is over $64 billion.

U.S. auto parts and accessory producers are among the most competitive in the world. The productivity and quality of the U.S. auto parts industry is unsurpassed. Yet due to the policies and practices of Japan, United States auto parts manufacturers were virtually excluded from the Japanese market. As a result, the United States continues to see a large, and growing, trade deficit in this area.

Trade deficits are not merely economic statistics. They represent how much wealth our foreign competitors are draining from the U.S. economy. These trade deficits translate into lost jobs as our trading partners displace U.S. products at home and for export.

Most countries experience a mixture of trade deficits and trade surpluses periodically, especially if their trading regimes are relatively open. However, a country that designs its policies to maintain large trade surpluses with its trading partners is indicative of something entirely different. Persistent trade surpluses of the magnitude evident in United States-Japanese auto parts trade are indicative of formal and informal policies which effectively protect the home market from foreign competition. As a result of these unfair trade practices, bilateral trade does not operate on a level or fair playing field.

Moreover, the same trade practices which exclude U.S. auto parts overseas, are often emulated by the foreign country's subsidiaries located in the United States. This is particularly true with Japan's auto and auto parts subsidiaries located in the United States. Not only are American auto parts manufacturers losing out in Japan because of their unfair trade practices, they are losing out in their own home markets as Japan's auto subsidiaries establish artificial barriers to United States auto parts manufacturers.

These trade practices adversely affect the U.S. auto parts industry and threaten the long-term economic viability of that sector. Moreover, they impede economic growth and job creation in the U.S. auto parts industry. The previous administration was content to merely study the issue while tens of thousands of auto parts workers were unemployed. This is not acceptable. We must not allow the unfair trade practices in the auto parts sector to continue. My legislation is the first step to effectively eliminate the unfair trade practices of our trading partners in this sector.

The Fair Trade in Motor Vehicle Parts of 1993 mandates section 301 actions against countries whose policies effectively limit U.S. motor vehicle parts manufacturers' access to their market. This bill targets countries with which the United States has a large and persistent trade deficit in the auto parts sector as a result of unfair trade practices. Specifically, a country with which the United States has a trade deficit in the auto parts sector of $5 billion or more in each of the preceding 3 years would be subject to action under this bill. Although this bill doesn't target any specific country, at this time only one country meets this criteria—and that country is Japan.

Additionally, under this bill, a country's distribution system that restricts access to their market would be considered an unfair trade practice. The trade restricting aspects of the Japanese keiretsu system are well documented. Not only is Japan's market closed to United States auto parts manufacturers as a result of the keiretsu system, but the system has been effectively exported to the United States through Japan's auto subsidiaries located in the United States.

The bill requires the U.S. Trade Representative to undertake negotiations to eliminate the policies and practices of the foreign country that limit access to their market for U.S. auto parts manufacturers. The negotiations must provide for sales in the foreign country's market which would exist if the unfair trade practices did not exist. In addition, the bill requires the elimination of those policies, including aspects of the country's distribution system, which limit access to the foreign market for U.S. auto parts manufacturers.

My bill also extends for 5 years the existing Fair Trade in Auto Parts Act which is set to expire at the end of 1993. The Fair Trade in Auto Parts Act tries to increase sales of United States-made auto parts to Japan through various initiatives. Additionally, my bill requires the Commerce Secretary to initiate an antidumping investigation for motor vehicle parts imports from countries which the United States has a motor vehicle parts deficit of $5 billion.

The Fair Trade in Motor Vehicle Parts Act of 1993 will give the United States Government the trade tools needed to gain meaningful access to our trading partners' auto parts market; effectively eliminate unfair trade practices in auto parts, such as a country's closed distribution system; and, work toward increasing sales of United States-made auto parts in Japan.

I ask unanimous consent that this bill be printed in the RECORD.

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

S. 1132

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

SECTION 1. SHORT TITLE; DEFINITIONS.

(a) SHORT TITLE.—This Act may be cited as the "Fair Trade in Motor Vehicle Parts Act of 1993".

(b) DEFINITIONS.—For purposes of this Act—

(1) MOTOR VEHICLE AND MOTOR VEHICLE PARTS.—

(A) The term "motor vehicle" means any article of a kind described in heading 8703 or 8704 of the Harmonized Tariff Schedule of the United States.

(B) The term "motor vehicle parts" means articles of a kind described in the following provisions of the Harmonized Tariff Schedule of the United States if suitable for use in the manufacture or repair of motor vehicles:

(i) Subheadings 8407.31.00 through 8407.34.20 (relating to spark-ignition reciprocating or rotary internal combustion piston engines).

(ii) Subheading 8408.20 (relating to the compression-ignition internal combustion engines).

(iii) Subheading 8409 (relating to parts suitable for use solely or principally with engines described in clauses (i) and (ii)).

(iv) Subheading 8483 (relating to transmission shafts and related parts).

(v) Subheadings 8706.00.10 and 8706.00.15 (relating to chassis fitted with engines).

(vi) Heading 8707 (relating to motor vehicle bodies).

(vii) Heading 8708 (relating to bumpers, brakes and servo brakes, gear boxes, drive axles, nondriving axles, road wheels, suspension shock absorbers, radiators, mufflers and exhaust pipes, clutches, steering wheels, steering columns, steering boxes, and other parts and accessories of motor vehicles).

The Secretary shall by regulation include as motor vehicle parts such other articles (described by classification under such Harmonized Tariff Schedule) that the Secretary considers appropriate to carry out this Act.

(2) UNITED STATES MOTOR VEHICLE PARTS MANUFACTURER.—The term "United States motor vehicle parts manufacturer" means a manufacturer of motor vehicle parts that—

(A) has one or more motor vehicle parts manufacturing facilities located within the United States, and

(B)(i) is not owned or controlled by a natural person who is a citizen of a deficit foreign country; and

(ii) is not owned or controlled by a corporation or other legal entity, wherever located, which is owned or controlled by—

(I) natural persons who are citizens of a deficit foreign country, or

(II) another corporation or other legal entity that is owned or controlled by natural persons who are citizens of a deficit foreign country.

(3) UNITED STATES MOTOR VEHICLE PARTS.—The term "United States motor vehicle parts" means motor vehicle parts produced by United States motor vehicle parts manufacturers in the United States.

(4) DEFICIT FOREIGN COUNTRY.—The term "deficit foreign country" means any country with which the United States merchandise trade balance with respect to motor vehicle parts was in deficit in an amount of $5,000,000,000 or more for each of the 3 most recent calendar years for which data are available.

(5) SECRETARY.—The term "Secretary" means the Secretary of Commerce.

(6) TRADE REPRESENTATIVE.—The term "Trade Representative" means the United States Trade Representative.

TITLE I—TRADE REMEDY ACTIONS

SEC. 101. "301" ACTION WITH RESPECT TO BARRIERS TO MARKET ACCESS OF UNITED STATES-MADE MOTOR VEHICLE PARTS.

(a) IN GENERAL.—On the 45th day after the date of the enactment of this Act, any act,

policy, or practice of a deficit foreign country that adversely affects the access to such country's market of motor vehicle parts produced by United States motor vehicle parts manufacturers (including, but not limited to, any act, policy, or practice utilized in such country's motor vehicle distribution system) shall, for purposes of title III of the Trade Act of 1974, be considered as an act, policy, or practice of a foreign country that is unjustifiable and burdens or restricts United States commerce. The Trade Representative shall immediately proceed to determine, in accordance with section 304(a)(1)(B) of such Act, what action to take under section 301(a) of such Act to obtain the elimination of such act, policy, or practice.

(b) NEGOTIATION AGENDA.—If the Trade Representative decides to take action referred to in section 301(c)(1)(C) of the Trade Act of 1974 with respect to an act, policy, or practice referred to in subsection (a), the agenda for negotiations shall include—

(1) guarantees for sales in the deficit foreign country's market of motor vehicle parts produced in the United States by United States motor vehicle parts manufacturers in an aggregate amount equal to the percentage of such market that would be held by motor vehicle parts produced by United States motor vehicle parts manufacturers if the unfair act, policy, or practice did not exist;

(2) the elimination or modification of the aspects of the deficit foreign country's motor vehicle distribution system (and any other act, policy, or practice) that act as a barrier to the access to the foreign country's market of motor vehicle parts produced in the United States by United States motor vehicle parts manufacturers; and

(3) the establishment of procedures for the exchange of information between the appropriate agencies of the United States and the deficit foreign country's government that will permit an accurate assessment of bilateral trade in motor vehicle parts, particularly with respect to the purchase of motor vehicle parts produced in the United States by United States motor vehicle parts manufacturers for use by foreign sources in the foreign country's market.

(c) ADDITIONAL ESTIMATES AND CONSEQUENTIAL EFFECT.—

(1) ESTIMATE.—If the Trade Representative decides to take action under section 301(c)(1)(C) of the Trade Act of 1974, the Trade Representative shall promptly estimate, on the basis of the best information available—

(A) the percentage share of the deficit foreign country's market for motor vehicle parts that is currently accounted for by motor vehicle parts produced in the United States by United States motor vehicle parts manufacturers;

(B) the percentage share of the deficit foreign country's market for motor vehicle parts which would be accounted for by United States motor vehicle parts if an act, policy, or practice referred to in subsection (a) did not exist; and

(C) the dollar value of the difference between the percentage shares estimated under subparagraphs (A) and (B).

(2) SUBSEQUENT ACTION.—If the negotiations referred to in subsection (b) are unsuccessful, any action subsequently taken under section 301 of the Trade Act of 1974 in response to the deficit foreign country's acts, policies, or practices shall be substantially equivalent to the dollar value estimated under paragraph (1)(C).

SEC. 102. ANTIDUMPING INVESTIGATION REGARDING MOTOR VEHICLE PARTS OF DEFICIT FOREIGN COUNTRIES.

Not later than 60 days after the date of the enactment of this Act, the Secretary shall commence an investigation under section 732(a) of the Tariff Act of 1930 to determine if imports of motor vehicle parts into the United States that are products of any deficit foreign country, or sales (or the likelihood of sales) of such parts for importation into the United States, constitute grounds for the imposition of antidumping duties under section 731 of such Act.

TITLE II—EXTENSION AND MODIFICATION OF FAIR TRADE IN AUTO PARTS ACT

SEC. 201. EXTENSION AND MODIFICATION OF FAIR TRADE IN AUTO PARTS ACT.

(a) IN GENERAL.—Section 2125 of the Fair Trade in Auto Parts Act of 1988 (15 U.S.C. 4704) is amended by striking "'December 31, 1993'' and inserting "December 31, 1998".

(b) FUNCTIONS OF SECRETARY OF COMMERCE.—Section 2123(b) of the Fair Trade in Auto Parts Act of 1988 (15 U.S.C. 4702(b)) is amended by striking "and" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting "; and", and by adding at the end the following new paragraph:

"(8) coordinate—

"(A) United States policy regarding auto parts and the market for auto parts; and

"(B) the sharing of data and market information among the relevant departments and agencies of the United States Government, including the Department of the Treasury, the Department of Justice, the Department of Commerce, and the Office of the United States Trade Representative.".

(c) DEFINITIONS.—Section 2122 of the Fair Trade in Auto Parts Act of 1988 (15 U.S.C. 4701 note) is amended—

(1) by striking "For purposes of" and inserting "(a) JAPANESE MARKETS.—For purposes of";

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

"(b) OTHER DEFINITIONS.—For purposes of this part:

"(1) The term 'auto parts and accessories' has the meaning given the term 'motor vehicle parts' in section 1(b)(1)(B) of the Fair Trade in Motor Vehicle Parts Act of 1993.

"(2) The term 'United States auto parts manufacturer' means a manufacturer of auto parts that—

"(A) has one or more auto parts manufacturing facilities located within the United States, and

"(B)(i) is not owned or controlled by a natural person who is a citizen of Japan; and

"(ii) is not owned or controlled by a corporation or other legal entity, wherever located, which is owned or controlled by—

"(I) natural persons who are citizens of Japan, or

"(II) another corporation or other legal entity that is owned or controlled by natural persons who are citizens of Japan.

"(3) The terms 'United States-made auto parts and accessories' and 'United States-made auto parts' have the meaning given the term 'United States motor vehicle parts' in section 1(b)(3) of the Fair Trade in Motor Vehicle Parts Act of 1993."; and

(3) by striking "DEFINITION" in the heading and inserting "DEFINITIONS".•

By Mr. BRADLEY (for himself, Mr. BIDEN, Mr. HATCH, Mrs. BOXER, Mr. BYRAN, Mrs. FEINSTEIN, Mr. HOLLINGS, Mr. KERREY, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. REID, Mr. ROBB, Mr. ROCKEFELLER, Mr. SIMON, Mr. WELLSTONE, Mrs. MURRAY, and Mr. CAMPBELL):

S. 1133. A bill to amend the Public Health Service Act to provide for the establishment of a residential support service program for special high-risk populations of pregnant women and their children, and for other purposes; to the Committee on Labor and Human Resources.

RESIDENTIAL EARLY INTERVENTION PROGRAM FOR PREGNANT WOMEN AND CHILDREN

• Mr. BRADLEY. Mr. President, I rise to introduce, with a bipartisan coalition of my colleagues, the eighth of the bills that I announced earlier this year as my urban community-building initiative. Fifteen-Month Houses are intended to build a foundation for the next generation of urban residents. In one caring environment, mothers who need special help because they are very young, very poor, have a history of substance abuse, or need shelter from a troubled home or relationship, will find medical care, counseling, parenting training, vocational training, and a place to live and begin their lives as mothers. Their children will begin life with an all-important year of health care, nutrition, and cognitive simulation.

No one is more vulnerable than children to the pressures of the city. And for a young mother whose home and work life are insecure, combined with the daily urban pressures of economic desperation, drugs as a commonplace of life, crime and guns—it is all the more difficult to provide that steady hand a child needs. That's why I think Fifteen-Month Houses make sense.

A few people have already stepped in to build communities that set children on a sound course through life by caring for them in the most important 15 months of life: The culmination of pregnancy and the first year after birth. In Los Angeles, Bea Stolzer and an organization called New Economics for Women put together everything they could find, including low-income tax credits, local housing development credits, CRA credits, and welfare system funds to build Casa Loma, a residence of 110 single parent families and senior citizens, with child care space, family services, and vocational programs. In New York, the Bronx Parent Association has developed a 12–18 month residential program—La Casita—to serve pregnant women and women with young children. It provides initial evaluation of enrollees for psych-social needs and substance abuse problems, counseling, on-site medical services, job training, parenting classes, on-site day care, and a 1-year followup.

From these home-grown initiatives, I developed the idea of Fifteen-Month Houses, and today I am introducing a

bill authorizing $250 million to establish residential early intervention programs for at-risk pregnant women through the first year of life. The program must provide the mother with health and substance abuse screening or treatment, and education in parenting. For the child, the program must include cognitive stimulation as well as immunizations and other care.

Grants under this program will be made competitively, based on the recommendations of a peer review panel, to federally funded and nonprofit housing programs, as well as successful drug or domestic violence programs that can provide adequate housing on their own. Pregnant women who are substance abusers, homeless, in unstable domestic situations, or at high-risk for other health problems or problems in pregnancy would be eligible for housing through the first year of their child's life.

The Robert Wood Johnson Foundation recently completed a study showing that if children are provided not just healthy care during the first year of life, but also systematic cognitive stimulation, behavior problems drop to almost none, IQ is notably higher, the kids progress more quickly in school, and the burden on the school to remedy problems from early in life is correspondingly reduced. Fifteen-Month Houses will be intended to provide that safe and stimulating year to the most vulnerable children.

I ask unanimous consent that the text of the bill be printed in full at this point.

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

S. 1133

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

SECTION 1. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) there has been substantial work done to identify infants and children—

(A) who are born to young single mothers, substance abusing women, homeless women, women who are economically and educationally disadvantaged, and women in unstable domestic situations; and

(B) born, in many instances, to women who are involved, or at risk of becoming involved, with the foster care or child justice system;

(2) numerous nonresidential programs have been established to improve infant and child outcomes for children born to poor, young, and generally single mothers, and many of these programs have been successful; and

(3) residential programs have been demonstrated to be very effective for, and are critically important to, special populations of high-risk and disadvantaged pregnant women, including—

(A) those who are addicted or at-risk for substance abuse;

(B) those who are homeless;

(C) those in unstable domestic situations; and

(D) women with other high-risk characteristics, such as previous or current involvement with the foster care or child justice system.

(b) PURPOSE.—It is the purpose of this Act to establish residential programs for special populations of high-risk and disadvantaged pregnant women and their children that will provide comprehensive support services to protect and enhance the first year of life of the children of such women and provide the mothers of such children with an opportunity for a proper maternal beginning. Such programs will target the women described in subsection (a)(3) and provide a more intensive array of the many services that are part of nonresidential programs, together with vocational, home management, and transitional housing assistance.

SEC. 2. RESIDENTIAL PROGRAMS FOR PREGNANT WOMEN AND CHILDREN.

Part B of the Public Health Service Act (42 U.S.C. 243 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 320A. RESIDENTIAL PROGRAMS FOR PREGNANT WOMEN AND CHILDREN.

"(a) ESTABLISHMENT.—The Secretary shall establish a program under which grants shall be awarded to eligible entities to enable such entities to establish residential programs for special populations of high-risk and disadvantaged pregnant women and their children to provide the services described in subsection (d) to such women.

"(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant under subsection (a), an entity shall be a—

"(1) nonprofit transitional, homeless shelter or a permanent housing program;

"(2) federally funded public housing organization;

"(3) housing organization that serves tenants living in housing assisted under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f); and

"(4) community-based drug treatment center, domestic violence shelter, or other health center; or

"(5) any other entity determined appropriate by the Secretary.

"(c) APPLICATION.—To be eligible to receive a grant under subsection (a), an eligible entity shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

"(1) a description of the manner in which the services required under subsection (d) will be provided using amounts made available under the grant;

"(2) information sufficient to demonstrate that the applicant will assure the provision of the full array of services described in subsection (d);

"(3) information sufficient to demonstrate that the applicant has access to a suitable housing facility, as described in subsection (f);

"(4) a description of the applicants plan for assuring housing for all program participants and their children after such participants complete the program;

"(5) information sufficient to demonstrate that the applicant has linkages with public and other community agencies that can assist in locating and facilitating appropriate housing;

"(6) information demonstrating that the applicant has established a relationship with child welfare agencies and child protective services that will enable the applicant, where appropriate, to—

"(A) provide advocacy on behalf of substance abusers and the children of substance abusers in child protective services cases;

"(B) provide services to help prevent the unnecessary placement of children in substitute care; and

"(C) promote reunification of families or permanent plans for the placement of the child; and

"(7) any other information determined appropriate by the Secretary.

"(d) SERVICES.—A residential program established under this section shall provide the following comprehensive services (which should be provided in the language and cultural context appropriate for the mother and her family):

"(1) MEDICAL SERVICES.—Medical services which shall include—

"(A) assessment and screening to determine the medical needs of the mother and her family;

"(B) referrals and linkages to—

"(i) appropriate prenatal, obstetric and pediatric medical service providers in the community or referral to other providers as needed;

"(ii) community health clinics; and

"(iii) other public health service and community-based providers that would be likely to provide similar services;

"(C) on-site provision of or referral to appropriate community-based agencies for addiction and substance abuse education, counseling, treatment, and referral (to outpatient counseling upon discharge) services as needed; and

"(D) psychological services for mothers and children, as needed.

"(2) PARENTING, JOB COUNSELING, AND OTHER SERVICES.—Other services which shall include—

"(A) assessment and screening to determine parenting, job counseling, and social service needs of the mother and her family;

"(B) parenting skills counseling and education, specifically focusing on techniques to stimulate cognitive development in infants;

"(C) access to schools for children and mothers where appropriate;

"(D) day care for children when their mothers are attending other programs, as needed;

"(E) job counseling and referral to existing job training programs;

"(F) structured re-entry counseling and other related activities, including follow-up services;

"(G) referrals and linkages to other needed services;

"(H) transitional housing assistance, as needed;

"(I) transportation services with respect to an educational institution or a job training site, as needed; and

"(J) case management throughout the duration of the program, including assistance with applications for assistance under titles IV and XIX of the Social Security Act, the Food Stamp Act of 1977, after care programs, and other service programs described in this section.

"(e) ELIGIBLE WOMEN.—

"(1) IN GENERAL.—To be eligible to receive services provided under a residential program established under this section, an individual shall be a pregnant woman who is a member of a special population of disadvantaged pregnant women, including—

"(A) women who are addicted or at-risk for substance abuse;

"(B) women who are homeless;

"(C) women who are in unstable domestic situations; and

"(D) women who are referred to the program due to other high-risk characteristics.

"(2) ADMITTANCE INTO PROGRAM.—Women shall be admitted into a residential program

under this section upon a determination of eligibility and may remain in such program until their infant reaches 1 year of age. All children of eligible pregnant women shall be admitted into the program and shall be permitted to remain in the program so long as their mother also remains in the program.

"(f) SUITABLE HOUSING FACILITIES.—

"(1) IN GENERAL.—In meeting the requirement of subsection (c)(3), an entity receiving a grant under this section shall secure access to and the use of an appropriate facility, as determined by the Secretary, for the housing of pregnant women and their children in a home-like setting.

"(2) LIMITATION.—Amounts made available under a grant awarded under this section may not be used for the rehabilitation, construction, purchase, or leasing of property. Such amounts may be used for residential support services, including furniture, supplies, security, maintenance, utilities, and administrative services.

"(g) PEER REVIEW.—The Secretary shall provide for the establishment of a peer review panel to perform the initial review of applications submitted for assistance under this section and to make recommendations to the Secretary with respect to such applications.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $250,000,000 for each of the fiscal years 1994 through 1996.".●

By Mr. SMITH:

S.J. Res. 104. A joint resolution designating September 17, 1993, as "National POW/MIA Recognition Day" and authorizing the display of the National League of Families POW/MIA flag; to the Committee on the Judiciary.

POW/MIA RECOGNITION DAY

● Mr. SMITH. Mr. President, I rise today to introduce a Senate joint resolution to designate September 17, 1993, as "National POW/MIA Recognition Day." This resolution has been introduced and passed by the Congress every year in recent memory to call attention to our brave American POW's and MIA's for whom no accounting has been received. At a recent news conference, the President of the United States stated that he was not satisfied that we know all that we need to know about our missing men, and he stated that his policies on this matter would be heavily influenced by the families of the people whose lives were lost or whose lives remain in question.

Mr. President, I am confident the Congress also wants to stand behind the families of our missing men as we continue our efforts to account for their loved ones. It is, therefore, fitting for the Congress and the President to continue the tradition of setting aside a day each year to remember our POW's and MIA's from all wars. I want to thank my colleague in the House, Representative BEN GILMAN, for introducing a House joint resolution today to correspond to this resolution.

Mr. President, I look forward to working with the Senate leadership to pass this resolution in time for the annual meeting of our POW/MIA families here in the Nation's Capital in mid-July 1993.

At this time, Mr. President, I ask unanimous consent that the text of the joint resolution be printed following their remarks.

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

S.J. RES. 104

Whereas the United States has fought in many wars and thousands of Americans who served in those wars were captured by the enemy or listed as missing in action;

Whereas many American prisoners of war were subjected to brutal and inhumane treatment by their enemy captors in violation of international codes and customs for the treatment of prisoners of war, and many such prisoners of war died from such treatment;

Whereas many of these Americans are still listed as missing and unaccounted for, and the uncertainty surrounding their fates has caused their families to suffer tragic and continuing hardships;

Whereas, in Public Law 101-355, the Federal Government officially recognized and designated the National League of Families POW/MIA flag as the symbol of the Nation's concern and commitment to accounting as fully as possible for Americans still prisoner, missing in action, or unaccounted for in Southeast Asia; and

Whereas the sacrifices of Americans still missing and unaccounted for from all our Nation's wars and their families are deserving of national recognition and support for continued priority efforts to determine the fate of those missing Americans: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF NATIONAL POW/MIA RECOGNITION DAY.

September 17, 1993, is designated as "National POW/MIA Recognition Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

SEC. 2. REQUIREMENT TO DISPLAY NATIONAL LEAGUE OF FAMILIES POW/MIA FLAG.

(a) IN GENERAL.—The POW/MIA flag shall be displayed—

(1) at all national cemeteries and the National Vietnam Veterans Memorial on May 31, 1993 (Memorial Day), September 17, 1993 (National POW/MIA Recognition Day), and November 11, 1993 (Veterans Day); and

(2) on, or on the grounds of, the buildings specified in subsection (b) on September 17, 1993;

as the symbol of our Nation's concern and commitment to accounting as fully as possible for Americans still prisoner, missing, and unaccounted for, thus ending the uncertainty for their families and the Nation.

(b) BUILDINGS.—The buildings specified in this subsection are—

(1) the White House; and

(2) the buildings containing the primary offices of—

(A) the Secretary of State;

(B) the Secretary of Defense;

(C) the Secretary of Veterans Affairs; and

(D) the Director of the Selective Service System.

(c) POW/MIA FLAG.—As used in this section, the term "POW/MIA flag" means the National League of Families POW/MIA flag recognized officially and designated by section 2 of Public Law 101-355.●

ADDITIONAL COSPONSORS

S. 27

At the request of Mr. SARBANES, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of S. 27, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia.

S. 340

At the request of Mr. HEFLIN, the name of the Senator from Washington [Mrs. MURRAY] was added as a cosponsor of S. 340, a bill to amend the Federal Food, Drug, and Cosmetic Act to clarify the application of the Act with respect to alternate uses of new animal drugs and new drugs intended for human use, and for other purposes.

S. 348

At the request of Mr. CHAFEE, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 348, a bill to amend the Internal Revenue Code of 1986 to permanently extend qualified mortgage bonds.

At the request of Mr. RIEGLE, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 348, supra.

S. 455

At the request of Mr. HATFIELD, the names of the Senator from North Dakota [Mr. DORGAN] and the Senator from Nevada [Mr. BRYAN] were added as cosponsors of S. 455, a bill to amend title 31, United States Code, to increase Federal payments to units of general local government for entitlement lands, and for other purposes.

S. 667

At the request of Mr. BRYAN, his name was added as a cosponsor of S. 667, a bill to amend the Immigration and Nationality Act to improve procedures for the exclusion of aliens seeking to enter the United States by fraud.

S. 716

At the request of Mr. BOND, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 716, a bill to require that all Federal lithographic printing be performed using ink made from vegetable oil, and for other purposes.

S. 717

At the request of Mr. PRYOR, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 717, a bill to amend the Egg Research and Consumer Information Act to modify the provisions governing the rate of assessment, to expand the exemption of egg producers from such Act, and for other purposes.

S. 732

At the request of Mr. KENNEDY, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 732, a bill to provide for the immunization of all children in the

United States against vaccine-preventable diseases, and for other purposes.

S. 733

At the request of Mr. RIEGLE, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 733, a bill to provide for the immunization of all children in the United States against vaccine-preventable diseases, and for other purposes.

S. 881

At the request of Mr. DODD, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 881, a bill to amend the Elementary and Secondary Education Act of 1965 to reauthorize and make certain technical corrections in the Civic Education Program, and for other purposes.

S. 947

At the request of Mr. PRESSLER, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 947, a bill to amend the Internal Revenue Code of 1986 to limit the tax rate for certain small businesses, and for other purposes.

S. 985

At the request of Mr. INOUYE, the names of the Senator from Vermont [Mr. JEFFORDS] and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of S. 985, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act with respect to minor uses of pesticides, and for other purposes.

S. 994

At the request of Mr. PRYOR, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 994, a bill to authorize the establishment of a fresh cut flowers and fresh cut greens promotion and consumer information program for the benefit of the floricultural industry and other persons, and for other purposes.

S. 1030

At the request of Mr. ROCKEFELLER, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 1030, a bill to amend chapter 17 of title 38, United States Code, to improve the Department of Veterans Affairs program of sexual trauma counseling for veterans and to improve certain Department of Veterans Affairs programs for women veterans.

S. 1044

At the request of Mr. DOLE, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 1044, a bill terminating the United States arms embargo of the Government of Bosnia-Herzegovina.

S. 1080

At the request of Mr. LAUTENBERG, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 1080, a bill to suspend until January 1, 1996, the duty on ioxilan, and to extend until January 1, 1996, the existing suspensions of duty on iohexol, iopamidol, and ioxaglic acid.

SENATE JOINT RESOLUTION 79

At the request of Mr. LAUTENBERG, the names of the Senator from South Dakota [Mr. PRESSLER] and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of Senate Joint Resolution 79, a joint resolution to designate June 19, 1993, as "National Baseball Day."

SENATE CONCURRENT RESOLUTION 27

At the request of Mr. LEAHY, the names of the Senator from Ohio [Mr. GLENN], the Senator from Rhode Island [Mr. CHAFEE], and the Senator from Tennessee [Mr. SASSER] were added as cosponsors of Senate Concurrent Resolution 27, a concurrent resolution to express the sense of Congress that funding should be provided to begin a phase-in toward full funding of the special supplemental food program for women, infants, and children [WIC] and of Head Start programs and to expand the Job Corps program, and for other purposes.

SENATE CONCURRENT RESOLUTION 30

At the request of Mr. BROWN, the names of the Senator from Alaska [Mr. STEVENS], the Senator from Hawaii [Mr. INOUYE], the Senator from Vermont [Mr. LEAHY], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of Senate Concurrent Resolution 30, a concurrent resolution congratulating the Anti-Defamation League on the celebration of its 80th anniversary.

AMENDMENT NO. 465

At the request of Mr. NICKLES the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of amendment No. 465 proposed to S. 3, a bill entitled the "Congressional Spending Limit and Election Reform Act of 1993."

SENATE CONCURRENT RESOLUTION 31—CONCERNING THE EMANCIPATION OF THE IRANIAN BAHA'I COMMUNITY

Mr. DODD (for himself, Mr. PELL, Mr. MCCAIN, Mrs. KASSEBAUM, Mr. KENNEDY, Mr. ROCKEFELLER, Mr. D'AMATO, Mr. MATTHEWS, Mr. DECONCINI, Mr. DORGAN, Mr. SARBANES, Mr. LEVIN, Mr. DOLE, Mr. CAMPBELL, Mrs. FEINSTEIN, Mr. MOYNIHAN, Mr. PRESSLER, Mr. INOUYE, Mr. WOFFORD, Mr. CRAIG, Mr. LUGAR, Mr. SIMON, Mr. HATFIELD, Mr. MITCHELL, Mr. HATCH, Mr. HEFLIN, Mr. GRAHAM, Mr. ROBB, Mr. GLENN, Mr. KERRY, Mr. DURENBERGER, Mr. DASCHLE, Mrs. BOXER, and Mr. SASSER) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 31

Whereas in 1982, 1984, 1988, 1990, and 1992, the Congress, by concurrent resolution, declared that it holds the Government of Iran responsible for upholding the rights of all its nationals, including members of the Baha'i Faith, Iran's largest religious minority;

Whereas in such resolutions and in numerous other appeals, the Congress condemned the Government of Iran's religious persecution of the Baha'i community, including the execution of more than 200 Baha'is, the imprisonment of additional thousands, and other repressive and discriminatory actions against Baha'is based solely upon their religious beliefs;

Whereas in 1992, the Government of Iran summarily executed a leading member of the Baha'i community, arrested and imprisoned several other Baha'is, condemned two Baha'i prisoners to death on account of their religion, and confiscated individual Baha'is' homes and personal properties in several cities;

Whereas the Government of Iran continues to deny the Baha'i community the right to organize, to elect its leaders, to hold community property for worship or assembly, to operate religious schools and to conduct other normal religious community activities; and

Whereas on February 22, 1993, the United Nations Commission on Human Rights published a formerly confidential Iranian government document constituting a blueprint for the destruction of the Baha'i community, which document reveals that these repressive actions are the result of a deliberate policy designed and approved by the highest officials of the Government of Iran: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) continues to hold the Government of Iran responsible for upholding the rights of all its nationals, including members of the Baha'i community, in a manner consistent with Iran's obligations under the Universal Declaration of Human Rights and other international agreements guaranteeing the civil and political rights of its citizens;

(2) condemns the repressive anti-Baha'i policy adopted by the Government of Iran, as set forth in a confidential official document which explicitly states that Baha'is shall be denied access to education and employment, and that the government's policy is to deal with Baha'is "in such a way that their progress and development are blocked";

(3) expresses concern that individual Baha'is continue to suffer from severely repressive and discriminatory government actions, solely on account of their religion; and that the Baha'i community continues to be denied legal recognition and the basic rights to organize, elect its leaders, educate its youth, and conduct the normal activities of a law-abiding religious community;

(4) urges the Government of Iran to extend to the Baha'i community the rights guaranteed by the Universal Declaration of Human Rights and the international covenants on human rights, including the freedom of thought, conscience, and religion, and equal protection of the law; and

(5) calls upon the President to continue—

(A) to emphasize that the United States regards the human rights practices of the Government of Iran, particularly its treatment of the Baha'i community and other religious minorities, as a significant factor in the development of the United States Government's relations with the Government of Iran;

(B) to urge the Government of Iran to emancipate the Baha'i community by granting those rights guaranteed by the Universal Declaration of Human Rights and the international covenants on human rights; and

(C) to encourage other governments to continue to appeal to the Government of Iran, and to cooperate with other governments

and international organizations, including the United Nations and its agencies, in efforts to protect the religious rights of the Baha'is and other minorities through joint appeals to the Government of Iran and through other appropriate actions.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President.

Mr. DODD. Mr. President, I rise today to submit a concurrent resolution calling on Iran to improve its treatment of the Baha'i community. I am pleased to be joined in this effort by 34 of my Senate colleagues.

Mr. President, over the past 14 years, the more than 300,000 Baha'is of that country have been the targets of widespread and systematic persecution, harassment, and discrimination. More than 200 Baha'is have been executed and thousands of others have been arbitrarily imprisoned, robbed of their belongings, and refused employment or educational opportunities.

In fact, Mr. President, this week marks the 10th anniversary of one of the most brutal series of executions the Baha'i community has experienced since the Iranian Revolution in 1979. Ten years ago yesterday, on June 16, 1983, six men were executed in the Iranian city of Shiraz. Just 2 days later, on June 18, 10 women were hanged, including three teenage girls whose crime was teaching Baha'i children's classes.

Iran's treatment of the Baha'is has been repeatedly condemned by the State Department and the United Nations, as well as the United States Congress and other parliaments around the world. Both President Clinton and Vice President GORE have taken the opportunity in the last several months to personally single out the Iranian regime for its treatment of the Baha'i community. In addition, a large number of newspaper editorials have condemned Iran's actions as well. I ask unanimous consent that a collection of these editorials plus a copy of the statements by the President and the Vice President appear in the CONGRESSIONAL RECORD following my remarks.

Mr. President, Iran's true intentions toward the Baha'i community were made clear this past February when the United Nations released a previously confidential Iranian Government directive spelling out the manner in which Baha'is are to be treated. The document, a high-level communication prepared by Iran's Supreme Revolutionary Council 2 years ago and approved by President Rafsanjani and Supreme Leader Ali Khamenei, comprises an effective blueprint for the destruction of the Baha'i community as a religious or cultural entity. For example, regarding the Baha'is, the document states:

The Government's dealings with them must be in such a way that their progress and development are blocked.

They can be enrolled in schools provided they have not identified themselves as Baha'is * * * They must be expelled from universities * * * once it becomes known they are Baha'is.

A plan must be devised to confront and destroy their cultural roots outside the country.

Deny them employment if they identify themselves as Baha'is.

Mr. President, Congress has addressed the plight of the Bahi'i community of Iran on five different occasions since 1982. Legislation in the 102d Congress, Senate Congressional Resolution 43, acquired 47 Senate cosponsors and was adopted unanimously. These efforts have clearly had some impact. For example, there has been only one recorded execution of a Baha'i since late 1988, although two Baha'is are currently under death sentence.

Both as the recently disclosed blueprint makes clear, Mr. President, the Government of Iran clearly has a long way to go. Accordingly, the purpose of this resolution is to ensure that the message is not forgotten by the leadership of the Iranian regime. I urge the Senate to adopt this legislation and I ask unanimous consent that the text of this resolution appear in full in the CONGRESSIONAL RECORD.

THE WHITE HOUSE,
OFFICE OF THE PRESS SECRETARY,
Washington, DC, April 22, 1993.

REMARKS BY THE PRESIDENT AT DEDICATION OF THE UNITED STATES HOLOCAUST MEMORIAL MUSEUM

Now, with the demise of communism and the rise of democracy out of the ashes of former communist states, with the end of the Cold War we must not only rejoice in so much that is good in the world, but recognize that not all in this new world is good. We learn again and again that the world has yet to run its course of animosity and violence.

Ethnic cleansing in the former Yugoslavia is but the most brutal and blatant and ever-present manifestation of what we see also with the oppression of the Kurds in Iraq, the abusive treatment of the Baha'i in Iran, the endless race-based violence in South Africa. And in many other places we are reminded again and again how fragile are the safeguards of civilization.

WHITE HOUSE,
OFFICE OF THE VICE PRESIDENT,
Washington, DC, March 4, 1993.

VICE PRESIDENT CRITICIZES IRAN'S MISTREATMENT OF BAHA'IS, PRAISES WORK OF UN HUMAN RIGHTS COMMISSION

WASHINGTON.—Reaffirming his support of the oppressed Iranian Baha'is, Vice President Al Gore today (3/4) expressed concern over Tehran's human rights violations outlined in a recently released United Nations report.

"I have long been interested in the plight of Iran's Baha'i community, so the news that they continue to suffer systematic repression because of their religious beliefs is very troubling," the Vice President said. "The Administration is deeply concerned by Tehran's violations of the fundamental human rights of the Iranian people." * * *

In the Senate, Gore was a strong supporter of resolutions to highlight the systematic human rights abuses committed against the Baha'i.

[From the New York Times, Feb. 21, 1993]

IRAN'S NUREMBERG LAWS

Iran's clerical rulers have approved a secret blueprint for the persecution of the Bahai faith that is appalling evidence of growing intolerance. The sweeping code is reminiscent of the sinister Nuremberg Laws imposed by the Nazis in 1935, which shredded citizenship rights of German Jews.

Some 200 Bahais have been executed and thousands imprisoned since the reign of the ayatollahs began in 1979. But the assault on 300,000 Bahais seemed to abate after an outcry abroad.

Now comes revelation of a code, prepared by the Supreme Revolutionary Cultural Council on Feb. 25, 1991, that denies employment and school enrollment to any Iranians who identify themselves as Bahais. The code calls for the expulsion of known Bahais from universities, for punishment of "their political [espionage] activities" and for blocking growth of the Bahai religion and destroying its "cultural roots outside the country." These orders were signed by Iran's spiritual leader, Ali Khamenei, who wrote that they "seemed sufficient."

And so Iran's clerical dictators now sanction a witch hunt against a religion they despise as a heretical offshoot of Islam. The sole offense of these believers is their beliefs; their crime is to exist. Iran has yet to offer any evidence of spying or any other lawless acts committed by Bahais. And it scarcely attests to the mullahs' confidence in the appeal of their own faith that they feel it necessary to extirpate a tiny dissenting minority.

A copy of the code was obtained by the U.N. special envoy to Iran, Reynaldo Galindo Pohl, who described it in January to the U.N. Human Rights Commission. It is of some solace that this code was kept secret, an implicit tribute to the norms of tolerance that Iran flouts. In 1935, Hitler boasted to all the world that Jews would be stripped of their jobs and their university positions. It is a modest measure of moral progress that Iran's indefensible code was marked "confidential."

[From the Washington Post, Mar. 3, 1993]

ASK THE BAHAIS

Perhaps nowhere has the United Nations been more attentive to human rights violations and practically nowhere has it found a more dismal record than Iran. Its latest report, issued by its veteran Iran human rights envoy, the Guatemalan lawyer Reynaldo Galindo Pohl, exposes a grievous official campaign against the Bahai religious minority, a group regarded as blasphemous by Iran's fundamentalist Islamic leadership. Since its beginning 14 years ago, Iran's revolutionary government has executed hundreds of Bahais, imprisoned thousands and otherwise crushed the community. An official document obtained in Iran last year by Mr. Pohl takes the campaign a cold step further.

Superficially, the document, generated by Iran's ruling revolutionary council, has a tone of moderation. It says Bahais "will not be arrested, imprisoned or penalized without reason" and will be permitted "a modest livelihood as is available to the general population." But the document then goes on to commit the government to block "their progress and development" as a community and to deny individuals education, employment and "any position of influence" "if they identify themselves as Bahais."

Iran seems to be reacting to the strong criticism of its treatment of Bahais that has

come from earlier censure in the international arena. Hence this attempt to deal with "the Bahai question" with an appearance of fairness and legality. In matters of substance, however, Iran continues and now systematizes a pattern of profound discrimination against one group in the population. It is a group that has been sustained at home by its own faith and by the support available from many Muslim fellow citizens. Not even in the invaded U.S. embassy's shredded—and reconstructed—files could Iranian authorities find evidence to support their claims of Bahai "espionage" and political disloyalty.

The government of Iran, long self-isolated, now seeks a return to the comforts of the international economy. Some in the West see in Tehran an ascendancy of "moderates." Ask the Bahais.

[From The Chicago Tribune, Mar. 6, 1993]

A BLUEPRINT FOR RELIGIOUS OPPRESSION

It belongs on the same bookshelf as, say, "Mein Kampf." Though a lot shorter and much more limited in scope than that repugnant tome by Adolf Hitler, it nevertheless partakes of the Nazi period's heinous intolerance.

The document in question is an Iranian government plan for repressing adherents of the Baha'i faith, with an eye toward destroying the 300,000-strong Baha'i community in Iran.

Issued two years ago, the chilling blueprint originated in the Supreme Revolutionary Cultural Council, Iran's topmost religious body, and was approved by the president and Ayatollah Ali Khamenei, the supreme leader. It came to light recently after a United Nations investigator looked into human rights in Iran.

The key tenet of Tehran's policy is bluntly described:

"The government's treatment of [Baha'is] shall be such that their progress and development shall be blocked."

Toward that end, Iranian citizens who own up to being among the Baha'i faithful are to be fired from their jobs, lose pensions, denied higher education and prevented from attaining any "positions of influence."

That Baha'is have been targeted for abuse in Iran is no revelation, of course. A couple hundred have been executed in the years since an Islamic regime took control in 1979.

Many others have been imprisoned, harassed and otherwise persecuted for no reason other than that the ruling mullahs regard them as "unprotected infidels."

Their co-religionists throughout the world, numbering about 5 million, seek to protect Baha'is in Iran, the nation's largest religious minority, by generating widespread outrage over the government's treatment of them. And in Washington, members of Congress' Human Rights Caucus hope to spotlight the issue.

For these worthy purposes, far-flung champions of the persecuted Baha'is could hardly have been handed a better tool than the Tehran government's plan—"a genocidal document," in the words of an expert—which confirms yet again the Iranian leaders' place in any pantheon of tyrants.

[From the Atlanta Journal, Feb. 27, 1993]

DON'T BUY IRAN'S CLAIM IT'S REFORMING

Iran would like the rest of the world to believe that the supposed moderate face it displays for outsiders is indicative of the policies that prevail in Tehran and that the country's notorious radicals are mere nuisances that President Hashemi Rafsanjani and his ilk are obliged to tolerate but by no means obey.

On the evidence in two crucial human rights questions, Iran's pose is about as phony as a warranty for a flying carpet.

Take the case of author Salman Rushdie, condemned to death for blasphemy in absentia four years ago on the command of the since-deceased Ayatollah Rubollah Khomeini. Deplorably, the Rushdie assassination order was reaffirmed this month by Khomeini's nominal spiritual successor, Ayatollah Ali Khamenei.

Try as it may, the Tehran regime can't shake off its own onus of the Rushdie matter. Improbably, it says it can't nullify the order, though Muslim scholars outside Iran insist it could if it was serious. Even harder to believe, the oppressive Iranian regime claims it has no authority over the "religious foundation" that is offering a bounty for Mr. Rushdie's head.

On another grave matter, documentation was revealed this week that proves that Iran's suppression of its Baha'i minority is a codified, systematic government policy, not only preached by its mullahs but signed on to by none other than President Rafsanjani.

A 2-year-old Iranian position paper, revealed in a report by a United Nations human-rights monitor, says the Baha'i faithful should be subjected to police harassment, excluded from schools, denied employment, denied essential official papers and cut off from Baha'i support from outside Iran. The document had been kept secret, by the way, because Tehran knew knowledgeable outsiders already were outraged at its cruel treatment of the Baha'is.

For Iran now to approach the United States seeking trade, technology and credits and feigning generally good deportment is a sham. Its attempt to silence a world-class writer and to wipe out a community of believers are no aberrations, the kind of exceptions Washington might tut-tut over but, in the end, overlook.

These are the Iranian leaders as they really are, and until they change, the civilized world has no business doing business with them.

[From the Columbus Dispatch, Apr. 5, 1993]

IRAN'S SHAME—REGIME MUST END PERSECUTION OF BAHAIS

Accused of terrorism abroad and oppression at home, Iran stands in the dock of the world judgment.

There was no mistaking U.S. Secretary of State Warren Christopher's message in testimony the other day before a congressional committee. Iran is an "international outlaw," he said.

"Iran is one of the principal sources of support for terrorist groups around the world," Christopher charged. Iran's Foreign Ministry dismisses the allegation as unfounded.

Terrorism as a cold-blooded political strategy is of deep concern to leaders in many countries, these days.

But Christopher could have added another dimension to his sharp critique of the policymakers in Tehran if he had focused as well on the government's calculated, smothering oppression of the minority Bahais, whose faith is considered heresy in the land of its origin.

Bahais say they number about 300,000 in Iran and about 5 million worldwide.

A few weeks ago the U.N. Human Rights Commission released copies of what it said is an internal Iranian government memorandum outlining recommended policy on "the Bahai question."

An English translation circulated by the Bahai faithful in the United States makes these chilling points:

The government's dealings with them (the Bahais in Iran) must be in such a way that their progress is blocked.

They can be enrolled in schools, provided they have not identified themselves as Bahais.

They must be expelled from universities, either in the admission process or during the course of their studies, once it becomes known that they are Bahais.

They must be denied employment if they identify themselves as Bahais.

A plan must be devised to confront and destroy their cultural roots outside the country.

It amounts to "a blueprint for the destruction of the Bahai community in Iran," in the view of Bahais in the United States.

The government in Tehran reportedly has executed more than 200 Bahais since seizing power in 1979.

What kind of people would do that and then adopt as official policy a plan to kick the rest of the acknowledged Bahais out of school and take away their jobs?

the government of President Hashemi Rafsanjand should be put on notice by governments everywhere that the systematic oppression of a religious minority is a major obstacle to improved diplomatic and economic relations.

FLOOR STATEMENT OF SENATOR CLAIBORNE PELL—THE EMANCIPATION OF THE IRANIAN BAHA'I COMMUNITY

Mr. President, I am pleased to join my colleagues, Senators Dodd, Lieberman, McCain, Kassebaum and others, in introducing legislation concerning the Baha'i community in Iran.

The situation of the Baha'is in Iran is one of the world's tragic, untold stories. With new atrocities in Bosnia, Liberia, Somalia, and countless other nations appearing in the headlines everyday, it is perhaps easy to overlook what is happening to the Baha'i community in Iran. But the Baha'is, the largest non-Muslim religious minority in Iran, have suffered tremendous persecution under the current Iranian regime. The fact that their cause receives little attention in no way diminishes the scope of the difficulties they have faced.

The Baha'is, who seek only the freedom to practice their faith, have been subjected to many forms of oppression, including harassment, imprisonment, loss of jobs, confiscation of property, and, tragically, summary execution. Their case becomes even more compelling in light of irrefutable proof of a concerted effort by the government of Iran to deny them their fundamental human rights. This year, the Baha'is obtained an official Iranian document that outlines a strategy toward "the Baha'i question." That document, among other things, says that "the government's dealings with them must be in such a way that their progress and development are blocked." The document goes on in chilling detail to describe how the government will undercut the educational and social status of any acknowledged adherent of the Baha'i faith, concluding with the passage that "a plan must be devised to confront and destroy their cultural roots outside the country."

Mr. President, there is no conceivable justification for Iran's persecution of the Baha'is. I, along with a number of colleagues in the Senate, have been calling attention to this situation for years; this is in fact the

sixth resolution that has been introduced on the Baha'i question. It is evident that Congressional attention has had a positive effect. Following the adoption of previous resolutions, the Iranian regime has moderated its treatment of the Bahai's for certain periods of time. It appears the regime is not completely impervious to international pressure, but it is essential to apply that pressure constantly. I therefore urge that my colleagues support this resolution.

FLOOR STATEMENT OF SENATOR LIEBERMAN

Mr. President, I regret that it is necessary to introduce yet another congressional resolution of concern for the persecution of the Baha'i minority of Iran. But it is important to remind the Iranian government that the Senate and the American people continue to feel strongly about Iran's repressive policies and actions directed against a peaceful, law-abiding religious community.

As we introduce this resolution, we might recall that this week marks the tenth anniversary of a particularly brutal episode in the persecution of Iranian Baha'is.

Ten years ago this week, in Iran, a total of sixteen innocent Baha'is were executed solely on account of their religion.

Six Baha'is, all men, were executed in Shiraz on June 16, 1983. And two days later, on June 18, ten Baha'i women—including three teenaged girls—were hanged in Shiraz. The teenagers were charged with teaching Baha'i childrens' classes.

These brutal murders shocked the world and stirred protests in many countries.

Thanks in part to continuing international protest and pressure, including a series of resolutions adopted since 1982 by the U.S. Congress, the Islamic regime has moderated its treatment of Baha'is. While economic and social discrimination creates severe hardship for members of the community, no executions of Baha'is were recorded from late 1988 until March 1992, when a leading member of the Baha'i community was summarily executed.

Then, in February of this year, we received profoundly distressing news about the Baha'i community of Iran.

A secret Iranian Government document which recently came to light provides chilling evidence of Iran's calculated plan to destroy this peaceful religious community.

This disturbing news came to my attention in a report from an old friend and my former neighbor in Connecticut, Firuz Kazemzadeh, who is one of the elected members of the governing council of the American Baha'i community. Dr. Kazemzadeh recently retired after more than 30 years on the faculty of Yale University, where he was a distinguished professor of history.

He has testified many times before congressional committees concerned with Iran's human rights abuses, and he is widely recognized for his insights into the situation in Iran and the plight of this persecuted religious community—the largest religious minority group in Iran.

The secret Iranian document is brief, but its meaning is clear. It is a deliberate plan, written and approved by the highest level officials of the Iranian government, to destroy the Baha'is.

The Iranian blueprint is labeled "confidential," but it was revealed in a recent United Nations report.

No matter that the Baha'is are natives of Iran. No matter that they are a law-abiding community, in keeping with their religious beliefs which require them to obey the civil law of whatever country in which they reside.

The official Iranian plan states that the Iranian Government's dealings with the Baha'is "must be in such a way that their progress and development are blocked."

The plan goes on to describe in detail the ways in which Baha'is are to be blocked. They must be expelled from schools or universities "once it becomes known that they are Baha'is. They are to be denied employment "if they identify themselves as Baha'is," and they should be denied "any position of influence, such as in the educational sector."

Moreover, the plan states, "to the extent that it does not encourage them to be Baha'is, it is the" for Baha'is to have ration booklets, passports, burial certificates, and work permits.

In one particularly ominous provision, the secret blueprint calls for a plan "to confront and destroy their cultural roots outside the country." According to Dr. Kazemzadeh, this refers to Iran's actions to counteract efforts in support of Iranian Baha'is by the American Baha'i community, as well as the German, Canadian and Brazilian Baha'is.

As a recent editorial in the New York Times points out, "it is of some solace that this code was kept secret, an implicit tribute to the norms of tolerance that Iran flouts."

And we might take heart from the fact that the secret blueprint does not call for the outright physical annihilation of the Baha'is—although it clearly leaves open the possibility for additional arrests and executions.

More than 200 Baha'is have been executed and thousands imprisoned on account of their religion, since the Islamic regime took power in 1979.

Arrests and executions are not the only way to destroy a vulnerable minority group, however. The detailed instructions contained in Iran's secret blueprint may call for less violent and less dramatic actions, but they are just as sure a prescription for the destruction of a peaceful, law-abiding community.

Since 1982, Congress has adopted five concurrent resolutions of support for the religious rights of Bahai's. I was an active cosponsor of the most recent appeal, the Bahai community emancipation resolution, adopted in July 1992.

We must renew our efforts to signal our support for the Bahai's, and to emphasize that the Senate condemns Iran's continuing persecution of this peaceful religious minority. And we must make clear to the President and the American public which values religious liberty, that Iran's religious persecution of Bahai's is an important factor to be considered in the development of any relationships between our Government and the Government of Iran.

SENATE RESOLUTION 119—RELATIVE TO THE WOMEN'S TRACK TEAM OF LOUISIANA STATE UNIVERSITY

Mr. JOHNSTON (for himself and Mr. BREAUX) submitted the following resolution; which was considered and agreed to:

S. RES. 119

Whereas the Women's Track Team of Louisiana State University has completed another outstanding season in which they have swept all four major championships;

Whereas the Lady Tiger Track Team of L.S.U. has, for the past seven years, dominated their sport to a degree rarely seen in the history of collegiate athletics;

Whereas the L.S.U. Lady Tigers have swept the Indoor and Outdoor Southeastern Conference and NCAA Championships in four of the last seven years;

Whereas the L.S.U. Lady Tigers have won the NCAA Outdoor Championship for seven straight years;

Whereas the twelve members of the 1993 L.S.U. Lady Tigers combined to win twenty All-American awards;

Whereas Women's Track Coach Pat Henry has done an outstanding job of leading the Lady Tigers for the past six seasons; and

Whereas the L.S.U. Lady Tigers won the 1993 Indoor and Outdoor Track Championships: Now, therefore, be it *Resolved*, That the Senate commends the Lady Tigers of Louisiana State University for winning the 1993 National Collegiate Athletic Association Indoor and Outdoor Championships, and for their tremendous achievements over the past seven years.

SENATE RESOLUTION 120—RELATIVE TO THE LOUISIANA STATE UNIVERSITY TIGERS

Mr. JOHNSTON (for himself and Mr. BREAUX) submitted the following resolution; which was considered and agreed to:

S. RES. 120

Whereas the baseball team of Louisiana State University has completed another outstanding season.

Whereas L.S.U. coach Skip Bertman, two-time National Coach of the Year, has led the Tigers to 483 victories and only 182 losses in his nine years at the helm.

Whereas the L.S.U. Tiger baseball team has won four consecutive Southeastern Conference Championships.

Whereas the L.S.U. Tigers have reached the College World Series in six of the last eight years, winning twice;

Whereas the 1993 L.S.U. Tiger baseball team compiled a record of 53–17–1 for their fifth consecutive 50-win season; and

Whereas the L.S.U. Tigers won the 1993 NCAA College World Series: Now, therefore, be it

Resolved, That the Senate commends the Fighting Tigers of Louisiana State University for having won the 1993 National Collegiate Athletic Association Baseball College World Series.

SENATE RESOLUTION 121—RELATIVE TO CESAR CHAVEZ

Mr. REID (for himself, Mr. KENNEDY, Mr. BINGAMAN, Mr. SIMON, and Mr. BRADLEY) submitted the following resolution; which was considered and agreed to:

S. RES. 121

Whereas Cesar Chavez inspired America with his fight to improve the lives of migrant farmworkers;

Whereas Cesar Chavez dedicated his life to serving the economically disadvantaged and politically disenfranchised;

Whereas Cesar Chavez's struggle to organize migrant farmworkers was accomplished with a commitment to non-violence;

Whereas Cesar Chavez, as president and founder of the United Farm Workers Union, brought a better life to thousands of laborers;

Whereas Cesar Chavez's life's work brought dignity and respect to all Mexican-Americans and other minority workers;

Whereas Cesar Chavez's efforts made possible the first collective bargaining Act for continental United States farmworkers;

Whereas Cesar Chavez drew attention to the dangers caused by agricultural pesticides to both farmworkers and consumers; and

Whereas Cesar Chavez has forever changed America for the better: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Senate of the United States honors the work and life of Cesar Chavez as one of the greatest leaders of human and civil rights advancement the United States has known.

SENATE RESOLUTION 122—RELATIVE TO TELEVISION VISION

Mrs. KASSEBAUM (for herself and Mr. DOLE) submitted the following resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. RES. 122

Whereas 3 different Surgeons General, the Attorney General's Task Force on Family Violence, the American Medical Association, the American Psychiatric Association, the American Academy of Pediatrics, and other authorities have all found that viewing televised violence is harmful to children;

Whereas Americans watch enormous amounts of television, and many children will watch television for twice as many hours (22,000 hours) as they attend school;

Whereas many children watch violent television programs without adult supervision or guidance;

Whereas watching aggressive behavior causes children to become more aggressive, and behavioral scientists have isolated this effect from other factors;

Whereas, in one study, scientists found that childhood television viewing patterns are a better predictor of later adult aggression and criminal behavior than social class, parental behavior, child rearing practices, intelligence, and other variables;

Whereas many studies of entire societies, conducted on small and large scales, show that violence and homicide rates increase dramatically after the introduction of television into a community;

Whereas more than 20 years of research has led to a consensus that watching televised violence increases children's aggressiveness and desensitizes them to the effects and implications of violence, and the solidity of the agreement among respected scientists that televised violence is harmful nullifies arguments to the contrary by the television industry; and

Whereas many other countries, including Canada, Great Britain, South Africa, Belgium, Finland, Australia, New Zealand, and France have taken action to combat the problem of television violence: Now, therefore, be it

Resolved, That each of the 4 major television broadcast networks and their affiliates, independent television stations, the Public Broadcasting System, cable programmers, and cable operators should—

(1) not telecast programming containing dramatized violence;

(2) superimpose explicit, on-screen viewer advisories or displays throughout programming containing dramatized or documentary violence;

(3) provide explicit audio and on-screen textual viewer advisories immediately prior to transmittal of programming containing dramatized or documentary violence;

(4) not transmit programming promotions or advertisements that contain dramatized or documentary violence;

(5) develop a standard scheme for classifying television programming on the basis of the amount and type of dramatized violence it contains; and

(6) educate and inform viewers about the harmful effects of exposure to television violence.

SEC. 2. For the purposes of this resolution—

(1) the term "violence"—

(A) means the use or threatened use of physical force against another or against one's self; and

(B) does not include idle threats, verbal abuse, and gestures without credible violent consequences;

(2) the term "dramatized violence" means the dramatized portrayal of killings, rapes, maimings, beatings, stranglings, stabbings, shootings, or any other acts of violence that, when viewed by the average person, would be considered excessive or inappropriate for minors.

Mrs. KASSEBAUM. Mr. President, there is a growing awareness that a link does exist between violence shown on television and the movies and violent crime committed in our homes and communities.

The glorification of violence that continues to dominate some of the most popular movies and television programs indicates a tragic level of acceptance which I believe each and every one of us must address. The answer doesn't lie in Washington, nor in censorship. It lies in our homes and communities where we must care enough to know what movies and television programs our children are watching.

On behalf of Senator DOLE and myself I'm sending to the desk a sense-of-the-Senate resolution with respect to the broadcasting of video programming containing violence. More importantly, the Kansas congressional delegation is lending efforts to the petition drive undertaken by the Kansas Parent-Leader Association, the Kansas Medical Society, the Hispanic Chamber of Commerce of Greater Kansas City, the Kansas Sheriffs Association, the NAACP, the Kansas Association of Chiefs of Police, and the Kansas Association of Elementary School Principals. It will be our hope that thousands of petitions will be signed in Kansas and around the country. These petitions will then be sent the first of August to a gathering of leaders in the entertainment industry. This may seem a small effort, but the effort could be dramatic.

AMENDMENTS SUBMITTED

CONGRESSIONAL CAMPAIGN SPENDING LIMIT AND ELECTION REFORM ACT

NICKLES AND BURNS AMENDMENT NO. 465

Mr. NICKLES (for himself and Mr. BURNS) proposed an amendment No. 465 to amendment No. 366 (in the nature of a substitute) to the bill (S. 3) the Congressional Spending Limit and Election Reform Act of 1993, as follows:

In section 503(a) of the Federal Election Campaign Act of 1971, as added by section 101(a) of the amendment, strike paragraph (1) and redesignate paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

In section 503(b) of the Federal Election Campaign Act of 1971, as added by section 101(a) of the amendment, strike "For purposes of subsection (a)(3)" and insert "For purposes of subsection (a)(2)".

In section 503(d) of the Federal Election Campaign Act of 1971, as added by section 101(a) of the amendment, strike "payments under subsection (a)(3)" and insert "payments under subsection (a)(2)".

In section 503(e) of the Federal Election Campaign Act of 1971, as added by section 101(a) of the amendment, strike "Payments received by a candidate under subsection (a)(3)" and insert "Payments received by a candidate under subsection (a)(2)".

Section 131(a) of the substitute amendment is deemed to read as follows:

(a) BROADCAST RATES.—Section 315(b)(1) of the Communications Act of 1934 (47 U.S.C. 315(b)(1)) is amended—

(1) by striking "forty-five" and inserting "30"; and

(2) by striking "lowest unit charge of the station for the same class and amount of time for the same period" and inserting "lowest charge of the station for the same amount of time for the same period on the same date".

SUPPLEMENTAL APPROPRIATIONS ACT OF 1993

BYRD AMENDMENT NO. 475

Mr. BYRD proposed an amendment No. 475 to the bill (H.R. 2118) making supplemental appropriations for the fiscal year attending September 30, 1993, and for other purposes, as follows:

On page 28 line 25, strike "$4,342,000" and insert "$415,000".

SEC. 802. Notwithstanding any other provision of law, the Comptroller General of the United States shall conduct an investigation into the alleged politicization of executive branch investigative agencies with respect to the White House travel office and shall submit the findings from such investigation to the Congress by no later than September 30, 1993.

On page 34, insert the following after line 24:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

COMMUNITY PLANNING AND DEVELOPMENT

HOME INVESTMENT PARTNERSHIP PROGRAM

For additional amounts for the HOME Investment Partnerships program, as authorized under title II of the Cranston-Gonzalez

National Affordable Housing Act, as amended, subject to the terms provided under this head in the Dire Emergency Supplemental Appropriations Act, 1992, Public Law 102-368, $75,000,000, to remain available until expended: *Provided*, That up to $50,000,000 of the amounts required to fund the foregoing amount shall be derived by transfer from the Homeownership and Opportunity for People Everywhere (HOPE Grants) account and the remaining amounts shall be transferred from the Flexible Subsidy Fund, notwithstanding section 236(f)(3) of the National Housing Act and section 201(j) of the Housing and Community Development Amendments of 1978, as amended.

On page 36, insert the following after line 19:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

FEDERAL HOUSING ADMINISTRATION

FHA—GENERAL INSURANCE AND SPECIAL RISK INSURANCE PROGRAM ACCOUNT

For an additional amount for the cost of guaranteed loans authorized by sections 238 and 519 of the National Housing Act, as amended (12 U.S.C. 1715z-3(b) and 1735c(f), up to $38,000,000: *Provided*, That notwithstanding section 236(f)(3) of such Act and section 201(j) of the Housing and Community Development Amendments of 1978, as amended, amounts required to fund the foregoing amount shall be derived by transfer from the Flexible Subsidy Fund during fiscal year 1993: *Provided further*, That prior to obligation of any funds from this transfer, such sums as may be necessary shall be rescinded from such Fund so that no amount so transferred shall increase Departmental budget outlays or budget authority.

During fiscal year 1993 additional commitments to insure loans under this head shall not exceed a total principal, any part of which is to be guaranteed, of an additional $1,000,000,000.

On page 37, insert the following after line 23:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT GRANTS

Of the $4,000,000,000 appropriated under this head in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993, $37,500,000 shall be available for authorized community development activities for use only in areas impacted by Hurricane Andrew, Hurricane Iniki or Typhoon Omar: *Provided*, That notwithstanding any provision of law the foregoing $37,500,000 shall be derived from certain set-asides established for fiscal year 1993 under section 107 of the Housing and Community Development Act of 1974, including $6,000,000 for section 107(a)(1)(C), $9,000,000 for section 107(a)(1)(F), $15,000,000 for section 107(a)(1)(H) and $7,500,000 for section 107(a)(1)(I): *Provided further*, That an additional $7,500,000 shall be available also for use in areas impacted by the above named disasters to be derived from amounts made available under this head in fiscal year 1993 in accordance with section 119(o) of such Act: *Provided further*, That the Secretary may waive entirely, or in any part, any requirement set forth in title I of such Act, except a requirement relating to fair housing and nondiscrimination, the environment, and labor standards, if the Secretary finds that such waiver will further the purposes of the use of the amounts made available to the impacted areas.

At the appropriate place insert:

DEPARTMENT OF AGRICULTURE

AGRICULTURAL NATURAL DISASTER ASSISTANCE

From amounts made available to the Farmers Home Administration in Public Law 102-368, the Secretary of Agriculture may transfer from the following accounts up to the specified maximum amounts as follows: Agricultural Credit Insurance Fund Program Account, $28,000,000; Rural Water and Waste Disposal Grants, $20,000,000; Emergency Community Water Assistance Grants, $5,000,000; and Rural Development Insurance Fund Program Account, $10,000,000. Such funds shall be available through the end of FY 1994 for:

(a) a program designed to reduce the interest rate on Business and Industry guaranteed loans, whereby with respect to loans guaranteed by the Secretary under which the rate of interest charged by any legally organized lending institution (hereinafter "lender") does not exceed by more than 100 basis points the prime rate as defined by the Secretary, the Secretary may enter into a contract with any such lender under which the lender will receive payments in such amounts as will during the term of such contract reduce the interest rate paid by a borrower by one percentage point: *Provided*, That the borrower would otherwise be unable to make payments on such loan when due;

(b) permanent replacement of temporary migrant housing and rental assistance under "Rural Housing for Domestic Farm Labor";

(c) utilization of section 9 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2105), without any requirement for state cost-sharing on matching funds;

(d) cost share assistance in accordance with title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201-2205) for nurserymen for the rehabilitation of fencing destroyed or damaged by Hurricane Andrew:

Provided further, That such amounts so transferred shall be available only in areas affected by Hurricane Andrew, Hurricane Iniki, and Typhoon Omar: *Provided further*, That the entire amount transferred is hereby designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

At the appropriate place insert the following:

SECTION . AMENDMENT.

Section 1(a) of the Act entitled "An Act to authorize the Architect of the Capitol to acquire certain property", approved August 3, 1992, is amended to read as follows:

"(a) ACQUISITION OF PROPERTY.—(1) The Architect of the Capitol, under the direction of the Senate Committee on Rules and Administration, may acquire, on behalf of the United States Government, by purchase, condemnation, transfer or otherwise, as an addition to the United States Capitol Grounds, such real property in the District of Columbia as may be necessary to carry out the provisions of this Act. Real property acquired for purposes of this Act, may, in the discretion of the Architect of the Capitol, extend to the outer face of the curbs of such property so acquired, including alleys or parts of alleys and streets within the lot lines and curblines surrounding such real property, together with any or all improvements thereon.

"(2) Subject to the approval by the Committee on Appropriations of the Senate, an amount necessary to enable the Architect of the Capitol to carry out the provisions of paragraph (1) of this subsection may be transferred from any appropriation under the heading 'SENATE' and the subheading 'SALARIES, OFFICERS AND EMPLOYEES', and 'OFFICE OF THE SERGEANT AT ARMS AND DOORKEEPER', and the subheadings 'CONTINGENT EXPENSES OF THE SENATE' and 'SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE' to the account appropriated under the heading 'ARCHITECT OF THE CAPITOL' and the subheadings 'CAPITOL BUILDINGS AND GROUNDS' and 'SENATE OFFICE BUILDINGS'.".

JOHNSTON AMENDMENT NO. 476

Mr. JOHNSTON proposed an amendment No. 476 to the bill (H.R. 2118), supra, as follows:

On page 40, after line 16, insert the following:

CHAPTER X

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

ADMINISTRATIVE PROVISION

Using funds heretofore appropriated under "Construction, General", the Secretary of the Army, acting through the Chief of Engineers, is directed to augment, reprogram, transfer or apply such additional sums as necessary to continue construction and cover anticipated contract earnings on any project which received an appropriation or allowance within the appropriation in fiscal year 1993 in order to avoid terminating any contracts and to avoid schedule delays.

BYRD (AND OTHERS) AMENDMENT NO. 477

Mr. BYRD (for himself, Mr. LAUTENBERG, Mr. SASSER, Mr. HATFIELD, Mr. INOUYE, Mr. STEVENS, Mr. BROWN, Mr. EXON, Mr. KOHL, Mr. GRASSLEY, Mr. FEINGOLD, Mr. GREGG, Mr. BUMPERS, Mr. WOFFORD, Mr. BRADLEY, Mr. WELLSTONE, Mr. LEVIN, and Mr. LEAHY) proposed an amendment No. 477 to the bill (H.R. 2118), supra; as follows:

On page 13, following line 16, add the following:

(RESCISSION)

SEC. . Of the funds available to the Department of Defense, amounts are rescinded from appropriations as follows:

Military Personnel, Army, $112,014,000;

Military Personnel, Marine Corps, $47,200,000;

Military Personnel, Air Force, $127,100,000;

Reserve Personnel, Army, $486,000;

Reserve Personnel, Air Force, $300,000;

National Guard Personnel; Air Force, $400,000;

Operation and Maintenance, Army $6,408,000;

Operation and Maintenance, Defense Agencies, $35,000,000;

Aircraft Procurement, Army, 1993/1995, $3,000,000;

Procurement of Ammunition, Army, 1993/1995, $19,000,000;

Other Procurement, Army 1993/1995, $21,900,000;

Aircraft Procurement, Navy, 1993/1995, $64,800,000;

Weapons Procurement, Navy, 1993/1995, $8,000,000;

Other Procurement, Navy, 1993/1995, $81,450,000;

Missile Procurement, Air Force, 1993/1995, $45,300,000;

Other Procurement, Air Force, 1993/1995, $150,000,000;

Procurement, Defense Agencies, 1993/1995, $22,200,000;

National Guard and Reserve Equipment, Defense, 1993/1995, $257,950,000;

Research, Development, Test and Evaluation, Army, 1993/1994, $6,200,000;

Research, Development, Test and Evaluation, Navy, 1993/1994, $36,200,000;

Research, Development, Test and Evaluation, Air Force, 1993/1994, $115,092,000;

Research Development, Test and Evaluation, Defense Agencies, 1993/1994, $90,000,000."

INOUYE AMENDMENT NO. 478

Mr. INOUYE proposed an amendment No. 478 to the bill (H.R. 2118), supra, as follows:

On page 12, after line 25, insert:

ENVIRONMENTAL RESTORATION, DEFENSE

Under the heading "Environmental Restoration, Defense" in the Department of Defense Appropriations Act, 1993 (Public Law 102-396), the third, fourth, and fifth provisos are repealed.

BUMPERS (AND OTHERS) AMENDMENT NO. 479

Mr. BUMPERS (for himself, Mr. LIEBERMAN, Mr. KOHL, Mr. LAUTENBERG, Mr. WELLSTONE, Mr. KERRY, Mr. WARNER, Mr. BAUCUS, Mr. SASSER, Mr. LEVIN, Mr. KENNEDY, Mr. LEAHY, Mr. COVERDELL Mr. MURKOWSKI, Mr. CHAFEE, and Mr. BOND) proposed an amendment No. 479 to the bill H.R. 2118, supra, as follows:

On page 11, line 17, strike "expended." and insert the following: "expended.

SMALL BUSINESS ADMINISTRATION

BUSINESS LOANS PROGRAM ACCOUNT

For an additional amount for "Business loans program account," for the cost of section 7(a) guaranteed loans (15 U.S.C. 636(a)), $175,000,000, to remain available until expended, of which $15,000,000 shall be derived from funds provided under this heading in Public Law 102-395 for the Small Business Investment Company Program.

DISASTER LOANS PROGRAM ACCOUNT

(RESCISSION)

Of unobligated balances available under this heading, $80,657,000 are rescinded.

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 102-395, $2,000,000 are rescinded.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 102-395, from offsetting collections to be earned by the Securities and Exchange Commission in FY 93 $11,700,000 are rescinded.

BOARD FOR INTERNATIONAL BROADCASTING

ISRAEL RELAY STATION

(RESCISSION)

From obligated and unobligated balances available under this heading, $180,000,000 are rescinded.

DEPARTMENT OF COMMERCE

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT REVOLVING FUND

(RESCISSION)

In addition to sums rescinded elsewhere in this Act, of the unobligated balances in the Economic Development Revolving Fund, $16,000,000 are rescinded.

DEPARTMENT OF ENERGY

(RESCISSION)

From unobligated balances available under this heading which were appropriated to the Western Area Power Administration in Public Law 102-377, $40,000,000 is rescinded.

BUMPERS-COCHRAN AMENDMENT NO. 480

Mr. HATFIELD (for Mr. BUMPERS and Mr. COCHRAN) proposed an amendment No. 480 to the bill H.R. 2118, supra; as follows:

On page 3, line 19, strike "$8,576,000" and insert "$9,587,000".

On page 5, between lines 10 and 11, insert:

Of the amounts provided under this heading for the cost of direct farm ownership loans in Public Law 102-341, $2,317,000 are rescinded.

On page 3, between lines 15 and 16, insert:

SOIL CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

For an additional amount for the emergency watershed protection program, $3,328,000.

HATFIELD AMENDMENT NO. 481

Mr. HATFIELD proposed an amendment to the amendment No. 475 proposed by Mr. BYRD to the bill H.R. 2118, supra; as follows:

At the end of amendment No. 475 insert the following.

(b) FACILITIES.—The first sentence of subsection (d) of section 1 of such Act is amended—

(1) by inserting "(1)" immediately after "to make expenditures for"; and

(2) by inserting immediately before the period at the end thereof a semicolon and the following: "and (2) for the construction on such real property of any facilities thereon as authorized under subsection (f)".

DECONCINI AMENDMENT NO. 482

Mr. DECONCINI proposed an amendment No. 482 to the bill (H.R. 2118), supra, as follows:

On page 28, line 16, strike "$7,350,000" and insert in lieu thereof, "$11,277,000".

NUNN (AND COVERDELL) AMENDMENT NO. 483

Mr. NUNN (for himself and Mr. COVERDELL) proposed an amendment No. 483 to the bill (H.R. 2118), supra, as follows:

At the appropriate place in the bill, insert the following:

SEC. . TECHNICAL AMENDMENT.

Title III of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993, is amended in the paragraph under the subheading "STATE REVOLVING FUNDS/CONSTRUCTION GRANTS" under the heading "ENVIRONMENTAL PROTECTION AGENCY" by striking "necessary work to remove and reroute the existing sewer lines at" and inserting "improvements related to the sewer system that services".

DECONCINI AMENDMENT NO. 484

Mr. DECONCINI proposed an amendment No. 484 to the bill (H.R. 2118), supra, as follows:

On page 2, line 19, following the words "feed grains," insert "citrus,".

DECONCINI AMENDMENT NO. 485

Mr. DECONCINI proposed an amendment No. 485 to the bill (H.R. 2118), supra, as follows:

At the appropriate place in the bill, under General Provisions, insert the following General Provision:

SEC. . Of the funds appropriated for "Department of State, International Narcotics Control" in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993 (Public Law 102-391), $9,800,000 shall be made available immediately only for aircraft manufacturer-certified upgrades of no fewer than eight existing UH-1 helicopters for use in international narcotics control operations in Latin America.

Provided, That none of the funds appropriated in this section shall be used to support the transfer or use of these helicopters in Guatemala.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Full Committee on Energy and Natural Resources.

The hearing will take place Thursday, July 1, 1993, at 9:30 a.m. in room 366 of the Senate Dirksen Office Building in Washington, DC.

The purpose of the hearing is to receive testimony from Dr. Tara O'Toole, nominee to be Assistant Secretary of Energy for Environment, Safety and Health and Robert Nordhaus, nominee to be General Counsel for the Department of Energy.

For further information, please contact Rebecca Murphy at (202) 224-7562.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, June 17, 1993, at 9:30 a.m., in open session, to receive testimony on Department of Defense plans for maintaining combat readiness and the potential impact of budget reductions in fiscal year 1994 in review of the Defense authorization request for fiscal year 1994 and future years defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet today at 10 a.m. to mark up its response to the

reconciliation instructions contained in the budget resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 17, 1993, at 2 p.m. to hold hearings on Treaty Doc. 103-1, the Start II Treaty.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. FORD. Mr. President, I ask unanimous consent the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, June 17, 1993, at 2:30 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

ETHICS STUDY COMMISSION

Mr. FORD. Mr. President, I ask unanimous consent the Ethics Study Commission be authorized to meet during the session of the Senate on Thursday, June 17, 1993, at 2 p.m. to resume its hearings on reforming the process the Senate uses to investigate and decide alleged ethical misconduct by Senators, in room 253, of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SECURITIES

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Securities of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate, Thursday, June 17, 1993, at 9:30 a.m. to hold a hearing on private securities litigation.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2 p.m., June 17, 1993.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON DEFENSE TECHNOLOGY, ACQUISITION, AND INDUSTRIAL BASE

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Defense Technology, Acquisition, and Industrial Base of the Senate Armed Services Committee be authorized to meet on Thursday, June 17, 1993, at 2:30 p.m. in open session to receive testimony from Government and industry witnesses regarding manufacturing technology in review of the Defense authorization request for fiscal year 1994 and the future years defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SUPERFUND, RECYCLING AND SOLID WASTE MANAGEMENT

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Superfund, Recycling and Solid Waste Management, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, June 17, beginning at 10 a.m., to conduct a hearing on S. 773, the Voluntary Environmental Cleanup and Economic Redevelopment Act of 1993.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TERRORISM, NARCOTICS AND INTERNATIONAL OPERATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Terrorism, Narcotics and International Operations of the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Thursday, June 17, 1993, at 10 a.m. to continue hearings on the fiscal year 1994 Foreign Relations Authorization Act: International Broadcasting and Public Diplomacy.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRIBUTE TO A DEDICATED ENVIRONMENTALIST, JANE NOGAKI

• Mr. LAUTENBERG. Mr. President, I rise today to acknowledge a dedicated environmental advocate from the Garden State, Jane Nogaki.

After 8 years as chairperson of the New Jersey Environmental Federation, Jane Nogaki is stepping aside to allow a new leader to take charge. Those of us who know of Jane's extraordinary dedication to environmental protection know that the word "retirement" will never apply to Jane. She will continue to be a strong voice in the fight to protect New Jersey's environment.

Jane began her advocacy career as a resident of a small south Jersey town who was concerned about pesticide spraying in her community. This prompted her to organize a statewide campaign to reduce pesticide use in New Jersey.

As the founding chairperson of the New Jersey Environmental Federation, Jane became a statewide and national leader on many environmental campaigns including Superfund, Clean Water, and the Right to Know Coalition.

Mr. President, I ask my colleagues to join me in recognizing this extraordinary woman, who has devoted herself to making New Jersey a cleaner, safer place to live. Her commitment and achievements are worthy of our praise and admiration.•

THE SMELL OF HATE

• Mr. LEAHY. Mr. President, those of us who were privileged to attend the dedication ceremonies for the U.S. Holocaust Memorial Museum on the Washington Mall will not soon forget the words of the survivors, or the stark black and white images of the victims who suffered or perished during one of the darkest periods in world history.

Allen Gartner of Rutland is a very close friend of mine—tireless in his support for the nation of Israel and the Jewish people. He wrote to me after his daughter, Jennie, had visited the museum, enclosing a poem she had written describing the experience.

She asked her father to edit the poem and he wrote: How could I?

I think you will understand how he felt—for no words of mine can improve upon the poignant utterance of this 13-year-old Vermont girl, after viewing exhibits at the Holocaust Memorial Museum.

I ask that The Smell of Hate by Jennie Gartner be printed in the RECORD so that others may read it and be as proud of this young Vermonter as her father and I are today.

The poem follows:

THE SMELL OF HATE

(By Jennie Gartner)

1928, the danger started.
As he would rise,
he would take followers
Lots of followers.
People, with nothing to believe in.
Lost, in their own country.
No one to believe in.
So, they chose the largest of evils.
"The people," he would say, "are filled with racial impurities.
Let us cleanse them."
As he would say,
There is only one people to blame for our troubles.
Let us burn them.
And so it began.

To rid the country of its troubles,
We must rid ourselves of these swine.
Let us murder them. All of them.
Homosexuals, gypsies, crippled, and one.
One religion.
Sought out for who they were,
And what they did wrong.
Nothing.
But that's not what he would say.
They were loaded into boxcars.
For animals.
But that's what they were, correct?
No.

Traveled. by day, by night.
In boxcars. For animals. For swine.
No food. Air. Water. Dignity.
They arrived. Families. Towns.
Children, babies. Men, women.
Most were killed. Gassed.
Then burned.
Burned dead or alive.
Piles. Piles of ashes.
Made to dig their own graves.
Shot. Mass graves.
Buried alive. Dead or alive.
No one cares how you kill filth,
Just as long as it's gone.
Dead. But the smell, it lingers.

And some outsiders did not know.
Know what was going on.
And some did. And did not care.
Still more knew,
And did not do anything

Some found out after.
They saw the graves. The ashes.
The souls that were dead,
Before they were killed.
They cried. I'm glad. They should cry.
The feeling, the sight of it all,
Should tear their souls apart.
It should make them sick.
And it did. It still does.
For the smell of hate, it lingers.

REMARKS OF LEONARD ZAKIM OF ANTI-DEFAMATION LEAGUE

• Mr. KERRY. Mr. President, I was pleased that the Supreme Court recently ruled that hate crimes, indeed, can receive more severe punishment than other kinds of crime. As we look around the world, we see the tragic consequences of allowing this sort of violence to flourish. In our country, we must expose and condemn all forms of bigotry and prejudice, especially those which manifest themselves in physical violence.

Recently and tragically, a hate crime was committed by three young men in Everett, MA. My friend, Leonard Zakim, of the Anti-Defamation League of B'nai B'rith of Boston spoke at the rededication ceremony of a Jewish cemetery that had been desecrated in this outburst of anti-Semitic violence. People teach people to hate, and Mr. Zakim stresses the importance of breaking this cycle of ignorance through education. His words are frank, determined, and sobering. We are obligated to read them, remember past tragedies, and reflect on what we have seen and learned so we may work together for a better future, free of hate and prejudice.

I ask that the text of the speech given by Mr.. Zakim be printed in the RECORD at this point.

The speech follows:

REMARKS OF LENNY ZAKIM OF ANTI-DEFAMATION LEAGUE, EVERETT CEMETERY REDEDICATION, APRIL 25, 1993

The honor and integrity of those buried here, the meaning of their lives, and the love of them by their families was not diminished and could not be diminished by the perpetrators of this desecration—their honor, their memory, and their legacies cannot be tainted or bruised by these criminals.

What has been diminished by these acts one of the perpetrators now insultingly calls a dumb prank, is our communal sense of dignity, respect for those alive and dead, and our minimal code of civility.

In this week of remembrance when Jewish nerves were already exposed and vulnerable, these acts of hate ripped at our hearts—but unlike too many times in the past, the tears we shed for the pain we felt was not ours alone. We are not alone.

Since the incident, the ADL and this community, led by its sensitive mayor, have been deluged with calls of support from Jews and non-Jews, blacks and whites. Today as we stand surrounded by political, religious, and community leaders who took on this anti-Semitic attack as against them too—the wounds inflicted are closer to being healed because of their support.

No community, amidst this anguish, could have been better served than we have been, particularly by the all-out response of the police department and District Attorney Tome Reilly.

Reilly's on the scene involvement and consultation coupled with the crisp outspoken condemnation of these attacks by Attorney General Harshbarger, made clear the priority these incidents would receive. The compassion of cardinal law and the friendship of the mass council of churches matters.

It makes a difference when you don't stand alone, but as much as their support helps heal the wounds, it will take yet more.

Attorney inspired apologies by the perpetrators 1 day after the price and penalty of their acts became clear do not heal wounds. Criminal defense 101 instructs if you're caught and likely to go to jail, admit, apologize, and beg forgiveness.

In the solemnity of this place, I am hesitant to express the disgust I feel. Last night on the news, a neighbor of one of the defendants said, "Stop harassing them." Now they're the victims.

"I was drunk," he said, "I didn't know what I was doing; it started as a prank and went overboard." Prank? 100 tombstones? Swastikas and graffiti? Attack on a Korean store, an Hispanic home? Prank? Joke?

Let me be clear, the town of Everett is not to blame for this, but it is responsible to take programs like a World of Difference into the schools so others learn this is wrong. Not just because it's against the law. The message that we will be intolerant of intolerance must go out not only in a crisis. Anti-Semitism does not consist only of cemetery desecrations, swastikas, and Auschwitz. There is much between that requires your efforts.

Today as we gather to show respect and to rededicate ourselves to go beyond condemning the hate of the past and mobilize all our resources to fight it today, we at the ADL urge you not to give up hope or faith.

That these three punks, and the haters they are allied with, could claim the loss of our faith as a result of their crimes would be a crime against the living and the future.

A Catholic woman interviewed here yesterday said, "It's a sin. We've got to respect each other." Friends, it is up to us to go on.

We do not want sympathy or pity from anyone. We stand here after this insanity, upright and strong—proud of who we are and what we stand for—and proud and grateful that in this hour of need we do not stand alone.

As Heschel said, we must go on.•

VERMONT'S OWN DYNAMIC DUO

• Mr. LEAHY. Mr. President, it is my pleasure today to introduce Vermont's own dynamic duo—Mary Alice McKenzie and William Sorrell—to the U.S. Senate through the pages of their hometown newspaper, the Burlington Free Press.

Mary is president of the John McKenzie Packing Co. in Burlington and chairwoman of Associated Industries of Vermont.

Bill is the right arm of Gov. Howard Dean—serving our Governor as secretary of the administration. Bill also served as Chittenden County State's attorney—an elected post that I held for 8 years before coming to the Senate.

Bill and Mary come from distinguished Vermont families that have a very rich political and business history in our State and are special friends of mine and my family.

I ask that an article that appeared in the June 8, 1993, edition of the Burlington Free Press be printed in the RECORD so that more Americans can learn about this wonderful family.

The article follows:

[From the Burlington Free Press, June 8, 1993]

MOVERS AND SHAKERS BY DAY . . . MOM AND DAD BY NIGHT

(By Betsy Liley)

The day Tommy Sorrell was born four years ago is one his parents are likely to long remember.

It was the day his grandfather, John McKenzie, was buried, cementing his mother's move to the top of the family meat company, a Burlington institution.

Later, his father's office would wind up prosecuting a family friend for drunken driving on the evening after ferrying pallbearers to the McKenzie funeral.

The child's parents come from storied Burlington families and are now in key government and business positions that at times put them on opposite sides of state issues.

Mary Alice McKenzie is president of John McKenzie Packing Co. and newly elected chairwoman of the Associated Industries of Vermont. William H. Sorrell is the former Chittenden County state's attorney and leads the Administration Agency for Gov. Howard Dean.

"There's nothing bad you can say about them," said Thomas Crowley, a former Chittenden District state senator and now an independent lobbyist. Crowley, a distant cousin of the McKenzie family, had been drinking the morning of the McKenzie funeral before he was scheduled to bring pallbearers to the service.

Crowley jokes he was enlisted for the job partly because he owns a large car, but he is serious when he says the prosecution by Sorrell's office helped set him on the road to what will soon be four years of sobriety.

Crowley's view of the couple is shared by Dale Rouchleau, a Montpelier lobbyist, lawyer for the family meat business and friend. "In Vermont, the cream rises to the top. And that's what happened here."

McKenzie is best-known for her appearances in the company's television commercials that prompted her christening as Vermont's Queen of Ham. Sorrell's legal colleague, William Gray, said, "It's the Victor Kiam syndrome."

And Sorrell's no stranger to most Vermonters, after frequent media appearances as a state's attorney willing to take on long-unsolved cases.

Concidence—obviously no stranger to the Sorrell-McKenzie marriage—will probably strike with greater regularity in the next two years.

Last week, McKenzie, 35 was elected the first female head of Associated Industries of Vermont, the group that represents the interests of almost 600 manufacturers. Her two-year tenure will chart a course for the group by selecting a new full-time staff leader. McKenzie sits on four other boards and is a member of the Governor's Council of Economic Advisers.

Sorrell, 46, is Gov. Howard Dean's chief financial adviser. His job as administration secretary requires not only managing the state's $1.4 billion budget and his agency, but being a state-wide jack-of-all-trades and trouble-shooter.

Their government posts have created conflict in the McKenzie-Sorrell home. Both are described by friends and family as focused, tough, vivacious, bright, strong-minded people who aren't afraid to disagree with each other. "There are some quiet moments after we've discussed things," admitted Sorrell.

They were pitted against each other in a 1993 legislative battle over reducing the sales tax on fuel paid by manufacturers. AIV and McKenzie were pushing to eliminate the tax. Sorrell and the administration disagreed, fearing that the change could hurt state revenues.

In discussing it in separate interviews, each spent most of the time explaining the other's position.

"He has said, 'That's your perspective as a manufacturer. You don't understand. There are so many other constituencies that I have to worry about,'" McKenzie said.

"Mary Alice believes very strongly not only in her company but in what the role of government is and is not," Sorrell said.

Their friends and colleagues marvel at the influence and stress shared in one household with two children and a dog named Ham.

"They're fast-tracking. They're paralleling," said Burlington business man Ernie Pomerleau, coining a word to describe the pair's relationship and professional progress. He sits on the Vermont Federal Bank board with McKenzie and grew up with Sorrell. "That dynamic brought them together and sustains them."

Their paths are so similar—although a decade apart—its a wonder the two did not know each sooner.

The children of long-established, Irish Catholic, Burlington families, the pair grew up in the same church—the Cathedral of the Immaculate Conception—and in the same circles. Both families were Democrats, in a time when Republicans ruled Vermont.

He is the son of a veteran Burlington police officer. His mom, Esther, held a state Senate seat and helped start many young Democrats on their careers, including Crowley and Dean.

Both went to Rice Memorial High School.

He went to Notre Dame University in South Bend, Ind. She went to the Notre Dame women's college, St. Mary's. While he was in college, Sorrell spent a couple of summers working at McKenzie meats for her father.

Both went to law school and became prosecutors, he in Burlington and she in Chicago.

They met when she was still in law school, during a summer she spent clerking at his firm. They kept in touch while she finished her legal degree and in the two years she was a prosecutor. When she came home in 1984, they started dating.

Their children are daughter Mackie, 5, and son, Tom, 4. (No, those are not the children in the television commercial. But many other family members have appeared.)

Their future roles are unclear. Sorrell is a likely candidate for the judiciary, having been mentioned a contender for the empty U.S. Attorney's Office. McKenzie isn't thinking about anything other than the success of her small business.

The key to balancing their busy lives with their young family is family, said everyone familiar with their life.

One key is McKenzie's mother, Phyllis, who lives next door to the McKenzie-Sorrell household on a quiet cul-de-sac off North Prospect Street. She picks up, feeds and babysits the kids and generally is the elastic in the duo's busy life.

"They have birthday parties for the kids. All the family comes. They bring their kids. His sisters come," said McKenzie's aunt, Janice Dubie of Essex Junction. "Their family is like that. And our family is like that.

"That's what life is about." Dubie said.●

THE NOMINATION OF LEE BROWN

● Mr. D'AMATO. Mr. President, I rise to discuss the nomination process as it relates to Lee Brown. The Senate has confirmed his nomination, but I am still troubled by questions that persist about Mr. Brown's performance as police commissioner during the Korean boycott and the riots in Crown Heights. Serious questions linger about whether Mr. Brown fulfilled his duties as the city's chief law enforcement officer. The Korean and Jewish communities are concerned, their questions remain unanswered, their doubts about Mr. Brown's ability to lead have not been erased.

I want to make a statement today on behalf of those who wanted to speak out and could not be heard. The Jewish and Korean communities of New York should have been allowed to raise their valid concerns in a public forum as this nomination was being reviewed and considered. Their voices should have been heard and the issues they raise should have been examined thoroughly by this body.

The President wants Mr. Brown to serve as his drug czar, a critical leadership position, at a critical time. It is imperative that we have a strong and courageous leader to effectively carry out the Nation's drug policies.

Mr. Brown can demonstrate his leadership qualities by making the important first step toward opening a new dialog with the Korean and Jewish communities, in an attempt to build a better working relationship with those communities.

I urge him to do so immediately.●

TRIBUTE TO DR. WILLIAM L. ROPER

● Mr. HARKIN. Mr. President, today I rise to pay tribute to one of this Nation's finest public health leaders, Dr. William L. Roper, Director of the Centers for Disease Control and Prevention. Dr. Roper will be leaving his post as Director on June 30, 1993.

Dr. Roper was trained as a pediatrician and later as a public health professional. Prior to serving as Director of the Centers for Disease Control and Prevention, Dr. Roper served on the Domestic Policy Council at the White House and as Administrator of the Health Care Financing Administration. Because Dr. Roper served as a local health officer, he has a special understanding of public health care systems and public health needs.

As chairman of the Senate Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies, I have come to know and respect Bill Roper's commitment to public health. It has been my privilege to work with Bill Roper to make prevention the first line of defense in the fight against disease. Bill Roper has always been a leader. Nowhere has that leadership been more apparent than in his efforts to reshape health care policy, both as Administrator of the Health Care Financing Administration and as Director of the Centers for Disease Control and Prevention. Truly, Bill Roper has made the CDC the Nation's prevention agency. There has been no more able spokesman than Bill Roper in making the case for preventive health services.

Bill Roper has served this Nation with distinction during a period of time when we as a nation were wrestling with some very complex health problems, such as HIV infection, measles outbreaks, and more recently, what has come to be known as the mystery illness, on the Navajo reservation.

We have been fortunate to have a person of Bill's competence and integrity as Director of the Centers for Disease Control and Prevention. In the years that I have worked with Bill Roper, I can truly say that he has never played politics with the health and safety of the American people—his politics have always been the politics of putting people first.

So, Dr. Roper, on behalf of my colleagues, I say, well done. We wish you the very best.●

THE VIRTUES OF ICE CREAM

● Mr. D'AMATO. Mr. President, I rise today to extol the virtues of ice cream, scrumptious concoction which has found its way into the hearts of fans across the globe. From Jamaican rum raisin to Chinese green tea to Georgia peach; from Hawaiian coffee to New York super fudge chunk, there is an ice cream flavor to please every palate, tempt every taste bud, and sooth every stomach.

To celebrate this unique eating experience, next month, July, is National Ice Cream Month, dedicated to American's love of ice cream. As an appropriate reflection of this national devotion, the United States leads the world in per capita production of ice cream and related products.

In 1992, American workers produced a record 1.49 billion gallons of these frozen desserts, which comes out to over 23 quarts per person. Being an enthusiastic ice cream loving State, New York's contribution to this number was a whopping 65 million gallons.

The enjoyment of ice cream spreads to all nations, ages, genders, and even crosses political party lines. As it has been said many times, to be happy, you must take the time out to enjoy the small things in life. This afternoon to celebrate the 11th annual Capitol Hill

ice cream party, I would like to introduce a bipartisan personal stimulus package—eat more ice cream.•

THE CLINTON TAX PLAN IS BAD FOR SMALL BUSINESS

• Mr. GORTON. Mr. President, over the past few months, I have been listening to the people of Washington State express their concerns and fears about the Clinton tax plan. I have heard them loud and clear.

The people of Washington State are angry about all the tax increases and the lack of any meaningful or significant spending cuts. They know this is another tired, old tax and spend plan.

They are right.

This proposal is the single largest tax increase in this Nation's history and will saddle the average American taxpayer with devastatingly high taxes.

Mr. President, of all the burdensome and destructive new taxes contained in this measure—of which there are many—some of the most onerous are the ones that will pummel America's small businesses into bankruptcy.

It is no secret that small businesses are the engine of job growth in our economy. While jobs have been lost in larger companies, small businesses have been the number one job creator in the United States. We need to encourage and assist their growth and prosperity, not punish them.

This fact, however, seems to be lost on some because the Clinton tax plan does not foster small business growth. It punishes job creation and inhibits business expansion.

The tax hikes in the Clinton plan will be a major hit to our small businesses. Although Clinton has said he will make the rich pay their fair share and raises the individual rate from 31 to 36 percent, a full 80 percent of businesses pay taxes as individuals. Therefore, when President Clinton says he will raise taxes only on the rich, insert "small business" every time you hear him.

I have talked to such businessowners in the State of Washington. Subchapter S corporations, partnerships, and sole proprietorships are all extremely worried by this proposal. Some have said massive new taxes will curtail their expansion plans. Some have even said that these new taxes will actually push them out of business.

Moreover, when you add in all the Clinton taxes, these small business' marginal rates skyrocket up to almost 45 percent. This takes money out of the hands of businesses which could use it to create new jobs and just hands it over to Government bureaucrats.

Even worse, small businesses face additional taxes which will constrain their growth: The extension of the gas tax, a restriction on meal deductions, and the new 4.3-cent transportation fuels tax currently being considered behind closed doors by the Finance Committee Democrats.

All this adds up to a disaster for the small businesses of Washington State and the Nation. While this tax plan professes to wage war on the so-called rich, it will actually end up killing those businesses which add net new growth to our economy.

It simply defies logic that the Clinton plan includes massive tax increases raised on the backs of small businesses, yet at the same time this administration is virtually pleading with small businesses to create new jobs. It just doesn't work.

I repeat my call for the President to scrap this whole plan. Only when the President sends to Congress a package that will create jobs and foster economic growth while at the same time cutting the deficit by cutting spending will his plan win the approval of the American people, small business owners, and the Senate. I stand ready to work with him to achieve that goal.•

THE 1993 SUMMER SOL PROGRAM

• Mr. DECONCINI. Mr. President, our society is in a high-technology age that often seems to undermine the cultural character of this country. The television and video age has been criticized for apparently destroying a young person's ability to think and visualize. Modern music has also been accused of breaking down the morals of society and causing antisocial behavior. The age of computers has bred a student who wants information quickly and gets bored in the absence of mental stimulation. Whether or not these accusations contain any truth, the bottom line is that students today find themselves in a society that presents many challenges. In light of this situation, a new and unique program in my state of Arizona has been developed to integrate the universal appeal of music, art, and video into the curriculum to help our young people express themselves while providing them with the tools to meet the challenges of the 21st century.

The 1993 Summer Sol Program is an innovative project that aims to empower young people to effect positive social change and cultural awareness by utilizing music, art, and video in an educational setting. Over a 6-week period this summer, more than 100 students will be given a positive outlet for their energy through the creation, organization, and performance of an original music production that will serve as a showcase to the community for the voice of youth.

The nightly agenda will be comprised of a multifaceted approach to education giving all students an opportunity to contribute to the final goal—the music production. The curriculum will include music, lyric and script writing, dance and theatrical workshops, technical production training, creative stage and costume design, graphic and graffiti art, video production, marketing, and challenging discussions and workshops dealing with social and cultural issues. Along with learning of specific skills, the emphasis on culture will instill pride in and knowledge of each of the student's own cultural history as well as respect and appreciation of the backgrounds of others.

The Summer Sol Program has outlined seven main objectives: First, to demonstrate the individual and potential and develop teamwork skills of youth by giving students the responsibility for the creation, organization, and performance of an original musical production.

Second, to utilize music, art, and video technology as an educational tool to communicate cultural history, explore contemporary social issues, and be a means of individual expression.

Third, to emphasize African-American, Mexican-American, and Native-American history, developing self-worth, knowledge, and appreciation of the students' own cultural backgrounds and those of others.

Fourth, to enhance self-empowerment through the acquisition of insight and hands-on experience in a wide range of areas and professional fields.

Fifth, to involve diverse members of the community in the daily curriculum and as continued resources for the students in the future.

Sixth, to create an environment that emphasizes teamwork in order to more effectively solve problems and find solutions to the challenges students face.

Seventh, to provide an exciting and alternative evening activity for the high school age youth of Tucson.

Student participation will be based on selection and recommendations from the staffs of local high schools, local youth services agencies, and the juvenile court system. The cultural diversity of the students and their various backgrounds will create an environment in which students can learn from each other and break down barriers, stereotypes, and misconceptions that can often separate ethnic groups. All young people today are potentially at risk. However, with positive support and guidance all students can realize their potential.

The staff of the Summer Sol Program is comprised of young, culturally diverse volunteers who provide expertise in a wide range of fields. These young people have a commitment to service and education.

The future of our Nation lies in the way that we develop our human resources. Our country clearly needs an educational system that encourages participation by students of all cultures and backgrounds. Education must provide a student not only with the inspiration, but also with the tools to navigate the future in positive direction. Because of the fragile world economy and domestic social strife, we

must prepare young people to meet these challenges. It is a challenge and an opportunity we cannot afford to squander.

Mr. President, I recently held a series of public hearings and meetings in Arizona on the issue of youth violence. This was an incredibly educational and rewarding experience for me personally. The most insightful and compelling testimony came from the young participants. These young people made a number of particularly relevant points, including the fact that society as a whole does not understand the younger generation and the problems that they face today. They also believe that there is no recognition or appreciation of cultural diversity and, most importantly, there are no suitable alternatives to the gang lifestyle.

Mr. President, the Summer Sol Program provides a meaningful response to each of these issues. It allows young people to develop the means to express themselves to a society they believe does not understand them. This program provides a very productive and creative response to the issue of youth violence which is so tragically prevalent in our society today.

Mr. President, I ask that my colleagues join me in expressing this body's appreciation and support for the Summer Sol Program.●

TRIBUTE TO WILLIAM R. FOSTER, D.V.M., FRIEND TO ANIMALS AND KENTUCKY ALIKE

● Mr. MCCONNELL. Mr. President, I rise today to pay tribute to a special citizen of the Commonwealth of Kentucky. Dr. William R. Foster has been lucky enough to spend his adult life pursuing an occupation he loves. Happily, since 1989 Kentucky has been fortunate enough to have him pursue his trade as director of the Louisville Zoological Gardens.

Bill Foster first discovered his fascination with animals while a high school senior in Jacksonville, FL. There he worked in a veterinary clinic and participated in landmark animal research, assisting his early mentor Dr. Louis Obi. Encouraged by his new passion, he attended the University of South Florida and later received his doctor of veterinary medicine from the Tuskegee Institute in 1976.

At Tuskegee he was 1 of only 11 white students in his class. This afforded him an opportunity to learn as much about life as his studies. Mr. President, as his friends and acquaintances will attest, Bill Foster knows how to work and get along with people better than most. He readily attributes his educational experience in helping him nourish this wonderful character trait.

Bill Foster is the perfect person for his job. A former full-time veterinarian, Dr. Foster has a greater understanding of what makes a zoo work than most. Colleagues describe him as perfect for the job, and indeed, Mr. President, Bill Foster is armed with the perfect mix of animal, people, and budgetary skills needed to run a modern zoo. The self described workaholic combines diplomatic skills, a sense of humor, and fundraising ability in his effort to further enhance the zoo.

Mr. President, it is his goal to carry the Louisville Zoo to the next level of success. Dr. Foster hopes to make the zoo more self sustaining as well as adding new and exciting exhibits. In accomplishing this, he proposes to eliminate traditional cages and erect natural barriers separating the animals and visitors.

I ask my colleagues to join me in honoring this outstanding citizen of the Commonwealth. In addition, Mr. President I ask that an article from the March 15, 1993, edition of Business First be printed at this point.

The article follows:

ZOO DIRECTOR HITS IT OFF WITH ANIMALS AND PEOPLE

(By John Bowman)

When Bill Foster was a child growing up in tiny Lexington Park, Md., he would often wander off into the woods.

"I was always bringing home snakes and turtles and lizards and crabs," recalls Foster. "I was always dirty."

These days, Foster is rarely dirty. Instead, the 42-year-old director of the Louisville Zoo usually finds himself dressed in a business suit—the better to call on company chief executive officers and directors of non-profit foundations, pitching the ambitious $75 million master plan that will eventually double the size of the zoo.

Not that Foster has lost any of his love for wildlife; he remains a licensed veterinarian and harbors thoughts of a return to some kind of field work on exotic animals "when I get old."

For now, though, acquaintances say Foster's zeal is focused on the growth and future of the Louisville Zoo.

"His enthusiasm is immense, so he's a natural salesperson," says Louisville consultant Joe Corradino, who doubles as chairman of the Zoo Foundation, the board which oversees the zoo's activities.

"He's perfect for the job," adds Scott Bennett, a doctor of veterinary medicine who helped Foster engineer the famous 1984 experiment in which a Kentucky quarterhorse mare served as surrogate mother for a fertilized zebra embryo. "He's one of the most respected veterinarians in the country with the zoo work."

Enthusiasm and knowledge of animals can only carry a person so far, though, even in the world of zoology. Those who know Foster well say he's armed with the perfect mix of animal, people and budgetary skills needed to run a modern zoo.

Foster is one of only 11 former zoo veterinarians who now serve as directors at North America's 166 zoos. Another is Lee Simmons, who was one of the first vets to make the jump at the Omaha Zoo in 1970. Simmons has known Foster since the two met at an industry convention in the late 1970s.

Foster has undoubted qualifications in the field of exotic animals, according to Simmons. Yet what made Foster stand out among his peers, Simmons said, is that "he's got really great people skills."

Bennett says those skills are best observed in Foster's dealings with the politicians and business types who oversee the zoo's operations.

"He's got the patience and diplomatic skills" needed to wade through zoo politics, Bennett notes, "He's just got a good way about him with people."

Nevertheless, patience and diplomacy do not stand in the way of Foster's well-developed sense of humor.

"He's a terrible practical joker," says Marian, his wife of 10 years.

Once when a veterinarian friend visited from Baltimore, Foster went to Standiford Field to pick him up. On his way to the gate, Foster ran into another friend—a police officer.

A plot was born.

When the visitor—a Canadian native—arrived, Foster informed him the police were looking for him asked him what he'd done wrong.

Son, the policeman approached Foster's friend and demanded to see his green card.

For a while, the visitor was sweating bullets, Marian says.

No wonder Bennett talks about Foster's "gregarious" personality.

Still, Simmons says, Foster doesn't run roughshod over folks in a roomful of people.

"Bill's very enthusiastic and intense. He's a gunner, but a very polite and well-controlled gunner."

Foster's interest in animals came naturally, but it's possible to trace the development of the other skills that now serve him so well.

His father was a civilian employee of the military, a job that kept the family on the move. Bill's high school years were spent, in succession, in Michigan, New York, Virginia and Florida.

Bored with school during his senior year, Foster walked into a Jacksonville veterinary clinic and landed a job cleaning up the kennel bays from 4 p.m. to 11 p.m. every other day.

"I had never seen veterinarians as professional people," recalls Foster. "it intrigued me."

Things got even more interesting when Dr. Louis Obi, a Jacksonville physician, began testing anti-rejection drugs at the clinic.

It was the late 1960s, when heart-transplant experiments in South Africa were being frustrated by tissue-rejection problems. Obi received funding for research in which small bits of tissue were taken from one animal and transplanted into another.

The work coincided with Foster's schedule, and Obi asked him to assist the research by getting the dogs ready.

The doctor "recognized something in me," says Foster. "He challenged me to go to college."

Foster had been thinking about college, but his heart wasn't set on it. His college entrance exam test scores were "OK, but not great."

But it was 1968. The Vietnam War was hot and heavy. High school graduates basically faced two choices—student deferment or military service. With a nudge from Obi, Foster chose enrollment at the University of South Florida, in Tampa.

He selected a pre-med curriculum, eventually majoring in zoology. Obi remained interested in his education and would occasionally check on his progress.

During his senior year in college, Foster's study included field work in a program aimed at saving the endangered brown pelican.

He applied to veterinarian schools at Auburn University and Tuskegee Institute, also in southern Alabama.

Auburn turned him down after a five-minute interview, citing his stated desire to become a wildlife field veterinarian as an "unrealistic goal." (Little wonder—only two such positions existed in the whole country at the time.)

He was accepted into Tuskegee Institute, however, in part because of his background of assisting Obi's cardiovascular experiments.

Foster recalls being "very excited" upon receiving his acceptance letter. His enthusiasm was not dampered when he later discovered, by reading a college catalogue, that Tuskegee was a predominately black school.

"I had no hesitation whatever," he recalls.

Actually, Foster—and 11 others in his class of 45 students—were among the first whites to attend Tuskegee, which was ahead of Auburn and many other schools in efforts to integrate its campus.

Not surprisingly, Foster says, he learned far more than just veterinary medicine during his stay at Tuskegee.

Most of his professors were African Americans who had worked their way up the educational ladder during the 1940s and 50s. They were particularly sharp, recalls Foster—not only in academic matters but in dealing with both people and money.

That knowledge was often imparted to students during field work at subsistence-level farms in the area.

Foster remembers one case in which a cow was bitten by a rattlesnake. The cow was vital to the economic well-being of the farm. But the family could not afford the prescribed treatment—an amputation that normally would have required transporting the animal to a hospital.

The professor—a Dr. Blackwell, by name—showed the students how to perform the procedure in the field. That lowered the cost, though it was still beyond the family's means.

Payment was then negotiated: Hot soup all around and a pie for each student worker.

The family kept its dignity. And the students "learned more than just veterinary medicine" from such situations, Foster notes.

After graduation in 1976, Foster landed a job at a Tampa veterinary clinic that was to seal his already-budding love affair with exotic animals.

He didn't even know until after his hiring that the clinic, run by Dr. Earl Schobert, had a contract to tend to "non-domestic" animals at nearby Busch Gardens. The facility also did work for Ringling Brothers—Barnum & Bailey Circus, Disney World and Sea World.

"I was in my heyday," says Foster—though he might not have known it at the time.

He worked seven days a week. He knew when it was Sunday because that was the day Schobert would buy him breakfast.

He was basically "an indentured servant," Foster recalls with a smile.

But the work was exciting. In a way, it was groundbreaking.

"There were no textbooks on non-domestic animals" at the time; the first one was written in 1978, Foster says.

And the hours didn't bother him. "I was a workaholic then, and I still am," he admits.

The job eventually led Foster to Louisville.

Schobert was an acquaintance of Bob Bean, then director of the Louisville Zoo. Bean was seeking to hire a full-time veterinarian—a first for the zoo.

Foster attended a convention of the American Association of Zoo and Wildlife Veterinarians in St. Louis—the first time he'd made it to the annual meeting. On his way home, he drove through Louisville, interviewed for the zoo job, and landed it.

At the time, he became the 42nd full-time zoo veterinarian in the United States; today, the country has 130.

The move to Louisville also meant a raise—from $12,000 a year to $17,000.

He met Marian at a Halloween party in 1981. She was Little Bo Peep. He was a clown. They were married in April 1983.

Marian says her experience with animals when she first met Foster consisted mainly of having cats and dogs as pets when she was a child.

That soon changed. On their third date, she assisted him—somewhat reluctantly—with a Cesarean delivery of a goat. Naturally, such occurrences have not left her unchanged.

"I've really grown to appreciate and respect wildlife a great deal" since then, she says.

It's good thing. For vacations, the couple mix in visits to see his parents in Florida with treks to places like Kenya.

Next month, their 10th wedding anniversary will be spent in Botswana.

One of Foster's priorities upon his arrival in Louisville was to build a base of consulting surgeons, general practitioners and veterinarians to assist with animal care at the zoo.

The response from the community has been great. The list contains 200 names.

One of the earliest giving assistance was Bennett, who helped repair the broken leg of an antelope.

At the time, Bennett was doing pioneer work in the field of embryo transplants in standardbred horses. He allowed Foster to sit in on a procedure.

"What do you think about doing it with zebras?" asked Foster, out of the blue.

Thus, the experiment which captured the attention of the nation was born. And on April 18, 1984, so was the first zebra with a quarterhorse as a surrogate mom.

The event helped seal Foster's reputation in the industry.

Two years later, he was growing restless, looking for a new challenge. He applied for veterinarian jobs at several larger zoos. With a newborn baby, he and Marian seriously considered relocating—both thinking "it's now or never."

Then in 1988, Bean left on extended vacation—and retired.

Foster was made acting director, a situation that lingered for more than a year.

During that time, Corradino emerged as chairman of the Zoo Foundation. Impressed with Foster's experience, enthusiasm and willingness to learn, Corradino convinced the board to call off a planned nationwide search for a new director.

Foster was hired in June 1989. At the time, he and the Foundation were challenged by mayor Jerry Abramson to make the zoo more self-sufficient. That, says Foster, is one of the goals of the master plan.

When it opened in 1969, the zoo generated just 37 percent of its annual budget, with the rest coming from the city. Today, the zoo generates 68 percent of its funding; the 5-year business plan calls for that figure to rise to 85 percent by 1998.

The master plan also would make the zoo a more entertaining and educational place for visitors. The plan calls for replacing most visible barriers between people and animals with water and botanical elements. The result would be a more natural habitat for animals and a more thrilling experience for visitors.

The change can't happen without money. So, in little more than a year, $12.5 million has been raised from area corporations and foundations. That's enough to break ground soon on the first of several eye-popping new exhibits; the plan is to open at least one such element in each of the next five years.

Marian says Foster thoroughly enjoys his new fund-raising duties—because he likes nothing more than talking about the zoo.

Corradino says any doubts linked to Foster's lack of experience as a fund-raiser have been put to rest. Foster played the lead role in landing a $1 million donation from the Jeffersonville-based Paul Ogle Foundation—only the second grant that group has made on the south side of the Ohio River in its 12-year-existence.

"The proof is in the pudding," says Corradino.

Unfortunately, his duties as director forced Foster to sell the farm near Jeffersontown where he once raised llamas, swans and a variety of other animals.

Foster maintains his strong commitment to his family, thought—which includes daughters Gwendolyn, 7, and Celeste, 5.

"He's a neat father" who respects the girls' space and independence, says Marian, who has her own career with Physicians Inc., a group of 1,200 area doctors that participate in health maintenance organizations.

Foster often takes the girls for Saturday trips and is usually home from work by 6 p.m. weekdays.

He manages that, says Marian, by getting up by 5 a.m. to do paperwork before fixing breakfast for the girls.

"Each day he gets up truly excited about whatever it is he has to do," she adds.●

COL. WILLIAM M. RIDER; "LOGISTICS HERO OF DESERT STORM"

● Mr. HOLLINGS. Mr. President, when Col. William M. Rider retires from the U.S. Air Force next month, our armed services will bid farewell to a true logistics wizard, a man whose innovations were a critical factor in America's success in the Persian Gulf war.

America's intervention in the gulf will long be remembred for three things: the dazzling performance of our smart weapons, the tactical brilliance of the allies' 100-hour ground assault, and the herculean logistical challenge of transporting and supplying our forces in the Persian Gulf. This latter effort will be studied for decades as a model of creative innovation and adaptation. On that score, there is no question that Colonel Rider deserves a very large measure of credit.

From the outset of Desert Shield in August 1990, Colonel Rider was at the forefront in orchestrating the largest logistics buildup spanning the greatest distance since World War II. He started with a handful of prepositioned sites and no bases in the gulf, and proceeded to oversee the deployment of 1,229 U.S. Air Force aircraft at 25 bases, supporting more than 55,000 Air Force personnel in the area. Later, during Desert

Storm, Colonel Rider refocused his energies on supplying massive amounts of spare parts, 138.6 million pounds of ordnance, and 824 million gallons of fuel to sustain air combat operations.

Through it all, this superb officer constantly improvised and innovated to meet the monumental challenges put before him. At the close of hostilities, Lt. Gen. Charles A. Horner, Central Command's Air Force commander, aptly hailed Colonel Rider as the "Logistics hero of Desert Storm.

Mr. President, Colonel Rider's exemplary performance during the gulf war is typical of this man's long and distinguished military career. For three decades, he served our Nation with dedication and distinction. I salute him for a job well done.●

FACES OF THE HEALTH CARE CRISIS—THE RISK OF WORKING BUT HAVING NO HEALTH INSURANCE

● Mr. RIEGLE. Mr. President, I rise today in my continuing effort to put a face on the health care crisis in our country. I want to tell the story of an uninsured working woman who has experienced firsthand the fear and anxiety of needing surgery but not having health insurance to cover the cost. Sally Johanson, from New Era, MI, delayed having emergency surgery because she did not have $10,000 to pay for the surgery on her own.

Sally is 49 years old and works full-time at a plastics manufacturer in Muskegon. The company is new to the area and employs approximately 50 people. Sally's employer does not offer health insurance to its employees. Sally does not make enough money to afford the high cost of an individual health insurance policy. As a result, Sally is one of the 557,000 working people in Michigan who does not have health insurance.

Six months ago, Sally was told by three different doctors that she needed an emergency hysterectomy to remove fibroid tumors in her uterus and a cyst on her ovary. Sally's uterus was five times larger than normal because of the tumors. The surgery was needed to remove the tumors as well as to determine whether they were cancerous and whether further treatment was needed.

Sally put off the needed surgery for 5 months because she did not have health insurance to cover the cost, nor did she have the financial resources to pay for the surgery on her own. She did not qualify for Medicaid assistance because her income was too high. As a result, she was forced to risk her health, and even her life, because she did not have health insurance.

On May 17, Sally finally had the hysterectomy at a cost of over $10,000 for hospital and doctor fees. Because of the critical nature of her illness, Sally's doctor volunteered his surgical services free of charge and arranged to have the anesthesiologist volunteer his services as well. In addition, Hackley Hospital in Muskegon agreed to waive the cost of Sally's surgery as part of the cost of charity care absorbed by the hospital.

Hospitals often have to absorb the expense when people who have no insurance need medical care, but the growing need for charity care is placing a substantial burden on hospitals. While Sally was fortunate that Hackley Hospital and her physician were willing to pick up her medical expenses, many people in Sally's situation are unable to obtain charity care and are faced with large medical bills that they cannot possibly afford.

Sally's situation illustrates what a growing number of people are facing in this country. They have low-paying jobs that do not offer health insurance, yet make too much money to qualify for Medicaid. They cannot afford the high cost of private health insurance and find themselves in very difficult situations when they need medical care.

Everyone in the country deserves the security that health care coverage brings. People like Sally, who work hard just to make ends meet, should not have to fear that an unforeseen illness or injury will threaten their financial security. Health care should not be a luxury available to some and not others.

I will continue to do all that I can to extend health insurance coverage to all Americans and to slow down the skyrocketing health care costs by reforming our health care system.●

UNANIMOUS-CONSENT AGREEMENT

Mr. FORD. Madam President, as if in executive session, I ask unanimous consent that nominations to the office of inspector general, excepting the Office of Inspector General for the Central Intelligence Agency, be referred to the 103d Congress in each case to the committee having substantive jurisdiction over the department, agency, or entity, and if and when reported in each case, then to the Committee on Governmental Affairs for not to exceed 20 days.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMENDING LSU WOMEN'S TRACK TEAM FOR NCAA OUTDOOR TRACK CHAMPIONSHIP—SENATE RESOLUTION 119

COMMENDING LSU BASEBALL TEAM FOR WINNING NCAA COLLEGE WORLD SERIES—SENATE RESOLUTION 120

Mr. FORD. Madam President, I ask unanimous consent that the Senate proceed, en bloc, to the immediate consideration of Senate Resolution 119 and Senate Resolution 120, submitted earlier today by Senators JOHNSTON and BREAUX; that the resolutions be deemed agreed to, the motion to reconsider laid upon the table, and the preambles agreed to, en bloc; further, that any statements relating to these resolutions appear in the RECORD at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolutions (S. Res. 119 and S. Res. 120) were deemed agreed to.

The preambles were agreed to.

The resolutions, with their preambles, are as follows:

S. RES. 119

Whereas the Women's Track Team of Louisiana State University has completed another outstanding season in which they have swept all four major championships;

Whereas the Lady Tiger Track Team of L.S.U. has, for the past seven years, dominated their sport to a degree rarely seen in the history of collegiate athletics;

Whereas the L.S.U. Lady Tigers have swept the Indoor and Outdoor Southeastern Conference and NCAA Championships in four of the last seven years;

Whereas the L.S.U. Lady Tigers have won the NCAA Outdoor Championship for seven straight years;

Whereas the twelve members of the 1993 L.S.U. Lady Tigers combined to win twenty All-American awards;

Whereas Women's Track Coach Pat Henry has done an outstanding job of leading the Lady Tigers for the past six seasons; and

Whereas the L.S.U. Lady Tigers won the 1993 Indoor and Outdoor Track Championships: Now, therefore, be it

Resolved, That the Senate commends the Lady Tigers of Louisiana State University for winning the 1993 National Collegiate Athletic Association Indoor and Outdoor Championships, and for their tremendous achievements over the past seven years.

S. RES. 120

Whereas the baseball team of Louisiana State University has completed another outstanding season.

Whereas L.S.U. coach Skip Bertman, two-time National Coach of the Year, has led the Tigers to 483 victories and only 182 losses in his nine years at the helm.

Whereas the L.S.U. Tiger baseball team has won four consecutive Southeastern Conference Championships.

Whereas the L.S.U. Tigers have reached the College World Series in six of the last eight years, winning twice;

Whereas the 1993 L.S.U. Tiger baseball team compiled a record of 53-17-1 for their fifth consecutive 50-win season; and

Whereas the L.S.U. Tigers won the 1993 NCAA College World Series: Now, therefore, be it

Resolved, That the Senate commends the Fighting Tigers of Louisiana State University for having won the 1993 National Collegiate Athletic Association Baseball College World Series.

HONORING THE LIFE AND WORK OF CESAR CHAVEZ

Mr. FORD. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 121, a resolution to honor the work and life of

Cesar Chavez, introduced earlier today by Senator REID; that the resolution be deemed agreed to, the motion to reconsider laid upon the table, the preamble agreed to; that any statements relating to this resolution be inserted into the RECORD at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 121) was deemed agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 121

Whereas Cesar Chavez inspired America with his fight to improve the lives of migrant farmworkers;

Whereas Cesar Chavez dedicated his life to serving the economically disadvantaged and politically disenfranchised;

Whereas Cesar Chavez's struggle to organize migrant farmworkers was accomplished with a commitment to nonviolence;

Whereas Cesar Chavez, as president and founder of the United Farm Workers Union, brought a better life to thousands of laborers;

Whereas Cesar Chavez's life's work brought dignity and respect to all Mexican-Americans and other minority workers;

Whereas Cesar Chavez's efforts made possible the first collective bargaining Act for continental United States farmworkers;

Whereas Cesar Chavez drew attention to the dangers caused by agricultural pesticides to both farmworkers and consumers; and

Whereas Cesar Chavez has forever changed America for the better: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Senate of the United States honors the work and life of Cesar Chavez as one of the greatest leaders of human and civil rights advancement the United States has known.

FOREST RESOURCES CONSERVATION AND SHORTAGE RELIEF AMENDMENTS ACT OF 1993

Mr. FORD. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2343, the Forest Resources Conservation and Shortage Relief Amendments Act of 1993, just received from the House; that the bill be deemed read the third time, passed, and the motion to reconsider laid upon the table; further, that any statements relating to the passage of this measure be printed in the RECORD at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 2343) was deemed read the third time, and passed.

MEASURE READ FOR THE FIRST TIME—H.R. 5

Mr. FORD. Madam President, I understand that the Senate has received from the House H.R. 5, the Cesar Chavez Workplace Fairness Act. On behalf of Senator KENNEDY, I ask that the bill be read for the first time.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A bill (H.R. 5) to amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes.

Mr. FORD. Madam President, I ask for its second reading.

Mr. COCHRAN. I object.

The PRESIDING OFFICER. Objection is heard.

The bill will be read a second time on the next legislative day.

APPOINTMENT BY THE MAJORITY LEADER

The PRESIDING OFFICER. The Chair, on behalf of the majority leader, pursuant to Public Law 102-166, appoints the Senator from Washington [Mrs. MURRAY] as a member of the Glass Ceiling Commission, vice the Senator from Maryland [Ms. MIKULSKI], resigned.

Mr. FORD. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KERRY). Without objection, it is so ordered.

ORDERS FOR FRIDAY, JUNE 18, 1993, AND TUESDAY, JUNE 22, 1993

Mr. FORD. Mr. President, on behalf of the majority leader I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m., Friday, June 18; and that on Friday, the Senate meet in pro forma session only; that at the close of the pro forma session, the Senate then stand adjourned until 9 a.m., Tuesday, June 22; that when the Senate reconvenes on Tuesday, June 22, the Journal of proceedings be deemed approved to date; the call of the calendar waived, and no motions or resolutions come over under the rule; that the morning hour be deemed to have expired and the time for the two leaders reserved for their use later in the day; that the Senate then resume consideration of H.R. 2118 at 9 a.m., as under the previous order; that on Tuesday, June 22, the Senate stand in recess from 12:30 p.m. to 2:15 p.m., in order to accommodate the respective party conference luncheons.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 9:30 A.M.

Mr. FORD. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 9:04 p.m., recessed until Friday, June 18, 1993, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 17, 1993:

DEPARTMENT OF STATE

LAURENCE EVERETT POPE II, OF MAINE, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF CHAD.

HOWARD FRANKLIN JETER, OF SOUTH CAROLINA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF BOTSWANA.

DEPARTMENT OF JUSTICE

ZACHARY W. CARTER, OF NEW YORK TO BE U.S. ATTORNEY FOR THE EASTERN DISTRICT OF NEW YORK FOR THE TERM OF 4 YEARS VICE ANDREW J. MALONEY, RESIGNED.

TENNESSEE VALLEY AUTHORITY

JOYNNY H. HAYES, OF TENNESSEE, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE TENNESSEE VALLEY AUTHORITY FOR THE REMAINDER OF THE TERM EXPIRING MAY 18, 1996, VICE MARVIN T. RUNYON, RESIGNED.

CRAVEN H. CROWELL, JR., OF TENNESSEE, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE TENNESSEE VALLEY AUTHORITY FOR THE TERM EXPIRING MAY 18, 2002, VICE JOHN B. WATERS, TERM EXPIRED.