

## MEASURE READ THE FIRST TIME

The following bill was read the first time:

H.R. 1833. An act to amend title 18, United States Code, to ban partial-birth abortions.

## 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-1568. A communication from the Chief of Legislative Affairs, Department of the Navy, transmitting, pursuant to law, notice relative to renewing a lease; to the Committee on Armed Services.

EC-1569. A communication from the President and Chairman of the Export-Import Bank, transmitting, pursuant to law, a statement regarding transactions involving exports to the People's Republic of China; to the Committee on Banking, Housing, and Urban Affairs.

EC-1570. A communication from the Director of the Office of Management and Budget, the Executive Office of the President, transmitting, pursuant to law, the report appropriations legislation within five days of enactment; to the Committee on the Budget.

EC-1571. A communication from the Secretary of Transportation, transmitting, pursuant to law, the annual report on transportation user fees; to the Committee on Commerce, Science, and Transportation.

EC-1572. A communication from the Administrator of the Federal Aviation Administration, the Department of Transportation, transmitting, pursuant to law, the report on the Final Environmental Impact Statement (EIS) on the Effects of Implementation of the Expanded East coast Plan (EECP) Over the State of New Jersey; to the Committee on Commerce, Science, and Transportation.

EC-1573. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report on the 1995 status of the Nation's Surface Transportation System; to the Committee on the Environment and Public Works.

EC-1574. A communication from the Comptroller General, transmitting, pursuant to law, reports and testimony for the month of September 1995; to the Committee on Governmental Affairs.

EC-1575. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, the report on the efforts to promote the use of frequent traveler programs by federal employees; to the Committee on Governmental Affairs.

EC-1576. A communication from the members of the United States of America Railroad Retirement Board, transmitting, pursuant to law, a report relative to referrals, matters transmitted, hearings conducted, and actions to collect civil penalties for fiscal year 1995; to the Committee on Governmental Affairs.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PRESSLER, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 288. A bill to abolish the Board of Review of the Metropolitan Washington Airports Authority, and for other purposes (Rept. No. 104-166).

By Mr. PRESSLER, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 1139. A bill to amend the Merchant Marine Act, 1936, and for other purposes (Rept. No. 104-167).

By Mr. ROTH, from the Committee on Finance, with an amendment:

S. 1318. An original bill to reform the statutes relating to Amtrak, to authorize appropriations for Amtrak, and for other purposes.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MCCONNELL:

S. 1378. A bill to combat public corruption, and for other purposes; to the Committee on the Judiciary.

By Mr. SIMPSON:

S. 1379. A bill to make technical amendments to the Fair Debt Collection Practices Act, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. D'AMATO:

S. 1380. A bill to require forfeiture of counterfeited access devices, and for other purposes; to the Committee on the Judiciary.

By Mr. LAUTENBERG:

S. 1381. A bill to amend the Internal Revenue Code of 1986 to allow individuals who are involuntarily unemployed to withdraw funds from individual retirement accounts and other qualified retirement plans without incurring a tax penalty; to the Committee on Finance.

By Mr. DOLE (for himself and Mr. DASCHLE):

S. 1382. A bill to extend the Middle East Peace Facilitation Act; considered and passed.

By Mr. STEVENS:

S. 1383. A bill to authorize the Secretary of Transportation to issue a certificate of documentation and coastwise trade endorsement for the vessel *Westford*; to the Committee on Commerce, Science, and Transportation.

S. 1384. A bill to authorize the Secretary of Transportation to issue a certificate of documentation and coastwise trade endorsement for the vessel *God's Grace II*; to the Committee on Commerce, Science, and Transportation.

By Mr. BREAUX (for himself, Mr. CONRAD, Mr. DORGAN, Mr. KERREY, Mr. DASCHLE, and Mr. HOLLINGS):

S. 1385. A bill to amend title XVIII of the Social Security Act to provide for coverage of periodic colorectal screening services under part B of the Medicare program; to the Committee on Finance.

By Mr. BURNS (for himself and Mr. SHELBY):

S. 1386. A bill to provide for soft-metric conversion, and for other purposes; to the Committee on Governmental Affairs.

By Mr. NUNN:

S. 1387. A bill to provide for innovative approaches for homeownership opportunity, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BREAUX (for himself and Mr. JOHNSTON):

S.J. Res. 42. Joint resolution designating the Civil War Center at Louisiana State University as the United States Civil War Center, making the center the flagship institution for planning the sesquicentennial commemoration of the Civil War, and for other purposes; to the Committee on Energy and Natural Resources.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MCCONNELL:

S. 1378. A bill to combat public corruption, and for other purposes; to the Committee on the Judiciary.

THE ANTI-CORRUPTION ACT OF 1995

Mr. MCCONNELL. Mr. President, I rise to introduce the Anti-Corruption Act of 1995, a bill which will strengthen the ability of Federal law enforcement officials to combat election fraud and public corruption by State and local officials. A few excerpts from recent news articles will demonstrate the need for this bill:

The San Diego Union-Tribune writes on October 1 of recent reports,

[T]hat cats and dogs are on the state's voter rolls, that God is registered to vote in Hollywood, and that a San Francisco man who died in 1982 has consistently voted for the past decade.

The St. Louis Post-Dispatch reports on the same day of the city comptroller who, a few days earlier, pleaded guilty to—

[I]ncome tax evasion in exchange for dismissal of charges that he conspired with others to defraud voters in the comptroller's election two years ago.

The Dallas Morning News reports on September 30, of citizens in rural Costilla County, CO, who,

[S]purred an investigation by the state attorney general that led to a raft of indictments and guilty pleas for election fraud [and] prompted a second investigation by the attorney general that found fraud and embezzlement by county officials.

The Hartford Courant reports on August 28, of new efforts to combat voter fraud because of irregularities, including,

[T]wenty-seven felons who voted in 1994 in the race for the 2nd District Congressional seat.

It is no wonder the American people become more disgusted with our system every day. Allegations of vote buying and cries of "voting irregularities" pervade every close election.

We would like to think that the losing candidates are only motivated by sour grapes. But too often, investigations turn up cases where a dead, nonetheless patriotic, American manages to roll out of his eternal slumber to do his or her civic duty before the polls close.

Americans' faith is further eroded by daily scandals involving public officials reported in their local paper. This past summer, officials formally closed a nearly 5-year corruption investigation that rocked my own State of Kentucky. Operation BOPTR0T resulted in more than a dozen convictions of State legislators, appointed State officials and lobbyists. The BOPTR0T sting operation involved bribery and influence peddling at the highest level of Kentucky State government. Although the BOPTR0T investigation was closed in early August, FBI officials made it clear that the State has not yet been cleansed of public corruption: "Public corruption remains the FBI's No. 1 priority in Kentucky," according to the lead FBI investigator.

A central problem in preventing corruption in elections and government operations is a lack of Federal guidelines defining what is illegal. Another problem is the jurisdiction over this illegal activity. This bill I am introducing aims at correcting both of these problems.

The bill simply states that if anyone engages in any activity to deprive people of the honest services of their public officials, they will be fined and face a possible 10-year sentence in Federal prison. This includes rigging elections, intimidating voters, buying votes, and bribing officials.

And, this bill makes every act of elections fraud—at every level of government—a Federal offense. It gives Federal prosecutors the jurisdictional authority they need to investigate and prosecute entrenched local corruption.

We have made dramatic changes to the voter registration laws; while it is easier to register and vote, it is also easier to commit election fraud. This bill is needed to discourage those who would seek to defraud the government and abuse the public trust.

Moreover, as we ask the States to assume more responsibility for providing government services, we must ensure that we possess the tools for weeding out and punishing corrupt practices.

The bill also addresses public corruption as it relates to drug trafficking. The facilitation by public officials of drug trafficking would be classified as a class B felony under title 18 of the United States Code.

And, anyone attempting to bribe or actually bribing a public official for help in drug trafficking would be guilty of a class B felony.

Drug use and drug trafficking are back on the rise. It is a lucrative business. Aiding and abetting it can offer a huge stipend to public officials, worth many times their government salaries. This bill would make drug stings sting a lot more—for the pushers and for corrupt politicians.

Mr. President, I have spoken out repeatedly over the years on these issues and on this specific piece of legislation. In past years, this bill, included as an amendment to other pieces of anticrime legislation, has passed the Senate with overwhelming, bipartisan support. But it has never made it to the final conference report.

The bill has also had wide support among the U.S. attorneys, who would be on the front lines prosecuting these crimes. In fact, two former U.S. attorneys in Kentucky have endorsed this bill.

Mr. President, I ask unanimous consent that their letters in support of this legislation be printed in the RECORD.

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

ROBINSON & MCELWEE,  
Lexington, KY, October 26, 1995.

Hon. MITCH MCCONNELL,  
Russell Senate Building, Washington, DC.

DEAR SENATOR MCCONNELL: I am writing in support of the Anti-Corruption Act you are

introducing. As you know, Kentucky has been victimized by public corruption at the highest levels of state government. My firsthand experience in Operation BOPTR0T, resulting in the conviction of almost two dozen officials, made me aware of the gaps in federal law and jurisdiction over influence peddling and corruption.

Your bill would provide federal law enforcement officials with the necessary tools to fight these plagues on the taxpayers. And, it would send a message to public officials everywhere that there will be grave consequences for failing to uphold the public trust.

The American people grow more and more cynical about our government and much of the blame can be laid at those who breach the confidence placed in them by the voters. Your bill will help restore the faith citizens should have in our great system.

I am confident your bill will be widely supported among your colleagues and I wish you every success in speedy passage.

Sincerely,

KAREN K. CALDWELL.

JOSEPH M. WHITTLE,  
Prospect, KY, October 16, 1995.

Hon. MITCH MCCONNELL,  
Russell Senate Building, Washington, DC.

DEAR SENATOR MCCONNELL: I am pleased to write in support of your Anti-Corruption Act, a bill you have introduced in previous Congresses and which has been adopted by a majority of the Senate.

Since the bill addresses election fraud and corruption by government officials, it is of particular importance to Kentucky in view of the 5-year Operation BOPTR0T effort. My involvement in Operation BOPTR0T made me aware that current federal law is not fully adequate to deal with public corruption. This bill will give federal law enforcement agents the power and authority to vigorously fight election fraud, influence peddling and public corruption.

Most of all, your bill will help restore confidence the American people should have in their government and public servants.

I wish you success in getting the bill passed. I know it has enjoyed wide support in the past, and I am confident that the bill will continue to have support among your colleagues.

Respectfully,

JOSEPH M. WHITTLE.

Mr. MCCONNELL. Mr. President, I am confident this bill will gain the support of the Attorney General.

I am certain that in our renewed effort to gain the public trust, this legislation will be received with resounding approval. I urge my colleagues to support this much-needed legislation.

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

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

S. 1378

*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 "Anti-Corruption Act of 1995".

#### SEC. 2. PUBLIC CORRUPTION.

(a) OFFENSES.—Chapter 11 of title 18, United States Code, is amended by adding at the end the following new section:

##### "§ 226. Public corruption

"(a) STATE AND LOCAL GOVERNMENT.—

"(1) HONEST SERVICES.—Whoever, in a circumstance described in paragraph (3), de-

prives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of the honest services of an official or employee of the State or political subdivision shall be fined under this title, imprisoned not more than 10 years, or both.

"(2) FAIR AND IMPARTIAL ELECTIONS.—Whoever, in a circumstance described in paragraph (3), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of a fair and impartially conducted election process in any primary, run-off, special, or general election through one or more of the following means, or otherwise—

"(A) through the procurement, casting, or tabulation of ballots that are materially false, fictitious, or fraudulent or that are invalid, under the laws of the State in which the election is held;

"(B) through paying or offering to pay any person for voting;

"(C) through the procurement or submission of voter registrations that contain false material information, or omit material information;

"(D) through the filing of any report required to be filed under Federal or State law regarding an election campaign that contains false material information or omits material information; or

"(E) through engaging in intimidating, threatening, or deceptive conduct, with the intent to prevent or unlawfully discourage any person from voting for the candidate of that person's choice, registering to vote, or campaigning for or against a candidate, shall be fined under this title, imprisoned not more than 10 years, or both.

"(3) CIRCUMSTANCES IN WHICH OFFENSE OCCURS.—The circumstances referred to in paragraphs (1) and (2) are that—

"(A) for the purpose of executing or concealing a scheme or artifice described in paragraph (1) or (2) or attempting to do so, a person—

"(i) places in any post office or authorized depository for mail matter, any matter or thing to be sent or delivered by the Postal Service, deposits or causes to be deposited any matter or thing to be sent or delivered by any private or commercial interstate carrier, or takes or receives therefrom any such matter or thing, or knowingly causes to be delivered by mail or such carrier according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing;

"(ii) transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce any writings, signs, signals, pictures, or sounds;

"(iii) transports or causes to be transported any person or thing, or induces any person to travel in or to be transported in, interstate or foreign commerce; or

"(iv) uses or causes the use of any facility in interstate or foreign commerce;

"(B) the scheme or artifice affects or constitutes an attempt to affect in any manner or degree, or would if executed or concealed affect, interstate or foreign commerce;

"(C) in the case of an offense described in paragraph (1), the honest services of the official or employee relate to a governmental office of a State or political subdivision of a

State which receives funds derived from an Act of Congress in an amount not less than \$10,000 during the 12-month period immediately preceding or following the date of the offense; or

"(D) in the case of an offense described in paragraph (2), an objective of the scheme or artifice is to secure the election of an official who, if elected, would have any authority over the administration of funds derived from an Act of Congress totaling \$10,000 or more during the 12-month period immediately preceding or following the election or date of the offense.

"(b) FEDERAL GOVERNMENT.—Whoever deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of the United States of the honest services of a public official or a person who has been selected to be a public official shall be fined under this title, imprisoned not more than 10 years, or both.

"(c) OFFENSE BY AN OFFICIAL AGAINST AN EMPLOYEE OR OFFICIAL.—

"(1) CRIMINAL OFFENSE.—Whoever, being an official, public official, or person who has been selected to be a public official, directly or indirectly discharges, demotes, suspends, threatens, harasses, or in any manner discriminates against an employee or official of the United States or of a State or political subdivision of a State, or endeavors to do so, in order to carry out or to conceal a scheme or artifice described in subsection (a) or (b), shall be fined under this title, imprisoned not more than 5 years, or both.

"(2) CIVIL ACTION.—(A) Any employee or official of a State or political subdivision of a State who is discharged, demoted, suspended, threatened, harassed, or in any manner discriminated against because of lawful acts done by the employee or official as a result of a violation of this section or because of actions by the employee on behalf of himself or herself or others in furtherance of prosecution under this section (including investigation for, initiation of, testimony for, or assistance in such a prosecution) may bring a civil action in any court of competent jurisdiction and obtain all relief necessary to make the employee or official whole, including—

"(i) reinstatement with the same seniority status that the employee or official would have had but for the violation;

"(ii) the amount of backpay;

"(iii) a penalty of two times the amount of backpay;

"(iv) interest on the actual amount of backpay; and

"(v) compensation for any special damages sustained as a result of the violation, including reasonable litigation costs and reasonable attorney's fees.

"(B) To obtain recovery under subsection (c)(2)(A) (iii) or (v) against a State or political subdivision, the employee or individual bringing the action shall establish by a preponderance of evidence that any violation of this section was—

"(i) the result of widespread violations within the State or political subdivision; or

"(ii) the result of conduct authorized by a senior official within the State or political subdivision.

"(C) In cases in which a State or political subdivision is sued and found liable for recovery under subsection (c)(2)(A) (iii) or (v), the State or political subdivision may bring an action for contribution for such recovery from any employee or official whose action led to the recovery under subsection (c)(2)(A) (iii) or (v).

"(D) An employee or official shall not be afforded relief under subparagraph (A) if the employee or official participated in the violation of this section with respect to which relief is sought.

"(E)(i) A civil action or proceeding authorized by this paragraph shall be stayed by a court upon certification of an attorney for the Government that prosecution of the action or proceeding may adversely affect the interests of the Government in a pending criminal investigation or proceeding.

"(ii) The attorney for the Government shall promptly notify the court when a stay may be lifted without such adverse effects.

"(d) DEFINITIONS.—As used in this section—

"(1) the term 'official' includes—

"(A) any person employed by, exercising any authority derived from, or holding any position in the government of a State or any subdivision of the executive, legislative, judicial, or other branch of government thereof, including a department, independent establishment, commission, administration, authority, board, and bureau, and a corporation or other legal entity established and subject to control by a government or governments for the execution of a governmental or intergovernmental program;

"(B) any person acting or pretending to act under color of official authority; and

"(C) any person who has been nominated, appointed, or selected to be an official or who has been officially informed that he or she will be so nominated, appointed, or selected;

"(2) the term 'person acting or pretending to act under color of official authority' includes a person who represents that he or she controls, is an agent of, or otherwise acts on behalf of an official, public official, and person who has been selected to be a public official;

"(3) the terms 'public official' and 'person who has been selected to be a public official' have the meanings stated in section 201 and include any person acting or pretending to act under color of official authority; and

"(4) the term 'State' means a State of the United States, the District of Columbia, Puerto Rico, and any other commonwealth, territory, or possession of the United States."

(b) TECHNICAL AMENDMENTS.—(1) The chapter analysis for chapter 11 of title 18, United States Code, is amended by adding at the end the following new item:

"226. Public corruption."

(2) Section 1961(1) of title 18, United States Code, is amended by inserting "section 226 (relating to public corruption)," after "section 224 (relating to sports bribery)."

(3) Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 226 (relating to public corruption)," after "section 224 (bribery in sporting contests)."

#### SEC. 3. INTERSTATE COMMERCE.

(a) IN GENERAL.—Section 1343 of title 18, United States Code, is amended—

(1) by inserting "or uses or causes the use of any facility in interstate or foreign commerce," after "sounds"; and

(2) by inserting "or attempting to do so" after "for the purpose of executing such scheme or artifice".

(b) TECHNICAL AMENDMENTS.—(1) The heading of section 1343 of title 18, United States Code, is amended to read as follows:

**"§1343. Fraud by use of facility of interstate commerce".**

(2) The chapter analysis for chapter 63 of title 18, United States Code, is amended by amending the item relating to section 1343 to read as follows:

"1343. Fraud by use of facility in interstate commerce."

#### SEC. 4. NARCOTICS-RELATED PUBLIC CORRUPTION.

(a) OFFENSES.—Chapter 11 of title 18, United States Code, is amended by inserting after section 219 the following new section:

#### **"§220. Narcotics and public corruption**

"(a) OFFENSE BY PUBLIC OFFICIAL.—A public official who, in a circumstance described in subsection (c), directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person in return for—

"(1) being influenced in the performance or nonperformance of any official act; or

"(2) being influenced to commit or to aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State, shall be guilty of a class B felony.

"(b) OFFENSE BY PERSON OTHER THAN A PUBLIC OFFICIAL.—A person who, in a circumstance described in subsection (c), directly or indirectly, corruptly gives, offers, or promises anything of value to any public official, or offers or promises any public official to give anything of value to any other person, with intent—

"(1) to influence any official act;

"(2) to influence the public to commit or aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State; or

"(3) to influence the public official to do or to omit to do any act in violation of the official's lawful duty, shall be guilty of a class B felony.

"(c) CIRCUMSTANCES IN WHICH OFFENSE OCCURS.—The circumstances referred to in subsections (a) and (b) are that the offense involves, is part of, or is intended to further or to conceal the illegal possession, importation, manufacture, transportation, or distribution of any controlled substance or controlled substance analogue.

"(d) DEFINITIONS.—As used in this section—

"(1) the terms 'controlled substance' and 'controlled substance analogue' have the meanings stated in section 102 of the Controlled Substances Act (21 U.S.C. 802);

"(2) the term 'official act' means any decision, action, or conduct regarding any question, matter, proceeding, cause, suit, investigation, or prosecution which may at any time be pending, or which may be brought before any public official, in such official's official capacity, or in such official's place of trust or profit; and

"(3) the term 'public official' means—

"(A) an officer or employee or person acting for or on behalf of the United States, or any department, agency, or branch of Government thereof in any official function, under or by authority of any such department, agency, or branch of Government;

"(B) a juror;

"(C) an officer or employee or person acting for or on behalf of the government of any State, commonwealth, territory, or possession of the United States (including the District of Columbia), or any political subdivision thereof, in any official function, under or by the authority of any such State, commonwealth, territory, possession, or political subdivision; and

"(D) any person who has been nominated or appointed to a position described in subparagraph (A), (B), or (C), or has been officially informed that he or she will be so nominated or appointed."

(b) TECHNICAL AMENDMENTS.—(1) Section 1961(1) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "Section 201 (relating to bribery)."

(2) Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "section 201 (bribery of public officials and witnesses)."

(3) The chapter analysis for chapter 11 of title 18, United States Code, is amended by

inserting after the item for section 219 the following new item:

"220. Narcotics and public corruption."

By Mr. SIMPSON:

S. 1379. A bill to make technical amendments to the Fair Debt Collection Practices Act, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE FAIR DEBT COLLECTION PRACTICES  
AMENDMENTS ACT OF 1995

• Mr. SIMPSON. Mr. President, today, I am introducing legislation to make technical amendments to the Fair Debt Collections Practices Act.

The original act was passed in 1977 to stop the abusive debt collection practices of third-party debt collectors. In that regard, it has worked well.

Debt collectors were told that if they ran honest, ethical operations they would not have problems with the act—that only the lawless collectors would be penalized. The law-abiding among them would thus not need to worry nor would they have to hire lawyers to interpret the act.

In that regard, the act may well have reached too far. Certainly, unscrupulous collectors have been forced to play by the rules, but may law-abiding collectors have found themselves unjustly burdened by many minor provisions found in the act. There have been hundreds of lawsuits based on technical and totally unintentional violations of the act.

We should remember that collection agencies are, in most cases, the smallest of small businesses. Also, some 38 percent are owned or operated by women, one of the highest of such percentages in all business categories.

These companies cannot afford huge legal bills and they certainly cannot get free legal representation. Because of the large increase in the number of such lawsuits, many collection agencies have seen huge increases in their insurance premiums.

The most distressing result is that small and highly dedicated group of attorneys is using the act to extort money from collection agencies. For example, the act has a \$1,000 minimum statutory damage provision, even for the smallest, technical violation. These attorneys will comb collection files to find the smallest violation and then sue collection agencies for the \$1,000 amount. The agency is usually forced to pay a settlement because, even if they have done nothing wrong, the legal fees required to defend such an action will run many thousands of dollars. Some agencies have even set aside money each month to pay off the demands of these lawyers, even though the company knows it has not violated the spirit of the act.

Let me cite some examples of ridiculous lawsuits that would be eliminated under this legislation.

A Nevada agency was sued for allegedly violating the prohibition against third-party contacts after the agency sued the debtor in court to obtain a

judgment. The consumer attorney felt that communicating with the court was a third-party violation.

An agency that collects students loans for the Department of Education was similarly challenged in court. At issue was the language used by the agency in its letters as required by the Department. The language stated that no legal action is required for the Department to enforce an administrative garnishment against a debtor. The attorney argued that the notice was deceptive because it did not state that the debtor has a right to a hearing before the garnishment is enforced.

What about the collectors who are big enough to fight back? In many cases, collection agencies that can afford this costly litigation are not bothered by claimant attorneys. So effectively, the act has served to selectively penalize the small collector. To compound confusion, different courts have handed down totally contradictory decisions and opinions regarding the provisions of the act. Thus we have a Federal law requiring collectors to follow procedures that vary from State to State. The situation has become so confusing that the Federal Trade Commission has asked Congress to clarify the opposing court decisions and that, in part, is one of the purposes of this legislation.

In addition, the bill gets rid of the \$1,000 statutory damages "carrot" that has, through its misuse, become a winning lottery ticket for some lawyers. Certainly a debt collector who wrongfully damages a debtor should be required to pay for those damages—and the legislation will preserve such compensation. A collector will be held responsible for actual damages, but not for an arbitrary standard that is not imposed by most other consumer laws.

Additionally, when Congress passed the Truth in Lending Simplification Act in the 1980's, it cleared up a major problem in class action lawsuits by limiting the total damages and number of such suits that could be filed against one defendant. Because of an oversight, the Fair Debt Collections Practices Act was not made part of the legislation and today debt collectors face a legal financial burden that other companies covered by consumer protection enforcement laws are protected against. This legislation corrects that oversight.

The legislation would allow judges to award defendants the cost of their actions plus legal fees if one of these suits is brought in bad faith. Rule 68 of the Federal Rules of Civil Procedure would now apply to lawsuits associated with the Fair Debt Collections Practices Act. Under that standard, when a defendant offers a settlement and the plaintiff refuses, if the ultimate court award is equal to or less than such an offer, the plaintiff has to pay the defendant's legal costs. This rule has worked well and should help end technical lawsuits.

Collectors are also being attacked by another class of attorneys—district or

county attorneys who are setting up "for profit," collection agencies that compete directly with private enterprise. Under a very narrow reading of the act, these State and local officials contend they are not covered by the legislation. In some areas, these public officials are telling merchants that they will not accept debts for collection if they have previously been turned over to a private collection agency. At present, the local government collection agencies are only collecting bad checks but they may well branch into other collection fields. Do not be fooled. These public officials are not collecting bad checks as part of their government function. No, only merchants who join the program can get this type of law enforcement. Individuals who have received bad checks cannot use the service. This amounts to law enforcement judged by the size of your wallet.

This legislation would still allow local officials to operate such collection activities but they would have to comply with the Fair Debt Collections Practices Act. No longer would such operations be able to charge a consumer \$120 for a \$5 returned check as has happened in some cases.

The legislation does not remove any of the other basic consumer safeguards that are in the act. Still in place are the restrictions against harassment by collectors, calls in the middle of the night, informing employers about debts and the all important safeguard that makes it illegal for a collector to do anything in a deceptive manner.

Mr. President, the amount of debt owed to American businesses that goes unpaid is skyrocketing. In the latest figures available, 226.2 million accounts totaling \$79 billion were turned over to third-party collection agencies in 1993. It is estimated that bad debt cases cost every man, woman, and child in America \$250 per year. That means that a family of four will pay \$1,000 more for goods and services during each year. The figures for bad checks are even more staggering. On average, Americans write more than 1.5 million checks a day that are subsequently dishonored by U.S. banks.

In 1992 some 533 million checks totaling \$16 billion were returned to U.S. banks. Projections for 1995 estimate that 619 million checks will "bounce." By the year 200 the estimate is that 731 million will be returned. Our Nation's economy can't afford such losses and businesses deserve the services of an affordable collection industry that is not bogged down by the technical and nuisance lawsuits.●

By Mr. D'AMATO:

S. 1380. A bill to require forfeiture of counterfeit access devices, and for other purposes; to the Committee on the Judiciary.

FORFEITURE LEGISLATION

• Mr. D'AMATO. Mr. President, I introduce legislation that will close a

loophole which has proven to be a bonus to counterfeiters and a detriment to law enforcement. Simply stated, this legislation allows equipment used to counterfeit access devices to be treated like any other contraband and forfeited.

Currently under law, certain items are designated as contraband. Narcotics, illegal firearms, and counterfeit currency often come to mind when the issue of contraband is raised. Contraband also includes property designed or intended as the means of committing a criminal offense. Since narcotics are contraband, illegal drugs can be seized from a suspected drug dealer, as well as the vehicle in which the drug transaction occurred.

This bill would allow counterfeit access devices to be treated as contraband. Access devices are the means in which the account owner can access his or her own account, including credit cards and cellular phones. Counterfeiters can gain entry to this account and, in a matter of minutes, reach the owner's cash or use the owner's service. Criminals who perpetuate credit card fraud use equipment, such as an embosser and encoder, to imprint new numbers onto a piece of plastic. They are then able to use the credit cards to the limit for cash withdrawal using a valid credit card number. In telecommunications fraud, the offender can use an electronic serial number reader [ESN] to attract cellular phone numbers and store them for unauthorized use. By using a computer and a device called an E-chip, the offender can reprogram any cellular phone to call on another person's bill. Once the legitimate owner of the stolen cellular phone number realizes that their phone has been used by a criminal, the criminal is using another innocent owner's cellular number.

Law enforcement agencies do all they can to catch the offenders. The New York Times reported on an imaginative operation devised by the U.S. Secret Service to find perpetrators of cellular phone fraud, through the use of a computer bulletin board. I ask unanimous consent that the text of this article be included in the RECORD, Mr. President, and I would like to take this opportunity to congratulate the Secret Service for working to end fraud on this and other fronts.

The problem, however, is that when the perpetrators of credit card and cellular phone fraud are apprehended, and even convicted, the equipment used by the offenders is often returned to them after their sentence is served! Although this process seems preposterous, it is real. A credit card counterfeiter frequently receives his or her embosser and encoder once released from custody. The apparatus used to commit the cellular phone theft of services is also frequently remitted to the user, even if he or she was convicted. With their equipment intact, they are ready to commit fraud again if they so desire. The problem of counterfeit access devices costs the cellular phone compa-

nies and the banks billions of dollars every year. These costs get passed on to the customer.

Remittance of equipment used in counterfeiting access devices is certainly not the intent of law enforcement or prosecutors. These dedicated officials work tirelessly to do the right thing. Why is it that the devices are not forfeited? It is simply because the law has not been updated to keep up with technology.

The process is already in place for other contraband, such as narcotics, counterfeit currency and illegal firearms. It should not be too much of a stretch to extend the same procedures and safeguards that are available for these contrabands to counterfeit credit cards and cloned cellular phones.

This legislation will not end the counterfeiting of access devices but it will end the practice of returning tools to those who may use it for illicit purposes. Any hurdle that we can create for the repeat offender should be clearly established in law. The message from this Congress must be: for every ingenious way that criminals can commit their crimes, Congress is prepared to stop them.

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

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

S. 1380

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

**SECTION 1. FORFEITURE OF COUNTERFEIT ACCESS DEVICES.**

Section 80302(a) of title 49, United States Code, is amended—

(1) in paragraph (4), by striking "or" the last place it appears;

(2) in paragraph (5), by striking the period and inserting "; or"; and

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

"(6) a counterfeit access device, device-making equipment, or scanning receiver (as those terms are defined in section 1029 of title 18)."

[From the New York Times, Sept. 12, 1995]

SECRET SERVICE GOES ON LINE AND AFTER HACKERS

(By Clifford J. Levy)

It was a classic sting operation, the kind of undercover gambit that has nabbed bad guys for decades: Federal agents disguised as big-time thieves set up shop and put the word out on the street that they were eager for business. Soon shifty characters were stopping by, officials said, peddling stolen goods that were worth millions of dollars.

But as the agents revealed yesterday, the meeting place for this subterfuge was not some grimy storefront. It was a computer bulletin board that the United States Secret Service has rigged together to troll for people who are illegally trafficking in the codes that program cellular phones.

The "computer service," which led to the arrests of at least six suspected hackers and the possibility of more, is the latest indication that law enforcement agencies are being forced to try novel strategies to keep up with the startling growth in computer-assisted crime. Cellular-phone fraud alone cost companies \$482 million last year, the cellular-phone industry estimates.

According to the criminal complaint in the case, a Secret Service agent used the Internet, the global computer network, to announce that the bulletin board catered to those involved in breaking into computers and in cellular-phone and credit-card fraud.

"People all over the country responded," said Peter A. Cavicchia 2d, the special agent in charge of the Newark office of the Secret Service, which ran the investigation. "They felt they could do this with impunity."

The Secret Service, which is the Federal agency charged with going after cellular phone and credit card fraud, has long been known to monitor commercial computer online services like Prodigy and America Online, as well as smaller, private computer bulletin boards, for illegal activities.

But officials said this case represented the first time that the Secret Service had created an entirely new computer bulletin board, which is basically a system that links different computer users, allowing them to chat with and leave messages for each other. There have been a few instances of other law enforcement agencies creating bulletin boards for investigations.

"If they are selling the stuff in cyberspace, law enforcement has to be willing to go there," said Donna Krappa, an assistant United States Attorney in Newark, who is on the team prosecuting the case. "And the way to do that is to have a fence in cyberspace."

As Federal law enforcement officials detailed it, the investigation unfolded much like a traditional sting that draws in people hawking stolen televisions, jewelry or cars. The agents made contact with the suspects, then worked to gain their confidence and allay their suspicions.

The difference, of course, was that most of these discussions were conducted with computers talking over telephone lines.

Last January, a Secret Service special agent, Stacey Bauerschmidt, using the computer nickname Carder One, established a computer bulletin board that she called Celco 51.

It is relatively easy to put together a private computer bulletin board, requiring only a computer, a modem, phone lines and communications software. Special Agent Bauerschmidt was assisted by an informer with experience as a computer hacker, officials said. The equipment and phone line for the scheme were located in a Bergen County, N.J., apartment building.

After buying hundreds of the stolen phone codes, the Secret Service conducted raids in several states late last week, arresting the six people and seizing more than 20 computer systems, as well as equipment for making cellular phones operate with stolen codes, said the United States Attorney in Newark, Faith S. Hochberg.

Officials said that of those arrested, two of them, Richard Lacap of Katy, Tex., and Kevin Watkins of Houston, were particularly sophisticated because they actually broke into the computer systems of cellular phone companies to obtain the codes.

It is more common for thieves to steal the codes by using scanners that intercept the signals that the phones send when making calls.

"We consider this to be one of the most significant of the wireless fraud busts that have come down so far," said Michael T. Houghton, a spokesman for the Cellular Telecommunications Industry Association, a trade group. "These guys took it another degree."

The others arrested were identified as Jeremy Cushing of Huntington Beach, Calif., Al Bradford of Detroit, and Frank Natoli and Michael Clarkson, both of Brooklyn.●

By Mr. LAUTENBERG:

S. 1381. A bill to amend the Internal Revenue Code of 1986 to allow individuals who are involuntarily unemployed to withdraw funds from individual retirement accounts and other qualified retirement plans without incurring a tax penalty; to the Committee on Finance.

INDIVIDUAL RETIREMENT ACCOUNTS  
LEGISLATION

• Mr. LAUTENBERG. Mr. President, today I am introducing legislation to allow persons who are involuntarily unemployed to withdraw funds from individual retirement accounts [IRAs] and other retirement plans, without the tax penalty that would otherwise apply.

Mr. President, over 7.5 million people were unemployed in September, which translates to an unemployment rate of 5.6 percent. Many of the unemployed will find themselves with no income, substantial fixed expenses, and severely impaired ability to make ends meet.

In most cases, these Americans have been laid off not because they are poor workers, or because they do not try hard enough. They are simply the innocent victims of corporate down-sizing, or other forces larger than themselves.

For those unlucky enough to be laid off when business slows, the experience is often traumatic. There is a sense of rejection and betrayal. There is anger. And perhaps most importantly, there is fear—fear for oneself, and for one's family.

The fear is understandable. While their short-term employment prospects are often bleak, the unemployed face enormous financial pressures. As mortgages and rent payments come due, and bills pile up, millions of American families find themselves trapped by high fixed expenses, and without a paycheck to make ends meet.

Unemployment insurance can help, but it often falls far short of families' real needs, particularly in areas like my home State of New Jersey, where the costs of housing and other basic necessities are unusually high. Even if a family manages to survive on unemployment compensation, there may not be enough to overcome joblessness by relocating, or training for a new job. Compounding matters, the benefits of the long-term unemployed often expire.

Yet in many cases, Mr. President, the unemployed do have their own savings in an IRA or other retirement plan. These savings can provide a financial life raft to get through this unexpected financial storm. Unfortunately, it is a life raft with a large hole, because, for those under age 59½, withdrawals generally trigger a stiff, 10-percent tax penalty.

Mr. President, Americans do not believe in hitting people when they are down. And I believe there is something fundamentally wrong with imposing a heavy penalty on those who want to gain access to their own money to cope with unemployment.

The bill I am introducing proposes to eliminate the 10-percent penalty for people who have been laid off and who are trying to find work. It is targeted to people who need it—those who have been eligible for unemployment compensation for at least 30 days.

I think that is only fair.

Mr. President, while the bill's primary purpose is to provide relief to the unemployed, it would also provide at least two additional benefits.

First, it should increase the savings rate, by encouraging Americans to participate in IRA's and other retirement plans. Currently, many people, particularly young people, are reluctant to tie up their money for decades in a retirement plan. They're concerned, understandably, that their savings would be inaccessible in an emergency, such as an unexpected period of unemployment, without the imposition of a heavy penalty.

Allowing greater flexibility during periods of involuntary unemployment, Mr. President, should reduce this concern, and that should lead to increased savings.

The bill also should provide another indirect benefit. By unlocking savings and injecting money into the economy during periods of high unemployment, the legislation would provide a modest countercyclical stimulus. This would help revive a slow economy to the benefit of all Americans.

Mr. President, the concept of allowing early withdrawals from retirement plans for specific compelling reasons is not new. In fact, I first introduced this proposal a few years ago, and it has been included in previous legislation adopted by the Senate.

In sum, Mr. President, this bill would provide relief to the unemployed, increase our Nation's savings rate, and provide an automatic stimulus to the economy during slow periods.

I urge my colleagues to support the bill, and 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. 1381

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

**SECTION 1. WAIVER OF EARLY DISTRIBUTION PENALTY DURING PERIODS OF INVOLUNTARY UNEMPLOYMENT.**

(a) IN GENERAL.—Paragraph (2) of section 72(t) of the Internal Revenue Code of 1986 (relating to exceptions to 10-percent additional tax on early distributions from qualified plans) is amended by adding at the end thereof the following new subparagraph:

“(D) DISTRIBUTIONS FOR PERSONS WHO ARE INVOLUNTARILY UNEMPLOYED.—Any distributions which are made during any applicable involuntary unemployment period. For purposes of this subparagraph—

“(i) the term ‘applicable involuntary unemployment period’ means the consecutive period beginning on the 30th day after the first date on which an individual is entitled to receive unemployment compensation and ending with the date on which the individual begins employment which disqualifies the individual from receiving such compensation

(or would disqualify if such compensation had not expired by reason of a limitation on the number of weeks of compensation); and

“(ii) the term ‘unemployment compensation’ has the meaning given such term by section 85(b).”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions made after the date of the enactment of this Act. •

By Mr. STEVENS:

S. 1383. A bill to authorize the Secretary of Transportation to issue a certificate of documentation and coastwise trade endorsement for the vessel *Westford*; to the Committee on Commerce, Science, and Transportation.

S. 1384. A bill to authorize the Secretary of Transportation to issue a certificate of documentation and coastwise trade endorsement for the vessel *God's Grace II*; to the Committee on Commerce, Science, and Transportation.

CERTIFICATE OF DOCUMENTATION LEGISLATION

• Mr. STEVENS. Mr. President, today I am introducing separate bills to provide certificates of documentation for the vessels *Westford* and *God's Grace II*.

The *Westford*, hull number X-53-109, is a 53' Chris Craft recreational vessel owned by Gary and Neoma Scheff of Craig, AK. It was built in Algonac, MI in 1954. Because records of the vessel have been lost, it has been determined to be ineligible to be documented for use in the coastwise trade. The Scheffs intend to use the vessel as a charter vessel.

The *God's Grace II*, Alaska registration number AK5916B, is a 32' commercial fishing vessel owned by Winston Gillies of Kenai, AK. It was built in North Vancouver, BC in 1965. The vessel was originally built for one of the Kenai packing companies and has been used for fishing off Alaska for 30 years.

Because the *God's Grace II* is less than 5 gross tons, Mr. Gillies has been able to operate the vessel in the coastwise trade without documentation. Mr. Gillies would now like to extend the boat to 36' in order to be able to fish in the Class C, 35- to 60-foot, category of the halibut and sablefish individual fishing quota [IFQ] program. If he extends the vessel, the vessel will exceed 5 tons and he will be required to have documentation.

I ask for unanimous consent that these two bills be printed in the RECORD.

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

S. 1383

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsements for employment in the coastwise trade for the vessel *Westford* (Hull number X53-109).



S. 1384

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsements for employment in the coastwise trade for the vessel *God's Grace II* (Alaska registration number AK5916B).●

By Mr. BREAUX (for himself, Mr. CONRAD, Mr. DORGAN, Mr. KERREY, Mr. DASCHLE, and Mr. HOLLINGS):

S. 1385. A bill to amend title XVIII of the Social Security Act to provide for coverage of periodic colorectal screening services under part B of the Medicare Program; to the Committee on Finance.

#### THE COLORECTAL CANCER SCREENING ACT OF 1995

● Mr. BREAUX. Mr. President, I introduce a measure that I believe should garner widespread support in both parties. The Colorectal Cancer Screening Act of 1995 would provide screening under Medicare for the third most prevalent type of cancer, cancer of the colon and rectum, which will strike 138,200 Americans this year. The bill would provide screening in a cost-effective manner which would ensure that doctors and their patients, not the Federal Government, decide which of the several recommended screening procedures are used. I am joined by Senators CONRAD, DORGAN, KERREY, DASCHLE, and HOLLINGS.

Let me share with you some of the frightening facts about colorectal cancer. According to the American Cancer Society, 55,300 Americans will die this year from this disease. Of the 138,200 new cases that will be reported, about half will be among men—70,700—and half among women—67,500. Only lung and prostate cancer attack more Americans. In my own State of Louisiana, 2,000 citizens will get this type of cancer this year.

As with most cancers, early detection is key to surviving colorectal cancer. About 90 percent of colorectal cancer victims whose cancer is detected in an early localized stage survive beyond 5 years. That number drops to between 50 and 60 percent when the cancer has spread regionally and to less than 10 percent when it has spread more widely.

Mr. President, colorectal cancer is a major cost to the Medicare Program. According to the Centers for Disease Control, 168,000 seniors were hospitalized with colon or rectum cancer in 1991—the most recent year for which data is available. The average hospital stay for these patients was 16 days.

While private health plans are beginning to provide coverage for colorectal cancer screening, Medicare—which serves older Americans who are most at risk—does not. According to a re-

port from the Congressional Officer of Technology Assessment released earlier this year, screening for colorectal cancer is more cost-effective than many of the other procedures the Medicare Program already covers. Screening provides benefits at a cost of about \$13,000 per life-year saved, versus \$40,000 to \$50,000 per life-year saved for some preventive and other services that Medicare already covers. At a time when we are looking for ways to control the overall cost of the Medicare Program, we must continue our efforts to use those limited funds in ways that are cost-effective.

Mr. President, I know that other Members of this body have introduced a bill to provide for colorectal cancer screening. This measure differs from theirs in only a few ways. First, this bill is not procedure-specific. It would provide Medicare coverage for all of the colon cancer screening recommended by the American College of Physicians and which the Office of Technology Assessment found to be cost-effective. Second, the would allow the Secretary to add new procedures once they are developed. This is critically important to encouraging innovation and research in this area. As a number of medical companies have explained in recent correspondence, legislation that "limits Medicare reimbursement to only a few of the current screening technologies does not allow for the development and diffusion of new medical procedures which might ultimately prove more effective and cost-efficient in the detection of colorectal cancer." Mr. President, I believe Medicare should cover all types of recommended screening and let the patient and his doctor, not the Federal Government, decide which one is appropriate.

This bill would follow the guidelines approved by the American College of Physicians on April 23, 1990, which read as follows:

#### Recommendations:

1. Screening with fecal occult blood tests is recommended annually for individuals age 50 and older.
2. Screening with sigmoidoscopy is recommended every 3-5 years or with air-contrast barium enema every 5 years for individuals age 50 or older.
3. For individuals age 40 and older who have familial polyposis coli, inflammatory bowel disease, or a history of colon cancer in a first degree relative, i.e., parent or sibling, screening with air-contrast barium enema or colonoscopy in addition to annual fecal occult blood tests, is recommended every 3-5 years.

For individuals over the age of 50 who are on Medicare and at average risk of colorectal cancer, this bill would allow payment for: every 12 months, a fecal blood test; and every 5 years, a sigmoidoscopy, barium enema, or other procedure approved by the Secretary. For individuals at high risk of colorectal cancer, the bill would allow Medicare reimbursement for: every 12 months, a fecal blood test; and every 2 years, a colonoscopy, barium

enema, or other procedure approved by the Secretary.

Here's how the American Cancer Society described these different procedures in its 1995 Cancer Facts and Figures report:

The stool blood test is a simple method to test feces for hidden blood. The specimen is obtained by the patient at home and returned to the physician's office, a hospital, or a clinic for analysis. The Society recommends annual testing after age 50.

In proctosigmoidoscopy, the physician uses a hollow lighted tube or a fiberoptic sigmoidoscope to inspect the rectum and lower colon. To detect cancers higher in the colon, longer, flexible instruments are used. The American Cancer Society recommends sigmoidoscopy, preferably flexible, every 3 to 5 years after age 50.

If any of these tests reveal possible problems, more extensive studies, such as colonoscopy (examination of the entire colon) and barium enema (an x-ray procedure in which the intestines are viewed), may be needed.

Mr. President, if we are to provide screening for colorectal cancer, which I believe is desperately needed, we should allow all types of procedures recommended by the American College of Physicians and described by the American Cancer Society. This bill would do just that. I know that other Members of this body have indicated their support for colorectal cancer screening under Medicare. My hope is that we can all join together on a proposal that will give seniors and their doctors the maximum choice and protection from this dreaded disease.

I ask unanimous consent that the full text of the Colorectal Cancer Screening Act of 1995 and the recommendations from the American College of Physicians on screening for colorectal cancer be printed in the RECORD.

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

S. 1385

*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 "Colorectal Cancer Screening Act of 1995".

#### SEC. 2. MEDICARE COVERAGE OF COLORECTAL SCREENING SERVICES.

(a) IN GENERAL.—Section 1834 of the Social Security Act (42 U.S.C. 1395m) is amended by inserting after subsection (d) of following new subsection:

"(e) FREQUENCY AND PAYMENT LIMITS FOR COLORECTAL SCREENING PROCEDURES.—

"(1) SCREENING FECAL-OCULT BLOOD TESTS.—

"(A) PAYMENT LIMIT.—In establishing fee schedules under section 1833(h) with respect to screening fecal-occult blood tests provided for the purpose of early detection of colon cancer, except as provided by the Secretary under paragraph (3)(A), the payment amount established for tests performed—

"(i) in 1996 shall not exceed \$5; and

"(ii) in a subsequent year, shall not exceed the limit on the payment amount established under this subsection for such tests for the preceding year, adjusted by the applicable adjustment under section 1833(h) for tests performed in such year.

“(B) FREQUENCY LIMITS.—Subject to revision by the Secretary under paragraph (3)(B), no payment may be made under this part for a screening fecal-occult blood test provided to an individual for the purpose of early detection of colon cancer if the test is performed—

“(i) on an individual under 50 years of age; or

“(ii) within the 11 months after a previous screening fecal-occult blood test.

“(2) PERIODIC COLORECTAL SCREENING PROCEDURES FOR INDIVIDUALS NOT AT HIGH RISK FOR COLORECTAL CANCER.—

“(A) PAYMENT AMOUNT.—The Secretary shall establish a payment amount under section 1848 with respect to periodic colorectal screening procedures provided for the purpose of early detection of colon cancer that is consistent with payment amounts under such section for similar or related services, except that such payment amount shall be established without regard to subsection (a)(2)(A) of such section. The Secretary shall establish a single payment amount for periodic colorectal screening procedures, which shall be based on the cost of a flexible sigmoidoscopy or barium enema procedure, as the Secretary determines appropriate.

“(B) FREQUENCY LIMITS.—Subject to revision by the Secretary under paragraph (4)(B), no payment may be made under this part for a periodic colorectal screening procedure provided to an individual for the purpose of early detection of colon cancer if the procedure is performed—

“(i) on an individual under 50 years of age; or

“(ii) within the 59 months after a previous periodic colorectal screening procedure.

“(D) PERIODIC COLORECTAL SCREENING PROCEDURE DEFINED.—The term ‘periodic colorectal screening procedure’ means a flexible sigmoidoscopy, barium enema screening procedure, or other screening procedure for colorectal cancer, as determined by the Secretary.

“(3) SCREENING FOR INDIVIDUALS AT HIGH RISK FOR COLORECTAL CANCER.—

“(A) PAYMENT AMOUNT.—The Secretary shall establish a payment amount under section 1848 with respect to each eligible procedure for screening for individuals at high risk for colorectal cancer (as determined in accordance with criteria established by the Secretary) provided for the purpose of early detection of colon cancer that is consistent with payment amounts under such section for similar or related services, except that such payment amount shall be established without regard to subsection (a)(2)(A) of such section. The Secretary may establish a payment amount for a barium enema procedure pursuant to this paragraph that is different from the payment amount established pursuant to paragraph (2) for a periodic colorectal screening procedure for an individual not at high risk for colorectal cancer so long as the payment amount established pursuant to paragraph (2) is not based on the cost of a barium enema procedure.

“(B) ELIGIBLE PROCEDURES.—Procedures eligible for payment under this part for screening for individuals at high risk for colorectal cancer for the purpose of early detection of colorectal cancer shall include a screening colonoscopy, a barium enema screening procedure, or other screening procedures for colorectal cancer as the Secretary determines appropriate.

“(C) FREQUENCY LIMIT.—Subject to revision by the Secretary under paragraph (4)(B), no payment may be made under this part for a screening procedure for individuals at high risk for colorectal cancer provided to an individual for the purpose of early detection of colon cancer if the procedure is performed within the 23 months after a previous screening procedure.

“(D) FACTORS CONSIDERED IN ESTABLISHING CRITERIA FOR DETERMINING INDIVIDUALS AT

HIGH RISK.—In establishing criteria for determining whether an individual is at high risk for colorectal cancer for purposes of this paragraph, the Secretary shall take into consideration family history, prior experience of cancer or precursor neoplastic polyps, a history of chronic digestive disease condition (including inflammatory bowel disease, Crohn's Disease or ulcerative colitis), the presence of any appropriate recognized gene markers for colorectal cancer and other predisposing factors.

“(4) REDUCTIONS IN PAYMENT LIMIT AND REVISION OF FREQUENCY.—

“(A) REDUCTIONS IN PAYMENT LIMIT.—The Secretary shall review from time to time the appropriateness of the amount of the payment limit established for screening fecal-occult blood tests under paragraph (1)(A). The Secretary may, with respect to tests performed in a year after 1998, reduce the amount of such limit as it applies nationally or in any area to the amount that the Secretary estimates is required to assure that such tests of an appropriate quality are readily and conveniently available during the year.

“(B) REVISION OF FREQUENCY AND DETERMINATION OF ELIGIBLE PROCEDURES.—

“(i) REVIEW.—The Secretary shall review periodically the appropriate frequency for performing screening fecal-occult blood tests, periodic colorectal screening procedures, and screening procedures for individuals at high risk for colorectal cancer based on age and such other factors as the Secretary believes to be pertinent, and shall review periodically the availability, effectiveness, and cost of screening procedures for colorectal cancer other than those specified in this section.

“(ii) REVISION OF FREQUENCY AND DETERMINATION OF ELIGIBLE PROCEDURES.—The Secretary, taking into consideration the review made under clause (i), may revise from time to time the frequency with which such tests and procedures may be paid for under this subsection and may determine that additional screening procedures shall be considered to be ‘periodic colorectal screening procedures’ or an eligible procedure for the screening of individuals at high risk for colorectal cancer, but no such revision shall apply to tests or procedures performed before January 1, 1999.

“(5) LIMITING CHARGES OF NONPARTICIPATING PHYSICIANS.—

“(A) IN GENERAL.—In the case of a periodic colorectal screening procedure provided to an individual for the purpose of early detection of colon cancer or a screening provided to an individual at high risk for colorectal cancer for the purpose of early detection of colon cancer for which payment may be made under this part, if a nonparticipating physician provides the procedure to an individual enrolled under this part, the physician may not charge the individual more than the limiting charge (as defined in section 1848(g)(2)).

“(B) ENFORCEMENT.—If a physician or supplier knowing and willfully imposes a charge in violation of subparagraph (A), the Secretary may apply sanctions against such physician or supplier in accordance with section 1842(j)(2).”

(b) CONFORMING AMENDMENTS.—(1) Paragraphs (1)(D) and (2)(D) of section 1833(a) of the Social Security Act (42 U.S.C. 1395l(a)) are each amended by striking “subsection (h)(1),” and inserting “subsection (h)(1) or section 1834(e)(1).”

(2) Section 1833(h)(1)(A) of such Act (42 U.S.C. 1395l(h)(1)(A)) is amended by striking “The Secretary” and inserting “Subject to paragraphs (1) and (3)(A) of section 1834(e), the Secretary”.

(3) Clauses (i) and (ii) of section 1848(a)(2)(A) of such Act (42 U.S.C. 1395w-4(a)(2)(A)) are each amended by striking “a

service” and inserting “a service (other than a periodic colorectal screening procedure provided to an individual for the purpose of early detection of colon cancer or an eligible screening procedure provided to an individual at high risk for colorectal cancer for the purpose of early detection of colon cancer)”.

(4) Section 1862(a) of such Act (42 U.S.C. 1395y(a)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (E), by striking “and” at the end;

(ii) in subparagraph (F), by striking the semicolon at the end and inserting “, and”; and

(iii) by adding at the end the following new subparagraph:

“(G) in the case of screening fecal-occult blood tests, periodic colorectal screening procedures, and screening procedures provided for the purpose of early detection of colon cancer, which are performed more frequently than is covered under section 1834(e);”;

(B) in paragraph (7), by striking “paragraph (1)(B) or under paragraph (1)(F)” and inserting “subparagraphs (B), (F), or (G) of paragraph (1)”.

### SEC. 3. EFFECTIVE DATE.

The amendments made by section 2 shall apply to services furnished on or after January 1, 1996.

[From the American College of Physicians]

#### SCREENING FOR COLORECTAL CANCER DISEASE

Invasive colorectal cancers arise from adenomas or originate (de novo) from the mucosa of the colon. Progression from adenoma to invasive cancer takes about five years.

Colorectal cancer accounts for 150,000 new cases each year and 61,000 deaths. It is the second most common form of cancer in the US. On the average, it deprives patients of nearly 10 percent of their expected life span.

Risk factors for colorectal cancer include inflammatory bowel disease, familial polyposis syndromes, family history, and a previous history of neoplasms. A diagnosis of familial polyposis syndrome or inflammatory bowel disease requires monitoring.

#### SCREENING TEST(S)

Several tests and procedures have been proposed for colorectal cancer screening; the most common are digital examination, fecal occult blood tests (FOBT), and sigmoidoscopy. Air-contrast barium enemas and colonoscopy have been proposed for screening individuals at high risk of developing colorectal cancer.

The digital rectal examination entails a manual exploration of the rectum.

Fecal occult blood tests entail smearing a stool specimen on a slide and submitting the specimen for analysis. Recommended practice is to take two samples on each of three consecutive days, while on a diet designed to reduce the frequency of false positives.

Sigmoidoscopy is the inspection of the interior of the colon through an endoscope inserted via the rectum. Sigmoidoscopes vary in length and may be rigid or flexible. When available, use of a flexible scope is preferred; otherwise, a rigid scope is acceptable.

Air-contrast barium enema and colonoscopy allow the inspection of the entire colon. The former involves the administration of barium into the rectum, followed by x-ray study of the entire intestine; the latter introduction of a fiberoptic instrument.

#### RECOMMENDATIONS

1. Screening with fecal occult blood tests is recommend annually for individual age 50 and older.



2. Screening with sigmoidoscopy is recommended every 3-5 years or with air-contrast barium enema every 5 years for individuals age 50 and older.

3. For individuals age 40 and older who have familial polyposis coli, inflammatory bowel disease, or a history of colon cancer in a first degree relative, i.e., parent or sibling, screening with air-contrast barium enema or colonoscopy in addition to annual fecal occult blood tests, is recommended every 3-5 years.

#### RATIONALE

Although there is little direct evidence of the effectiveness of colorectal cancer screening, there is indirect evidence, based on the natural history of the disease and the effectiveness of screening tests, that screening should reduce colorectal cancer incidence and mortality.

Risks associated with colorectal cancer screening include perforations from sigmoidoscopy, colonoscopy and barium enema and the extensive diagnostic tests associated with false-positive results of fecal occult blood testing.

Individuals at high risk for colorectal cancer due to familial polyposis coli or inflammatory bowel disease, a history of colorectal cancer in a first degree relative should be encouraged to have a complete examination of the colon. Factors influencing the choice between air contrast barium enema and colonoscopy include cost and access to qualified physicians able to perform safe and accurate studies.●

By Mr. NUNN:

S. 1387. A bill to provide for innovative approaches for homeownership opportunity, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

#### THE HOMESTEADING AND NEIGHBORHOOD RESTORATION ACT OF 1995

Mr. NUNN. Mr. President, I rise today to discuss one of our Nation's most critical problems—the lack of affordable housing for low income people. As my colleagues know, housing is one of the most basic human needs. Lack of it is a problem which plagues every State, in both urban and rural areas. Today I would like to remind my colleagues of an organization founded on the belief that this is unacceptable. This organization is Habitat for Humanity International.

Habitat is a nonprofit, ecumenical Christian housing ministry founded in 1976 by Millard and Linda Fuller and based in Americus, GA. Its ambitious goal is nothing less than to eliminate poverty housing and homelessness from the world. Since 1976, Habitat has constructed 40,000 homes worldwide, in every U.S. State and in 45 other countries. As a result of Habitat's efforts, a quarter of a million people worldwide are living in safe, decent, and affordable housing.

Though Habitat has chapters all over the globe, its work is done on a truly grass roots, individual basis. Through volunteer labor and tax deductible donations of money and materials, Habitat joins with the partner family to build or rehabilitate a house. Habitat houses are then sold to partner families at no profit, financed with affordable loans with no interest. The homeowners' monthly mortgage payments

go into a revolving fund which finances the building of more houses.

As the numbers I mentioned a moment ago demonstrate, this has been a fantastically successful concept. In my view, though, the idea at the heart of Habitat's success is the idea of "sweat equity." Part of the deal presented to a potential homeowner is that they must contribute their own hard work and sweat to the construction of their home and the homes of others. In this way, the family builds a tangible bond to the finished product, and therefore has a strong interest in maintaining it. In addition, the contribution of sweat equity leads new homeowners to a stronger sense of community responsibility—contributing to the decency and safety of their street and neighborhood.

In this way, Habitat not only builds new homes, it also helps rebuild the internal sense of community that has declined in our Nation. By giving families a home—not a handout from a faceless Government bureaucrat, not a benefit check, but an opportunity to dedicate their hard work to owning their own home—Habitat helps to combat the despair and apathy evident in so many of our communities.

For these reasons, I am introducing today the Homesteading and Neighborhood Restoration Act of 1995. This legislation, which is supported by such diverse interests as former President Carter, Speaker GINGRICH, and HUD Secretary Cisneros, directs the Secretary of Housing and Urban Development to reprogram \$50 million in existing HUD funds into a grant program for Habitat for Humanity and other low cost housing organizations. In keeping with Habitat's policy of refusing to accept Government funds for actual construction work on dwellings, the funds could only be used for land acquisition or infrastructure improvements, and only in the United States. The bill directs that half of the reprogrammed dollars would be granted to Habitat, and the other half would be held in reserve for other similar organizations to compete for. Any funds not claimed by qualified organizations would be granted to Habitat.

My estimates indicate that the funds included in this legislation would allow Habitat to begin construction on 5,000 new dwellings across the Nation immediately. Additionally, as new homeowners begin to pay back their loans, the money would be recycled to build even more homes.

So many times we in Congress must allocate Government dollars based on a sense of trust—with very little assurance that the taxpayers' funds will actually yield any results at all. Thankfully, this legislation does not necessitate Congress taking such a leap of faith. The successes of Habitat for Humanity are standing already in brick and mortar in 40,000 places around the world. This legislation will enable them to expand their successes to many more locations. This is a private

initiative that really works, and I urge my colleagues to support it.

By Mr. BREAU (for himself and Mr. JOHNSTON):

S.J. Res. 42. A joint resolution designating the Civil War Center at Louisiana State University as the U.S. Civil War Center, making the center the flagship institution for planning the sesquicentennial commemoration of the Civil War, and for other purposes; to the Committee on Energy and Natural Resources.

#### U.S. CIVIL WAR CENTER JOINT RESOLUTION

● Mr. BREAU. Mr. President, today I am introducing a joint resolution on behalf of myself and Senator JOHNSTON to designate the U.S. Civil War Center as the flagship institution charged with planning and facilitating the sesquicentennial of the American Civil War in 2011.

While the date may still seem far off, it is important to remember that this will be a particularly important anniversary as it will be the last opportunity for most of us to commemorate the Civil War. The Civil War Center at Louisiana State University in Baton Rouge, LA, offers the most appropriate setting for the organization of this remembrance. There is no other center in the United States that currently studies the war from the perspective of every conceivable discipline, profession, and occupation. The center will be able to coordinate with the numerous Civil War commemorative organizations throughout the Nation. Funding for the activities throughout the sesquicentennial will come from private donations and grants.

Since the end of the commemoration of the centennial of the war in 1965, the United States has come a long way toward healing some of the lingering wounds of the war. Recent events have emphasized that many of them still must be addressed, as racism, violence, and regional economics remain problems in our united Nation. If we are to continue to learn from our differences, the commemoration of the sesquicentennial offers the opportunity to reflect on where we once were and where we will next go.

I urge my colleagues to join me in the designation of the U.S. Civil War Center as the flagship institution for the sesquicentennial.

Mr. President, I ask unanimous consent that the text of the joint resolution and the letter of support from the center's advisory board be printed in the RECORD.

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

#### S.J. RES. 42

Whereas the sesquicentennial of the beginning of the Civil War will occur in the year 2011;

Whereas the sesquicentennial will be the last significant opportunity for most Americans alive in the year 2011 to recall and commemorate the Civil War;

Whereas the Civil War Center at Louisiana State University in Baton Rouge, Louisiana,

has as principal missions to create a comprehensive database that contains all Civil War materials and to facilitate the study of the war from the perspectives of all ethnic cultures and all professions, academic disciplines, and occupations;

Whereas the 2 principal missions of Civil War Center are consistent with the commemoration of the sesquicentennial; and

Whereas advance planning to facilitate the 4-year commemoration of the sesquicentennial is required: 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 UNITED STATES CIVIL WAR CENTER.**

The Civil War Center, located on Raphael Semmes Drive at Louisiana State University in Baton Rouge, Louisiana, shall be known and designated as the "United States Civil War Center".

#### **SEC. 2. REFERENCES.**

Any references in a law, map, regulation, document, paper, or other record of the United States to the center referred to in section 1 shall be deemed to be a reference to the "United States Civil War Center".

#### **SEC. 3. FLAGSHIP INSTITUTION.**

The center referred to in section 1 shall be the flagship institution for planning the sesquicentennial commemoration of the Civil War.

#### **U.S. CIVIL WAR CENTER ADVISORY BOARD**

DEAR SENATOR: As members of the United States Civil War Center's Advisory Board, we strongly encourage your cosponsorship of Senator John Breaux's resolution to designate the United States Civil War Center as the flagship institution charged with planning and facilitating the Sesquicentennial of the American Civil War in the years 2011–2015.

The Civil War Center at Louisiana State University in Baton Rouge, Louisiana, offers the most appropriate facility to ensure that the commemoration embraces all of the possibilities for an experience that will affect all Americans profoundly and that will have longlasting effects.

Knowing that we all have much to learn from the five years our nation was at war with itself, we urge you to join Senator Breaux in cosponsoring this resolution.

Ed Bearss, Historian; Ken Burns, Florentine Films; William C. Davis, Historian; Rita Dove, U.S. Poet Laureate and Consultant to the Library of Congress; William Ferris, Director, Center for the Study of South Culture.

Shelby Foote, Novelist, Historian; Grady McWhitney, Historian; T. Michael Parrish, Historian; R.E. Turner, Chairman of the Board, Turner Broadcasting; Tom Wicker, Novelist, Journalist.●

#### **ADDITIONAL COSPONSORS**

S. 607

At the request of Mr. WARNER, the names of the Senator from Utah [Mr. HATCH] and the Senator from Michigan [Mr. LEVIN] were added as cosponsors of S. 607, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify the liability of certain recycling transactions, and for other purposes.

S. 704

At the request of Mr. SIMON, the names of the Senator from Oregon [Mr. HATFIELD], the Senator from Virginia [Mr. WARNER], and the Senator from

Iowa [Mr. GRASSLEY] were added as cosponsors of S. 704, a bill to establish the Gambling Impact Study Commission.

S. 837

At the request of Mr. WARNER, the names of the Senator from California [Mrs. BOXER], the Senator from North Dakota [Mr. CONRAD], the Senator from Connecticut [Mr. DODD], and the Senator from North Dakota [Mr. DORGAN] were added as cosponsors of S. 837, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 250th anniversary of the birth of James Madison.

S. 949

At the request of Mr. GRAHAM, the names of the Senator from New York [Mr. MOYNIHAN] and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of S. 949, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the death of George Washington.

S. 1150

At the request of Mr. SANTORUM, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 1150, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the Marshall plan and George Catlett Marshall.

S. 1228

At the request of Mr. D'AMATO, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 1228, a bill to impose sanctions on foreign persons exporting petroleum products, natural gas, or related technology to Iran.

S. 1265

At the request of Mr. LEAHY, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 1265, a bill to authorize the Secretary of Agriculture to make temporary assistance available to support community food security projects designed to meet the food needs of low-income people, increase the self-reliance of communities in providing for their own food needs, and promote comprehensive, inclusive, and future-oriented solutions to local food, farm, and nutrition problems, and for other purposes.

S. 1274

At the request of Mr. LOTT, the name of the Senator from Wyoming [Mr. THOMAS] was added as a cosponsor of S. 1274, a bill to amend the Solid Waste Disposal Act to improve management of remediation waste, and for other purposes.

S. 1329

At the request of Mr. DOLE, the name of the Senator from Arizona [Mr. KYL] was added as a cosponsor of S. 1329, a bill to amend title 38, United States Code, to provide for educational assistance to veterans, and for other purposes.

S. 1370

At the request of Mr. CRAIG, the name of the Senator from Texas [Mr.

GRAMM] was added as a cosponsor of S. 1370, a bill to amend title 10, United States Code, to prohibit the imposition of any requirement for a member of the Armed Forces of the United States to wear indicia or insignia of the United Nations as part of the military uniform of the member.

S. 1372

At the request of Mr. MCCAIN, the names of the Senator from Alaska [Mr. STEVENS] and the Senator from Pennsylvania [Mr. SANTORUM] were added as cosponsors of S. 1372, a bill to amend the Social Security Act to increase the earnings limit, and for other purposes.

S. 1375

At the request of Mr. BURNS, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 1375, a bill to preserve and strengthen the foreign market development cooperator program of the Department of Agriculture, and for other purposes.

#### **AMENDMENTS SUBMITTED**

#### **THE SENIOR CITIZENS' FREEDOM TO WORK ACT**

#### **ROCKEFELLER AMENDMENT NO. 3043**

Mr. ROCKEFELLER proposed an amendment to the bill (S. 1372) to amend the Social Security Act to increase the earnings limit, and for other purposes; as follows:

At the appropriate place insert the following: "It is the sense of the Senate that the conferees on the part of the Senate on H.R. 2491 should not agree to any reductions in Medicare beyond the \$89 billion needed to maintain the solvency of the Medicare trust fund through the year 2006, and should reduce tax breaks for upper-income taxpayers and corporations by the amount necessary to ensure deficit neutrality."

#### **THE FAT, OILS AND GREASES DIFFERENTIATION ACT OF 1995**

#### **CHAFEE (AND OTHERS) AMENDMENT NO. 3044**

Mr. DOLE (for Mr. CHAFEE, for himself, Mr. BAUCUS, Mr. PRESSLER, Mr. LUGAR, and Mr. HARKIN) proposed an amendment to the bill (H.R. 436) to require the head of any Federal agency to differentiate between fats, oils, and greases of animal, marine, or vegetable origin, and other oils and greases, in issuing certain regulations, and for other purposes; as follows:

On page 2, line 8, after "to" insert "the transportation, storage, discharge, release, emission, or disposal of".

On page 2, line 9, strike "any" and insert "that".

On page 2, line 18, strike "such" and insert "that".