Washington, D.C. 20510; and Representatives Wayne T. Gilchrest, Robert L. Ehrlich, Jr., Benjamin L. Cardin, Albert R. Wynn, Steny Hamilton Hoyer, Roscoe G. Bartlett, Elijah E. Cummings, and Constance A. Morella, House Office Building, Washington, D.C. 20515.

POM–122. A joint resolution adopted by the General Assembly of the Commonwealth of Virginia; to the Committee on the Judiciary.

SENATE JOINT RESOLUTION NO. 307

Whereas, in addition to setting quotas for the number of immigrants who may enter this country legally, the federal government has the responsibility of maintaining the borders of the United States against illegal entry; and

Whereas, while illegal aliens are not entitled to assistance in the form of social services, states are required by federal statute or by court decisions to provide emergency medical care, education, nutrition programs, and incarceration for many undocumented aliens with little or no reimbursement from the federal government; and

Whereas, many states are being hit hard by budgetary cutbacks and are feeling the impact on state revenues and expenditures incurred by these federal mandates; and

Whereas, some states have tried unsuccessfully to use the legal system to recoup some of these expenses from the federal government; and

Whereas, although the federal government has been forthcoming with some funds to help with some of the costs, the amounts are negligible in comparison to the actual costs to the states; and

Whereas, the recent federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 addresses some issues of social assistance to aliens, but the financial impact is more addressed to immigrants who are here legally; and

Whereas, there appears to be a need for a better working relationship between the states and the United States Immigration and Naturalization Services to identify those persons who are here illegally; now, therefore, be it

Resolved by the Senate, the House of Delegates concurring, That the Congress of the United States be urged to take appropriate steps to reimburse the states for the costs of services provided to illegal aliens; and, be it

Resolved further, That the Congress be urged to honor its obligations to protect the United States borders and to expedite the removal of those who reside here illegally; and, be it

Resolved finally, That the Clerk of the Senate transmit copies of this resolution to the President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and the members of the Congressional Delegation of Virginia in order that they may be apprised of the sense of the General Assembly in this matter.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. ROTH, from the Committee on Finance:

Robert S. LaRussa, of Maryland, to be an Assistant Secretary of Commerce.

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

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. BROWNBACK:

S. 820. A bill to amend chapters 83 and 84 of title 5, United States Code, to limit certain retirement benefits of Members of Congress, and for other purposes; to the Committee on Governmental Affairs.

By Mr. Brownback:

S. 821. A bill to reduce the pay of Members of Congress, eliminate automatic cost-of-living pay increases for Members of Congress, and for other purposes; to the Committee on Governmental Affairs.

By Mr. WYDEN:

S. 822. A bill to amend part E of title IV of the Social Security Act to provide for demonstration projects to test the feasibility of establishing kinship care as an alternative to foster care for a child who has adult relatives willing to provide safe and appropriate care for the child, and to require notice to adult relative caregivers; to the Committee on Finance.

By Mr. HARKIN:

S. 823. A bill to provide for the award of the Armed Forces Expeditionary Medal to members of the Armed Forces who participate in Operation Joint Endeavor or Operation Joint Guard in the Republic of Bosnia and Herzegovnia; to the Committee on Armed Services.

By Mrs. BOXER:

S. 824. A bill to prohibit the relocation of certain Marine Corps helicopter aircraft to Naval Air Station Miramar, California; to the Committee on Armed Services.

By Mr. ASHCROFT:

S. 825. A bill to provide for violent and repeat juvenile offender accountability, and for other purposes; to the Committee on the Judiciary.

By Mr. LAUTENBERG (for himself, Mr. DURBIN, and Mr. KERRY):

S. 826. A bill to amend the Public Health Service Act to protect the public from health hazards caused by exposure to environmental tobacco smoke, and for other purposes; to the Committee on Environment and Public Works.

By Mr. CRAIG:

S. 827. A bill to promote the adoption of children in foster care; to the Committee on Finance.

By Mr. DURBIN (for himself and Mr. LAUTENBERG):

S. 828. A bill to provide for the reduction in the number of children who use tobacco products, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mrs. BOXER (for herself, Mrs. FEINSTEIN, and Mr. KENNEDY):

S. 829. A bill to amend the Internal Revenue Code of 1986 to encourage the production and use of clean-fuel vehicles, and for other purposes; to the Committee on Finance.

By Mr. HELMS (for himself, Mr. FEINGOLD, Mr. HUTCHINSON, and Mr. WELLSTONE):

S.J. Res. 31. A joint resolution disapproving the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of the People's Republic of China; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WYDEN:

S. 822. A bill to amend part E of title IV of the Social Security Act to provide for demonstration projects to test the feasibility of establishing kinship care as an alternative to foster care for a child who has adult relatives willing to provide safe and appropriate care for the child, and to require notice to adult relative caregivers; to the Committee on Finance.

THE KINSHIP CARE ACT OF 1997

● Mr. WYDEN. Mr. President, today I am introducing the Kinship Care Act of 1997. Grandparents caring for grandchildren represent one of the most underappreciated and perhaps underutilized natural resources in our Nation. Yet they hold tremendous potential for curing one of our society's most pressing problems—the care of children who have no parents, or whose parents simply aren't up to the task of providing children a stable, secure, and nurturing living environment.

There is such a great reservoir of love and experience available to us, and more especially to the tens of thousands of American children who desperately need basic care giving. We provide public assistance for strangers to give this kind of care, but the folks available to do it are in short supply.

Legislation I am introducing in the Senate today will give States the flexibility to provide the support these grandparents need, so that our seniors can fill the care gap. Last year, as part of welfare reform, Senator COATS and I were successful in passing legislation that would give preference to an adult relative over a nonrelated caregiver when determining a placement for a child. My new legislation will continue the process of shifting the focus of our child welfare system from leaving children with strangers to leaving them in the loving arms of grandparents and other relatives.

I am not noticing a new trend. States have been moving in this direction for over a decade. Over the past 10 years the number of children involved in extended family arrangements has increased by 40 percent. Currently, more than four million children are being raised by their grandparents. In other words, 5 percent of all families in this country are headed by grandparents.

My view is that it's time for the Federal Government to get with the program and start developing policies that make it easier, instead of more difficult, for families to come together to raise their children.

My bill has several parts. First, it would allow States to obtain waivers to set up kinship care guardianship systems where grandparents and other relative providers can receive some financial assistance without having to turn over custody of the child to the State and without having to go through the paperwork and bureaucratic hurdles of the foster care system.

Grandparents already face a number of hurdles when they suddenly find themselves caring for a grandchild. These may include living in seniors-only housing, not having clothes or

space for a grandchild, or living on a fixed income. We need to encourage States to start making their child protection systems grandparent- and relative-friendly.

The second part of this bill requires states to give relative caregivers notice of and an opportunity to be heard in hearings or case reviews with respect to the child's safety and well-being. I have repeatedly heard the frustration of these grandparents and relative caregivers who say they never knew about or were not allowed to attend a hearing or case review affecting a child for whom they may be caring or have cared for years. Surely their voices should be heard in those circumstances where the well-being and safety of the child is being discussed.

As we reevaluate the effectiveness of our country's child protection systems, it's time that we start developing some new ideas and new ways to use our resources more effectively to find loving environments for children who can't live with their natural parents.

I applaud the efforts of my colleague in the House, Representative CONNIE MORELLA who has introduced the companion bill in the House, and I urge my colleagues on both sides of the aisle to join with me in giving states increased flexibility to make their foster care systems more grandparent friendly.

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. 822

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 ''Kinship Care Act of 1997''.

SEC. 2. KINSHIP CARE DEMONSTRATION PROJECTS.

(a) IN GENERAL.—Part E of title IV of the Social Security Act (42 U.S.C. 670–679) is amended by inserting after section 477 the following:

''SEC. 478. KINSHIP CARE DEMONSTRATION PROJECTS.

''(a) PURPOSE.—The purpose of this section is to allow and encourage States to develop effective alternatives to foster care for children who might be eligible for foster care but who have adult relatives who can provide safe and appropriate care for the child.

''(b) DEMONSTRATION AUTHORITY.—The Secretary may authorize any State to conduct a demonstration project designed to determine whether it is feasible to establish kinship care as an alternative to foster care for a child who—

''(1) has been removed from home as a result of a judicial determination that continuation in the home would be contrary to the welfare of the child;

''(2) would otherwise be placed in foster care; and

''(3) has adult relatives willing to provide safe and appropriate care for the child.

''(c) KINSHIP CARE DEFINED.—As used in this section, the term 'kinship care' means safe and appropriate care (including long-term care) of a child by 1 or more adult relatives of the child who have legal custody of the child, or physical custody of the child pending transfer to the adult relative of legal custody of the child.

''(d) PROJECT REQUIREMENTS.—In any demonstration project authorized to be conducted under this section, the State—

''(1) should examine the provision of alternative financial and service supports to families providing kinship care; and

''(2) shall establish such procedures as may be necessary to assure the safety of children who are placed in kinship care.

''(e) WAIVER AUTHORITY.—The Secretary may waive compliance with any requirement of this part which (if applied) would prevent a State from carrying out a demonstration project under this section or prevent the State from effectively achieving the purpose of such a project, except that the Secretary may not waive—

''(1) any provision of section 422(b)(10), section 479, or this section; or

''(2) any provision of this part, to the extent that the waiver would impair the entitlement of any qualified child or family to benefits under a State plan approved under this part.

''(f) PAYMENTS TO STATES; COST NEUTRALITY.—In lieu of any payment under section 473 for expenses incurred by a State during a quarter with respect to a demonstration project authorized to be conducted under this section, the Secretary shall pay to the State an amount equal to the total amount that would be paid to the State for the quarter under this part, in the absence of the project, with respect to the children and families participating in the project.

''(g) USE OF FUNDS.—A State may use funds paid under this section for any purpose related to the provision of services and financial support for families participating in a demonstration project under this section.

''(h) DURATION OF PROJECT.—A demonstration project under this section may be conducted for not more than 5 years.

''(i) APPLICATION.—Any State seeking to conduct a demonstration project under this section shall submit to the Secretary an application, in such form as the Secretary may require, which includes—

''(1) a description of the proposed project, the geographic area in which the proposed project would be conducted, the children or families who would be served by the proposed project, the procedures to be used to assure the safety of such children, and the services which would be provided by the proposed project (which shall provide, where appropriate, for random assignment of children and families to groups served under the project and to control groups);

''(2) a statement of the period during which the proposed project would be conducted, and how, at the termination of the project, the safety and stability of the children and families who participated in the project will be protected;

''(3) a discussion of the benefits that are expected from the proposed project (compared to a continuation of activities under the State plan approved under this part);

''(4) an estimate of the savings to the State of the proposed project;

''(5) a statement of program requirements for which waivers would be needed to permit the proposed project to be conducted;

''(6) a description of the proposed evaluation design; and

''(7) such additional information as the Secretary may require.

''(j) STATE EVALUATIONS AND REPORTS.—Each State authorized to conduct a demonstration project under this section shall—

''(1) obtain an evaluation by an independent contractor of the effectiveness of the project, using an evaluation design approved by the Secretary which provides for—

''(A) comparison of outcomes for children and families (and groups of children and families) under the project, and such outcomes under the State plan approved under this part, for purposes of assessing the effectiveness of the project in achieving program goals; and

''(B) any other information that the Secretary may require;

''(2) obtain an evaluation by an independent contractor of the effectiveness of the State in assuring the safety of the children participating in the project; and

''(3) provide interim and final evaluation reports to the Secretary, at such times and in such manner as the Secretary may require.

''(k) REPORT TO THE CONGRESS.—Not later than 4 years after the date of the enactment of this section, the Secretary shall submit to the Congress a report that contains the recommendations of the Secretary for changes in law with respect to kinship care and placements.''.

(b) CONFORMING AMENDMENTS.—Title IV of the Social Security Act (42 U.S.C. 601 et seq.) is amended

(1) in section 422(b)—

(A) by striking the period at the end of the paragraph (9) (as added by section 554(3) of the Improving America's Schools Act of 1994 (Public Law 103–382; 108 Stat. 4057)) and inserting a semicolon;

(B) by redesignating paragraph (10) as paragraph (11); and

(C) by redesignating paragraph (9), as added by section 202(a)(3) of the Social Security Act Amendments of 1994 (Public Law 103–432, 108 Stat. 4453), as paragraph (10);

(2) in sections 424(b), 425(a), and 472(d), by striking ''422(b)(9)'' each place it appears and inserting ''422(b)(10)''; and

(3) in section 471(a)—

(A) by striking ''and'' at the end of paragraph (17);

(B) by striking the period at the end of paragraph (18) (as added by section 1808(a) of the Small Business Job Protection Act of 1996 (Public Law 104–188; 110 Stat. 1903)) and inserting ''; and''; and

(C) by redesignating paragraph (18) (as added by section 505(3) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2278)) as paragraph (19).

SEC. 3. NOTICE TO RELATIVE CAREGIVERS.

(a) IN GENERAL.—Section 471(a)(19) of the Social Security Act (42 U.S.C. 671(a)(19), as redesignated by section 1(b)(3)(C), is amended to read as follows:

''(19) provides that the State shall, with respect to an adult relative caregiver for a child—

''(A) provide that relative caregiver with notice of, and an opportunity to be heard in, any dispositional hearing or administrative review held with respect to the child; and

''(B) give preference to that relative caregiver over a non-related caregiver when determining a placement for a child, provided that the relative caregiver meets all relevant State child protection standards, and that placement with the relative caregiver would be consistent with the safety needs of the child.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on October 1, 1997.●

By Mr. ASHCROFT:

S. 825. A bill to provide for violent and repeat juvenile offender accountability, and for other purposes; to the Committee on the Judiciary.

THE PROTECT CHILDREN FROM VIOLENCE ACT

Mr. ASHCROFT. Mr. President, yesterday's Washington Post reported a decrease in crime nationwide. The Post

also reported that Attorney General Reno and President Clinton quickly stepped up to take credit for this news.

But in this same article James Alan Fox, dean of Northeastern University's college of criminal justice, suggested that the decreasing crime numbers were more a function of demographics. According to Dean Fox, ''The aging of a large segment of the population has played a key role in the decline. Adults tend to be less violent than juveniles.'' But if crime statistics are, indeed, a function of demographics, then the demographics suggest that the juvenile crime rates will continue to rise. As Dean Fox indicated, the juvenile population will grow over the next decade.

The available numbers confirm that the rate of violent juvenile crimes is increasing. The Washington Post also mentioned that between 1985 and 1995, the number of murders committed by juveniles increased 145 percent. And criminologist suggest that the baby boom of the 1980's will bring tidalwave of vicious violent youth onto our streets.

Mr. President, today, I am introducing legislation to protect our children from people who would lead them astray and from those who are dangerous in our midst.

The dangerous environment in which our children live today dictates that we make several fundamental changes in the way we treat dangerous, violent juveniles and those people—juveniles and adults, alike—who lure our children into drugs and gangs. We must come down harder on juveniles who commit serious violent crimes—incarcerating them and trying them as adults—and we must improve our recordkeeping capability for these dangerous juveniles so that courts, police officers, and schools know when they have a potential killer in their midst. Furthermore, we must punish severely those adults who seek to corrupt our kids by luring them into gangs, drugs, and a life of crime.

This bill, the Protect Children from Violence Act, will update our current juvenile justice laws to reflect the new vicious nature of today's teen criminals.

The act has several components, but first and foremost it would require Federal prosecutors and States, in order to qualify for $750 million in new incentive grants, to try as adults those juveniles 14 and older who commit serious violent offenses, such as rape or murder. There is nothing juvenile about these crimes, and the perpetrators must be treated and tried as adults.

Some of the laws on the books inadvertently pervert the direction of the law enforcement system, offering more protections to the perpetrators, than to the public. This must cease. Strengthening our juvenile justice laws is the first line of defense in protecting the public and providing greater protection for innocent children than for violent criminals.

In order to do this, we must also ensure that our law enforcement officials, courts and schools have clear lines of communications and access to the records of violent juvenile offenders. This bill does this by requiring the fingerprinting and photographing of juveniles found guilty of crimes that would be felonies if committed by an adult. The bill would also ensure that those records are made available to Federal and State law enforcement officials and school officials, so they will know who they are dealing with when they confront a dangerous juvenile offender.

Typically, State statutes seal juvenile criminal records and expunge those records when the juvenile reaches age 18. Today's young criminal predators understand that when they reach their 18th birthday, they can begin their second career as adult criminals with an unblemished record. The time has come to discard anachronistic idea that crimes committed by juveniles must be kept confidential, no matter how heinous the crime.

Our law enforcement agencies, courts, and school officials need improved access to juvenile records so that they have the tools to deal with the exponential increase in the severity and frequency of juvenile crimes.

For too long, law enforcement officers have operated in the dark. Our police departments need to have access to the prior juvenile criminal records of individuals to assist them in criminal investigations and apprehension.

According to Police Chief David G. Walchak, who is immediate past president of the International Association of Chiefs of Police, law enforcement officials are in desperate need of access to juvenile criminal records. The police chief has said, ''Current juvenile records—both arrest and adjudication—are inconsistent across the States, and are usually unavailable to the various programs' staff who work with youthful offenders.''

Chief Walchak also notes that ''If we [in law enforcement] don't know who the youthful offenders are, we can't appropriately intervene.''

Chief Walchak is not the only one saying this. Law enforcement officers in my home State have told me that when they arrest juveniles they have no idea with whom they are dealing because the records are kept confidential.

School officials, as well as courts and law enforcement officials, need access to juvenile criminal records to assist them in providing for the best interests of all students and preventing more tragedies.

The decline in school safety across the country can be attributed to a significant degree to laws that put the protection of dangerous students ahead of protecting the innocent—those that go to school to learn, not to rape, maim, and murder.

While visiting with school officials in Sikeston, MO, a teacher told me how one of her students came to school wearing an electronic monitoring ankle bracelet. Can you imagine being that teacher and having to turn around—back to the class—to write on the chalk board not knowing whether that student was a rapist, or even a murderer?

School officials need access to juvenile criminal records so that they can keep a close eye on potentially dangerous predators and take preventive measures. Judicial and law enforcement authorities need this information because it is vital to the protection of public safety.

In addition to requiring that Federal and State prosecutors try violent juvenile offenders as adults and increasing recordkeeping and sharing capability, this bill also enhances the Federal criminal penalties for those adults who seek to lure juveniles into criminal activity or drug use.

For example, any adult who distributes drugs to a minor, traffics in drugs in or near a school, or uses minors to distribute drugs would face a minimum 3-year jail sentence—as compared to the 1-year minimum under current law.

This bill also doubles the maximum jail time and fines for adults who use minors in crimes of violence. The second time the adult hides behind the juvenile status of a child by using him to commit a crime, the adult faces a tripling of the maximum sentence, and fine.

Furthermore, the Protect Children from Violence Act elevates a Federal crime the recruiting of minors to participate in gang activity. Under this legislation, those gangsters who lure our children into gangs will face a Federal prosecutor and a Federal penitentiary.

A 1993 survey reported an estimated 4,881 gangs with 249,324 gang members in the United States. Those figures are disturbing enough. But a second study, conducted just 2 years later, found that the number of gangs had increased more than fourfold, with 23,388 gangs claiming over 650,000 members. We need legislation to stem this rising tide.

Let me quickly recap the highlights of this legislation. In order to qualify for incentive grants, States would be required to try juveniles as adults if they commit certain violent crimes such as rape and murder. States also would have to fingerprint and keep records on juveniles who commit crimes that would be felonies if committed by adults, and States must allow public access to juvenile criminal records of repeat juvenile offenders. These same provisions would apply to Federal law enforcement officials. To protect our children from adults who prey on them, this bill doubles and triples the jail time for those convicted of using a juvenile to commit a violent crime or to distribute drugs. Anyone caught dealing drugs to minors or near a school will face three times the penalty under current law.

This bill is a reasonable and prudent response to the threat that violent

youths, and the adults that lead them into life of crime, pose to our children. The moneys authorized will be used to deter and incarcerate violent juvenile criminals, not just to provide for more midnight basketball and prevention programs—the situation, and our future, demands more that that. We need to take into account the needs of the innocent children—not sacrifice their protection in the name of privacy of violent juvenile perpetrators.

By Mr. LAUTENBERG (for himself, Mr. DURBIN and Mr. KERRY):

S. 826. A bill to amend the Public Health Service Act to protect the public from health hazards caused by exposure to environmental tobacco smoke, and for other purposes; to the Committee on Environment and Public Works.

THE SMOKE-FREE ENVIRONMENT ACT OF 1997

● Mr. LAUTENBERG. Mr. President, I introduce the Smoke-Free Environment Act of 1997. This bill will help decrease the death rates from a toxic pollutant that exists in the air of our Nation's factories, office buildings, retail stores, and Government facilities. I am speaking of secondhand smoke from cigarettes and other tobacco products, which kills tens of thousands of Americans each year.

A recent study put an end to the tobacco industry's distortions and misinformation on this issue. A Harvard University study which tracked 32,000 nonsmoking women for 10 years found that regular exposure at home or at work to secondhand smoke nearly doubled their risk of heart disease.

Mr. President, we have been aware of the risk of lung cancer from secondhand smoke for several years now, but this study confirms what many have suspected about the link between secondhand smoke and heart disease. The results of this study means that approximately 50,000 fatal heart attacks each year are caused by exposure to tobacco smoke.

My bill would require that every building—both Government and private—protect Americans from exposure to secondhand smoke. It can be accomplished in one of two ways. The building could either ban smoking altogether or set up smoking rooms that are separately ventilated from the rest of the building.

Mr. President, the bill also would finish a job I started with Senator DURBIN 10 years ago. In 1987, we banned smoking on domestic airline flights of 2 hours or less. In 1989, we extended that ban to flights of 6 hours or less.

The smoking ban has been a tremendous success. Passengers have been so pleased by a smokefree environment in the air that many airlines have voluntarily extended the ban to all domestic flights and international flights. However, some airlines have not, and many passengers and flight attendants are still subjected to dangerous secondhand smoke on airplanes.

Mr. President, the Smoke-Free Environment Act will also ban smoking on any flight that originates in the United States, and lands in a foreign country. Americans should be able to travel abroad with the peace of mind that they will not be locked into a poisonous cabin for 10 or 15 hours, and flight attendants will not have to worry that they will increase their risk of heart disease almost twofold by simply performing their job.

Mr. President, yesterday, a trial opened in Miami, in which flight attendants sued the tobacco industry over health injuries caused by exposure to secondhand smoke before the passage of my law banning smoking on domestic flights. These flight attendants have a legitimate case, and it is time to prevent similar litigation in the future by cleaning all the air in the skies, in Government offices, in stores, and in all of our places of work.

Mr. President, nonsmokers never choose to be exposed to tobacco smoke. The smoke of a cigarette is not only harming the smoker, but also severely injuring others with secondhand smoke.

Multiple studies have shown that regular exposure to secondhand smoke results in the following for nonsmokers: Damage to the arteries, reduction of oxygen supply in the body, and increases in the tendency of blood platelet to stick together and clot.

Mr. President, how can we speak about the importance of children's health while our kids are being exposed to this deadly smoke. It is time for Congress to get serious about the health crisis caused by secondhand smoke, and pass the Smoke-Free Environment Act.

Mr. President, I ask unanimous consent that a copy of the bill be inserted into the RECORD. I also ask unanimous consent that a New York Times article on the Harvard study be inserted into the RECORD.

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

S. 826

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 ''Smoke-Free Environment Act of 1997''.

SEC. 2. SMOKE-FREE ENVIRONMENT POLICY.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by adding at the end the following:

''TITLE XXVIII—SMOKE-FREE ENVIRONMENTS

''SEC. 2801. SMOKE-FREE ENVIRONMENT POLICY.

''(a) POLICY REQUIRED.—In order to protect children and adults from cancer, respiratory disease, heart disease, and other adverse health effects from breathing environmental tobacco smoke, the responsible entity for each public facility shall adopt and implement at such facility a smoke-free environment policy which meets the requirements of subsection (b).

''(b) ELEMENTS OF POLICY.—Each smoke-free environment policy for a public facility shall—

''(1) prohibit the smoking of cigarettes, cigars, and pipes, and any other combustion of tobacco, within the facility and on facility property within the immediate vicinity of the entrance to the facility; and

''(2) post a clear and prominent notice of the smoking prohibition in appropriate and visible locations at the public facility.

The policy may provide an exception to the prohibition specified in paragraph (1) for one or more specially designated smoking areas within a public facility if such area or areas meet the requirements of subsection (c).

''(c) SPECIALLY DESIGNATED SMOKING AREAS.—A specially designated smoking area meets the requirements of this subsection if it satisfies each of the following conditions:

''(1) The area is ventilated in accordance with specifications promulgated by the Administrator that ensure that air from the area is directly exhausted to the outside and does not recirculate or drift to other areas within the public facility.

''(2) Nonsmoking individuals do not have to enter the area for any purpose.

''(3) Children under the age of 15 are prohibited from entering the area.

''SEC. 2802. CITIZEN ACTIONS.

''(a) IN GENERAL.—An action may be brought to enforce the requirements of this title by any aggrieved person, any State or local government agency, or the Administrator.

''(b) VENUE.—Any action to enforce this title may be brought in any United States district court for the district in which the defendant resides or is doing business to enjoin any violation of this title or to impose a civil penalty for any such violation in the amount of not more than $5,000 per day of violation. The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce this title and to impose civil penalties under this title.

''(c) NOTICE.—An aggrieved person shall give any alleged violator notice of at least 60 days prior to commencing an action under this section. No action may be commenced by an aggrieved person under this section if such alleged violator complies with the requirements of this title within such 60-day period and thereafter.

''(d) COSTS.—The court, in issuing any final order in any action brought pursuant to this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing party, whenever the court determines such award is appropriate.

''(e) PENALTIES.—The court in any action under this section to apply civil penalties shall have discretion to order that such civil penalties be used for projects that further the policies of this title. The court shall obtain the view of the Administrator in exercising such discretion and selecting any such projects.

''(f) DAMAGES.—No damages of any kind, whether compensatory or punitive, shall be awarded in actions brought pursuant to this title.

''(g) ISOLATED INCIDENTS.—Violations of the prohibition specified in section 2801(b)(1) by an individual within a public facility or on facility property shall not be considered violations of this title on the part of the responsible entity if such violations—

''(1) are isolated incidents that are not part of a pattern of violations of such prohibition; and

''(2) are not authorized by the responsible entity.

''SEC. 2803. PREEMPTION.

''Nothing in this title shall preempt or otherwise affect any other Federal, State or local law which provides protection from health hazards from environmental tobacco smoke.

''SEC. 2804. REGULATIONS.

''The Administrator is authorized to promulgate such regulations as the Administrator deems necessary to carry out this title.

''SEC. 2805. EFFECTIVE DATE.

''The requirements of this title shall take effect on the date that is 1 year after the date of the enactment of the Smoke-Free Environment Act of 1997.

''SEC. 2806. DEFINITIONS.

''In this title:

''(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

''(2) PUBLIC FACILITY.—The term 'public facility' means any building regularly entered by 10 or more individuals at least one day per week, including any such building owned by or leased to a Federal, State, or local government entity. Such term shall not include any building or portion thereof regularly used for residential purposes.

''(3) RESPONSIBLE ENTITY.—The term 'responsible entity' means, with respect to any public facility, the owner of such facility, except that in the case of any such facility or portion thereof which is leased, such term means the lessee.''.

SEC. 3. PROHIBITIONS AGAINST SMOKING ON SCHEDULED FLIGHTS.

(a) IN GENERAL.—Section 41706 of title 49, United States Code, is amended to read as follows:

''§ 41706. Prohibitions against smoking on scheduled flights

''(a) SMOKING PROHIBITION IN INTRASTATE AND INTERSTATE AIR TRANSPORTATION.—An individual may not smoke in an aircraft on a scheduled airline flight segment in interstate air transportation or intrastate air transportation.

''(b) SMOKING PROHIBITION IN FOREIGN AIR TRANSPORTATION.—The Secretary of Transportation shall require all air carriers and foreign air carriers to prohibit, on and after the 120th day following the date of the enactment of the Smoke-Free Environment Act of 1997, smoking in any aircraft on a scheduled airline flight segment within the United States or between a place in the United States and a place outside the United States.

''(c) LIMITATION ON APPLICABILITY.—With respect to an aircraft operated by a foreign air carrier, the smoking prohibitions contained in subsections (a) and (b) shall apply only to the passenger cabin and lavatory of the aircraft.

''(d) REGULATIONS.—The Secretary shall prescribe regulations necessary to carry out this section.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 60th day following the date of the enactment of this Act.

[From the New York Times News Service, May 20, 1997]

STUDY FINDS SECONDHAND SMOKE DOUBLES HEART DISEASE

(By Denise Grady)

Secondhand cigarette smoke is more dangerous than previously thought, Harvard researchers are reporting on Tuesday in a study with broad implications for public health policy and probable direct impact on at least one major lawsuit.

The 10-year study, which tracked more than 32,000 healthy women who never smoked, has found that regular exposure to other peoples' smoking at home or work almost doubled the risk of heart disease.

Many earlier studies have linked secondhand smoke to heart disease, but the new findings show the biggest increase in risk ever reported, and the researchers say that it applies equally to men and women.

The women in the study, who ranged in age from 36 to 61 when the study began, suffered 152 heart attacks, 25 of them fatal. The results mean that ''there may be up to 50,000 Americans dying of heart attacks from passive smoking each year,'' said Dr. Ichiro Kawachi, an assistant professor of health and social behavior at the Harvard School of Public Health and the lead author of the study, which was published in the journal Circulation.

By contrast, lung cancer deaths from passive smoking are estimated to be far fewer, at 3,000 to 4,000 a year. Because heart disease is much more common than lung cancer, even a small increase in risk can cause many deaths.

Before this study, it was known that passive smoking caused increased risk for several ailments, including asthma and bronchitis, as well as middle-ear infections in young children. But the increased risk for heath disease had been estimated at about 30 percent.

''This is a very important study,' said Dr. Stanton Glantz, a professor of medicine at the University of California at San Francisco, who has done extensive research on passive smoking but who was not involved in the Harvard study. ''It's exceptionally strong and from a very solid group.'' Glantz also praised the Harvard team for what he called its careful analysis of workplace exposure to smoke, which had rarely been done before.

:'That's important because of the effort to create laws controlling smoking in the workplace,'' he said.

Although the federal Occupational Safety and Health Administration has proposed nationwide workplace rules, they are not yet in effect. Regulations vary by state or city.

''This study will be of enormous help to legislative bodies, statewide and locally, who are trying to get limits on smoking, especially in controversial areas like restaurants and bars, where the tobacco industry has worked closely with restaurant associations to block legislation to make these places go smoke free,'' said Edward Sweda, a senior lawyer with the Tobacco Control Resource Center at Northeastern University in Boston.

The study may be particularly pertinent for one lawsuit.

''From our standpoint, that's a wonderful study,'' said Stanley Rosenblatt, a Miami lawyer representing flight attendants in a class-action suit against tobacco companies that will go to trial on June 2.

That suit is the first class-action suit based on the effects of secondhand smoke. The case could ultimately involve 60,000 former and current flight attendants, who will be seeking billions in damages, Rosenblatt said. The attendants contend they were harmed by smoke in airplane cabins when smoking was legal on most flights. Most of the plaintiffs have had lung cancer or respiratory ailments.

The Philip Morris Cos., which is named in the flight attendants' suit, declined to comment on the study. The Tobacco Institute, an industry group, said it could not comment on the study because it has not seen a copy of it.

The data being reported on Tuesday are from the Nurses' Health Study, a project that began in 1976 with 121,700 female nurses filling out detailed surveys every two years about their health and habits. To measure the effects of passive smoking, the researchers asked the women in 1982 about their exposure, and then monitored new cases of heart disease for the next decade. The analysis did not include all the study participants, but only the 32,046 who had never smoked and who at the onset did not have heart disease or cancer.

The women who reported being exposed regularly to cigarette smoke at home or work had a 91 percent higher risk of heart attack than those with no exposure. Even though the women worked in hospitals some were exposed to smoke on the job because at the time of the study many hospitals allowed smoking in certain areas. The study was set up to make sure that other risk factors like diabetes and high blood pressure did not account for the difference between the two groups.

Laboratory studies of the effects of passive smoke on the body support the survey findings, Glantz said.

In studies of both people and animals. Glantz and other researchers have identified several ways in which the chemicals in secondhand smoke can contribute to heart disease. Besides reducing a person's oxygen supply, the substances damage arteries, lower levels of the beneficial form of cholesterol known as HDL and increase the tendency of blood platelets to stick to one another and form clots that can trigger a heart attack. A study last year of healthy teen-agers and adults exposed to passive smoking for an hour or more a day detected artery damage. The higher the exposure was, the greater the damage.

But once the exposure ceases, the damage may quickly heal.

''In active smokers, the risk of heart disease drops immediately,'' half of the way to that of a nonsmoker within a year, Glantz said. ''It never gets quite back to the nonsmoker's level, but it comes close,'' he said. ''One would expect the same to be true for passive smoking.''

The Harvard study may supply ammunition for more lawsuit against the tobacco industry.

''I think it could have very profound implications legally,'' said John Banzhaf, a law professor at George Washington University and executive director of Action on Smoking and Health, an antismoking group. ''We now have proof which will meet the legal threshold requirement. In an ordinary civil suit, you have to prove something by what we call a preponderance of evidence, which means it's more probable than not.''

The doubling of risk shown on Tuesday's study satisfied that requirement, Banzhaf said, adding, ''You're right in that striking range with regard to the quantum of proof which we need.''

Because passive smoke can cause heart problems more quickly than it causes lung cancer, Banzhaf said, it will be easier to prove the connection to juries.

The study may also affect negotiations between Northwest Airlines and its flight attendants. The airline still allows smoking on many of its flights to Japan and has stated that it will continue to even after other American carriers ban smoking on those routes in July.

Flight attendants have protested the decision, but a spokesman for Northwest, John Austin, said the airline would maintain a smoking section because its major competitor on those flights, Japan Air Lines, permitted smoking.

''We believe that absent a smoking section we'll lose quite a bit of business in Japan,'' Austin said. But he added that Northwest's management had not yet seen the Harvard study. ''It'll certainly factor in,'' he said. ''But it's hard to say what the impact will be.''●

By Mr. DURBIN (for himself and Mr. LAUTENBERG):

S. 828. A bill to provide for the reduction in the number of children who use tobacco products, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE NO TOBACCO FOR KIDS ACT

Mr. DURBIN. Mr. President, for more than 5 years now, the tobacco companies have said repeatedly, ''We do not want to sell our products to kids.'' They have bought full page ads in the Washington Post, the New York Times, and the Wall Street Journal, saying that they adamantly oppose the sale of tobacco to kids.

I don't know many kids who read the Wall Street Journal, the New York Times, or the Washington Post. What the tobacco companies have been doing is creating a sham that they are serious about reducing sales to kids.

Let's take a look at the record. From 1991 to 1996, the percentage of children who use tobacco increased by almost 50 percent. This means that, at the same time the tobacco companies have been saying they are dedicated to reducing the illegal sales of tobacco to kids, more and more children have been buying the tobacco products those companies sell.

That is not an accident. This multibillion dollar industry is made up of tobacco companies that design their marketing and advertising to lure new customers into this addiction. The fact that more and more children are smoking is clear evidence that the tobacco companies have failed, once again, to tell the truth. They need these new, young customers to prop up their profits as older customers die or quit using tobacco. And they continue to do what it takes to secure a new generation of young people who are becoming hooked on their products.

Today, I am introducing, along with Senator FRANK LAUTENBERG and Congressman HENRY WAXMAN, a new piece of legislation that says the only honest way to approach the reduction of tobacco sales to children is to make the tobacco companies put their profits on the line.

The NO Tobacco For Kids Act says we will do a survey of the tobacco products for sale and find out how many children are using those products and what brands they are using. Then, each year, we will update that survey to see which products continue to be purchased by children. Those companies that continue to sell their products to children will face a fine of $1 a pack on all their sales if they don't reduce the number of children using their brands in steps to reach a reduction of 90 percent over the next 6 years. Since current childhood users will cycle out of the underage population over that time, this measure will give the tobacco companies a chance to show whether they are serious about reducing the use of tobacco products by kids.

Unless the tobacco companies have their profits on the line, we will continue to get cheap talk from them about stopping sales to kids. This bill puts teeth into the campaign to stop selling tobacco products to children. It sets a very simple standard for the tobacco companies: stop selling cigarettes and spit tobacco to children, or pay the consequences.

In the past, every child hooked on tobacco was a new profit center for the tobacco industry. This legislation totally reverses the incentives for marketing to children. When this measure becomes law, every new child who picks up a cigarette or pockets a can of spit tobacco will become an economic loss to the company whose products the child chooses. With that reversal, the tobacco companies will have a strong economic incentive to stop marketing to children.

Mr. President, this legislation could be one the simplest yet most effective steps we can take to reduce teenage tobacco use. I invite my colleagues to cosponsor the NO Tobacco For Kids Act and help us put in place clear performance standards for the tobacco industry to stop selling their products to minors.

I ask unanimous consent that a summary of this bill and the text of the bill appear in the RECORD.

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

S. 828

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 ''NO Tobacco for Kids Act''.

SEC. 2. CHILD TOBACCO USE SURVEYS.

(a) ANNUAL PERFORMANCE SURVEY.—Not later than 1 year after the date of the enactment of this Act and annually thereafter the Secretary shall conduct a survey to determine the number of children who used each manufacturer's tobacco products within the past 30 days.

(b) BASELINE LEVEL.—The baseline level of child tobacco product use of a manufacturer is the number of children determined to have used the tobacco products of such manufacturer in the first annual performance survey.

SEC. 3. GRADUATED PERFORMANCE STANDARDS.

(a) PERFORMANCE STANDARDS FOR EXISTING MANUFACTURERS.—Each manufacturer which manufactured a tobacco product on or before the date of the enactment of this Act shall reduce the number of children who use its tobacco products so that the number of children determined to have used its tobacco products on the basis of—

(1) the second annual performance survey is equal to or less than—

(A) 80 percent of the manufacturer's baseline level; or

(B) the de minimis level;

whichever is greater;

(2) the third annual performance survey is equal to or less than—

(A) 60 percent of the manufacturer's baseline level; or

(B) the de minimis level;

whichever is greater;

(3) the fourth annual performance survey is equal to or less than—

(A) 40 percent of the manufacturer's baseline level; or

(B) the de minimis level;

whichever is greater;

(4) the fifth annual performance survey is equal to or less than—

(A) 20 percent of the manufacturer's baseline level; or

(B) the de minimis level;

whichever is greater; and

(5) the sixth annual performance survey and each annual performance survey conducted thereafter is equal to or less than—

(A) 10 percent of the manufacturer's baseline level; or

(B) the de minimis level;

whichever is greater.

(b) PERFORMANCE STANDARDS FOR NEW MANUFACTURERS.—Any manufacturer of a tobacco product which begins to manufacture a tobacco product after the date of the enactment of this Act shall ensure that the number of children determined to have used the manufacturer's tobacco products in each annual performance survey conducted after the manufacturer begins to manufacture tobacco products is equal to or less than the de minimis level.

(c) DE MINIMIS LEVEL.—The de minimis level shall be 0.5 percent of the total number of children determined to have used tobacco products in the first annual performance survey.

SEC. 4. NONCOMPLIANCE.

(a) FIRST VIOLATION.—If a manufacturer of a tobacco product violates a performance standard, the manufacturer shall pay a noncompliance fee of $1 for each unit of its tobacco product which is distributed for consumer use in the year following the year in which the performance standard is violated.

(b) FEE INCREASE FOR SUBSEQUENT VIOLATIONS.—If a manufacturer violates the performance standards in 2 or more consecutive years, the noncompliance fee for such manufacturer shall be increased by $1 for each consecutive violation for each unit of its tobacco product which is distributed for consumer use.

(c) REDUCTION IN NONCOMPLIANCE FEE.—If a manufacturer achieves more than 90 percent of the reduction in the number of children who use its tobacco products that is required under the applicable performance standard, the noncompliance fee required to be paid by the manufacturer shall be reduced on a pro rata basis such that there shall be a noncompliance fee reduction of 10 percent for each percentage point over 90 percent achieved by the manufacturer.

(d) PAYMENT.—The noncompliance fee to be paid by a manufacturer shall be paid on a quarterly basis, with the payments due within 30 days after the end of each calendar quarter.

SEC. 5. USE OF NONCOMPLIANCE FEE.

(a) FUNDS FOR ENFORCEMENT AND EDUCATION.—The first $1,000,000,000 of noncompliance fees collected in any fiscal year shall go into a Tobacco Enforcement and Education Fund in the United States Treasury. Fees in such fund shall be available to the Secretary, without fiscal year limitation, to enforce this Act and other Federal laws relating to tobacco use by children and for public education to discourage children from using tobacco products.

(b) FUNDS FOR THE TREASURY.—Any amount of noncompliance fees collected in any fiscal year which exceeds $1,000,000,000 shall be paid into the United States Treasury.

SEC. 6. JUDICIAL REVIEW.

A manufacturer of tobacco products may seek judicial review of any action under this Act only after a noncompliance fee has been assessed and paid by the manufacturer and only in the United States District Court for the District of Columbia. In an action by a manufacturer seeking judicial review of an annual performance survey, the manufacturer may prevail—

(1) only if the manufacturer shows that the results of the performance survey were arbitrary and capricious; and

(2) only to the extent that the manufacturer shows that it would have been required to pay a lesser noncompliance fee if the results of the performance survey were not arbitrary and capricious.

SEC. 7. ENFORCEMENT.

Section 301 of the Federal Food, Drug, and Cosmetic Act (28 U.S.C. 331) is amended by adding at the end the following:

''(x) The failure to pay any noncompliance fee required under the NO Tobacco for Kids Act.''.

SEC. 8. PREEMPTION.

Nothing in this Act shall preempt or otherwise affect any other Federal, State, or local law or regulation which reduces the use of tobacco products by children.

SEC. 9. DEFINITIONS.

In this Act:

(1) CHILDREN.—The term ''children'' means individuals under the age of 18.

(2) CIGARETTE.—The term ''cigarette'' has the same meaning given such term by section 3(1) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332(1)).

(3) CIGARETTE TOBACCO.—The term ''cigarette tobacco'' means any product that consists of loose tobacco that contains or delivers nicotine and is intended for use by consumers in a cigarette.

(4) MANUFACTURE.—The term ''manufacture'' means the manufacturing, including repacking or relabeling, fabrication, assembly, processing, labeling, or importing of a tobacco product.

(5) MANUFACTURER.—The term ''manufacturer'' means any person who manufactures a tobacco product.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(7) SMOKELESS TOBACCO.—The term ''smokeless tobacco'' has the same meaning given such term by section 9(1) of the Comprehensive Smokeless Tobacco Education Act of 1986 (15 U.S.C. 4408(1)).

(8) TOBACCO PRODUCT.—The term ''tobacco product'' means a cigarette, cigarette tobacco, or smokeless tobacco.

(9) UNIT.—The term ''unit'' when used in connection with a tobacco product means 20 cigarettes in the case of cigarettes and the smallest amount of tobacco distributed by a manufacturer for consumer use in the case of any other tobacco product.

THE NO TOBACCO FOR KIDS ACT (NOT FOR KIDS)

The NO Tobacco for Kids Act (NOT for Kids) will establish a clear performance standard for the reduction of youth smoking in America. For too many years, the tobacco companies have claimed they oppose youth smoking and spit tobacco use while continuing to hook new generations of kids on their deadly products. This bill sets out a schedule to reduce actual youth tobacco use and contains provisions that, for the first time, will give individual tobacco companies an economic incentive to stop marketing their products to children. Specifically, the bill provides that:

Within 1 year after enactment, the Secretary of HHS will conduct a survey to determine the number of children who used each manufacturer's tobacco products within the previous 30 days.

Each manufacturer will then face penalties if it does not reduce the number of children who use its tobacco products by specified percentages from this baseline level over the succeeding years. The performance standard for each manufacturer is as follows: Year 1: no standard, baseline survey is taken; year 2: 20-percent reduction from the baseline; year 3: 40-percent reduction from the baseline; year 4: 60-percent reduction from the baseline; year 5: 80-percent reduction from the baseline; year 6: 90-percent reduction from the baseline; and subsequent years: 90-percent reduction from the baseline.

Manufacturers that reduce use to a de minimus level—one-half percent of the current number of youth smokers—will be deemed in compliance.

If a manufacturer violates the performance standard, that manufacturer must pay a noncompliance fee of $1 per pack, pouch, can, et cetera, on all of their tobacco sales in the subsequent year—not just on sales to youth. If the manufacturer violates the performance standard for 2 or more consecutive years, the noncompliance fee is increased by $1 for each consecutive year of violation. A manufacturer who comes within 10 percent of the required reduction for a particular year will have its noncompliance fee reduced on a pro rata basis.

The first $1 billion of noncompliance fees collected in any fiscal year will go into a fund for enforcement and public education to discourage children from using tobacco products. Any additional fees will go to the Treasury for deficit reduction.

By Mrs. BOXER (for herself, Mrs. FEINSTEIN and Mr. KENNEDY):

S. 829. A bill to amend the Internal Revenue Code of 1986 to encourage the production and use of clean-fuel vehicles, and for other purposes; to the Committee on Finance.

THE CLEAN-FUEL VEHICLE ACT OF 1997

Mrs. BOXER. Mr. President, today I am introducing the Clean Fuel Vehicle Act of 1997 to provide a program of tax incentives and other changes to promote the use of clean fuel vehicles. I believe that, as a U.S. Senator, I have no greater responsibility than to support policies that will protect the health and safety of the American people. Today, I want to tell you why I believe that my bill, the Clean Fuel Vehicle Act, is an important part of meeting that responsibility.

More than 43 million people in the United States live in areas that fail to meet EPA's air quality standards for carbon monoxide. We have 13 million people in nonattainment areas for nitrogen oxide. And, in my State of California, nearly 26 million people live in a nonattainment area for one or more pollutants, out of a state of nearly 32 million people. Air pollution is a very serious problem. According to the EPA, the current annual average concentrations of fine particulate matter in southeast Los Angeles County may be responsible for up to 3,000 deaths annually, and more then 52,000 incidences of respiratory symptoms including 1,000 hospital admissions.

Young children constitute the largest group at high risk from exposure to air pollutants. They breathe 50 percent more air by body weight than the average adult. In California alone there are over 6 million children under the age of 14 and approximately 90 percent of them live in areas that fail to meet State and Federal standards. How are our children being affected? Studies show health effects ranging from 20 to 60 percent losses of lung capacity.

So much of our air pollution problem comes from automobiles and other vehicles that burn fossil fuel. Sixty-five percent of carbon dioxide emissions and 47 percent of nitrogen oxide emissions come from cars and trucks.

I believe we must reinvigorate—electrify if you will—our efforts for clean fuel vehicles. The role of the Federal Government should be to encourage the market for these vehicles for a limited period of time with tax incentives.

The Clean Fuel Vehicle Act would make it easier for both individual car buyers and government purchasers of auto fleets to purchase clean fuel vehicles. In summary, the bill repeals the luxury excise tax on clean fuel vehicles—a $320 savings this year on a $40,000, factory-built electric vehicle, and repeals the luxury tax depreciation cap. It provides a full tax credit of $4,000 on the purchase of an electric vehicle. It allows companies which lease electric vehicles to government agencies to take advantage of the tax incentives and pass on the savings. It makes electric buses and other heavy duty electric vehicles eligible for the same tax deduction already in place for other clean fuel buses and heavy duty equipment. It lowers the excise tax on liquified natural gas—used in heavy vehicles such as tractor-trailer rigs and buses—to the gasoline gallon equivalent of compressed natural gas so that it can be competitive with diesel fuel. And, it sunsets all these tax incentives by January 1, 2005.

According to estimates by the Joint Committee on Taxation, the bill would cost only about $22 million over 5 years. My bill is endorsed by the Union of Concerned Scientists, the Electric Transportation Coaltion, and the Natural Gas Vehicle/USA.

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. 829

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

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the ''Clean-Fuel Vehicle Act of 1997''.

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

SEC. 2. EXEMPTION OF ELECTRIC AND OTHER CLEAN-FUEL MOTOR VEHICLES FROM LUXURY AUTOMOBILE CLASSIFICATION.

(a) IN GENERAL.—Subsection (a) of section 4001 (relating to imposition of tax) is amended to read as follows:

''(a) IMPOSITION OF TAX.—

''(1) IN GENERAL.—There is hereby imposed on the 1st retail sale of any passenger vehicle a tax equal to 10 percent of the price for which so sold to the extent such price exceeds the applicable amount.

''(2) APPLICABLE AMOUNT.—

''(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the applicable amount is $30,000.

''(B) QUALIFIED CLEAN-FUEL VEHICLE PROPERTY.—In the case of a passenger vehicle which is propelled by a fuel which is not a clean-burning fuel to which is installed qualified clean-fuel vehicle property (as defined in section 179A(c)(1)(A)) for purposes of

permitting such vehicle to be propelled by a clean-burning fuel, the applicable amount is equal to the sum of—

''(i) $30,000, plus

''(ii) the increase in the price for which the passenger vehicle was sold (within the meaning of section 4002) due to the installation of such property.

''(C) PURPOSE BUILT PASSENGER VEHICLE.—

''(i) IN GENERAL.—In the case of a purpose built passenger vehicle, the applicable amount is equal to 150 percent of $30,000.

''(ii) PURPOSE BUILT PASSENGER VEHICLE.—For purposes of clause (i), the term 'purpose built passenger vehicle' means a passenger vehicle produced by an original equipment manufacturer and designed so that the vehicle may be propelled primarily by electricity.''

(b) CONFORMING AMENDMENTS.—

(1) Subsection (e) of section 4001 (relating to inflation adjustment) is amended to read as follows:

''(e) INFLATION ADJUSTMENT.—

''(1) IN GENERAL.—The $30,000 amount in subparagraphs (A), (B)(i), and (C)(i) of subsection (a)(2) shall be increased by an amount equal to—

''(A) $30,000, multiplied by

''(B) the cost-of-living adjustment under section 1(f)(3) for the calendar year in which the vehicle is sold, determined by substituting 'calendar year 1990' for 'calendar year 1992' in subparagraph (B) thereof.

''(2) ROUNDING.—If any amount as adjusted under paragraph (1) is not a multiple of $2,000, such amount shall be rounded to the next lowest multiple of $2,000.''

(2) Subsection (f) of section 4001 (relating to phasedown) is amended by striking ''subsection (a)'' and inserting ''subsection (a)(1)''.

(3) Subparagraph (B) of section 4003(a)(2) is amended to read as follows:

''(B) the appropriate applicable amount as determined under section 4001(a)(2).''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and installations occurring and property placed in service on or after the date of enactment of this Act.

SEC. 3. EXEMPTION OF THE INCREMENTAL COST OF A CLEAN FUEL VEHICLE FROM THE LIMITS ON DEPRECIATION FOR VEHICLES.

(a) IN GENERAL.—Section 280F(a)(1) (relating to limiting depreciation on luxury automobiles) is amended by adding at the end the following new subparagraph:

''(C) SPECIAL RULE FOR CERTAIN CLEAN-FUEL PASSENGER AUTOMOBILES.—

''(i) MODIFIED AUTOMOBILES.—In the case of a passenger automobile which is propelled by a fuel which is not a clean-burning fuel to which is installed qualified clean-fuel vehicle property (as defined in section 179A(c)(1)(A)) for purposes of permitting such vehicle to be propelled by a clean burning fuel (as defined in section 179A(e)(1)), the depreciation deductions specified in subparagraph (A) shall be increased by the incremental cost of the installed qualified clean burning vehicle property as depreciated pursuant to section 168 by applying the rules under subsections (b)(1), (d)(1), and (e)(3)(B) thereof.

''(ii) PURPOSE BUILT PASSENGER VEHICLES.—In the case of a purpose built passenger vehicle (as defined in section 4001(a)(2)(C)(ii)), the depreciation deductions specified in subparagraph (A) shall be tripled.

''(iii) INCREMENTAL COST.—For purposes of clause (i), the incremental cost shall be the equal of the lesser of—

''(I) the incremental cost of the installed qualified clean fuel vehicle property (as so defined), or

''(II) the amount by which the total cost of the clean fuel passenger automobile exceeds the sum of the amounts that would be allowed under subparagraph (A) for the recovery period determined by applying the rules under subsections (d)(1) and (e)(3) of section 168.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and installations occurring and property placed in service on or after the date of enactment of this Act and before January 1, 2005.

SEC. 4. GOVERNMENTAL USE RESTRICTION MODIFIED FOR ELECTRIC VEHICLES.

(a) IN GENERAL.—Paragraph (3) of section 30(d) (relating to special rules) is amended by inserting ''(without regard to paragraph (4)(A)(i) thereof)'' after ''section 50(b)''.

(b) CONFORMING AMENDMENT.—Paragraph (5) of section 179A(e) (relating to other definitions and special rules) is amended by inserting ''(without regard to paragraph (4)(A)(i) thereof in the case of a qualified electric vehicle described in subclause (I) or (II) of subsection (b)(1)(A)(iii) of this section)'' after ''section 50(b)''.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service on or after the date of enactment of this Act.

SEC. 5. LARGE ELECTRIC TRUCKS, VANS, AND BUSES ELIGIBLE FOR DEDUCTION FOR CLEAN-FUEL VEHICLES.

(a) IN GENERAL.—Paragraph (3) of section 179A(c) (defining qualified clean-fuel vehicle property) is amended by inserting '', other than any vehicle described in subclause (I) or (II) of subsection (b)(1)(A)(iii)'' after ''section 30(c))''.

(b) DENIAL OF CREDIT.—Subsection (c) of section 30 (relating to credit for qualified electric vehicles)is amended by adding at the end the following new paragraph:

''(3) DENIAL OF CREDIT FOR VEHICLES FOR WHICH DEDUCTION ALLOWABLE.—The term 'qualified electric vehicle' shall not include any vehicle described in subclause (I) or (II) of section 179A(b)(1)(A)(iii).''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service on or after the date of enactment of this Act.

SEC. 6. ELECTRIC VEHICLE CREDIT AMOUNT AND APPLICATION AGAINST ALTERNATIVE MINIMUM TAX.

(a) IN GENERAL.—Subsection (a) of section 30 (relating to credit for qualified electric vehicles) is amended by striking ''10 percent of''.

(b) APPLICATION AGAINST ALTERNATIVE MINIMUM TAX.—Section 30(b) (relating to limitations) is amended by striking paragraph (3).

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

SEC. 7. RATE OF TAX ON LIQUEFIED NATURAL GAS TO BE EQUIVALENT TO RATE OF TAX ON COMPRESSED NATURAL GAS.

(a) IN GENERAL.—Paragraph (3) of section 4041(a) (relating to diesel fuel and special motor fuels) is amended—

(1) by striking subparagraph (A) and inserting the following new subparagraph:

''(A) IMPOSITION OF TAX.—

''(i) IN GENERAL.—There is hereby imposed a tax on compressed or liquefied natural gas—

''(I) sold by any person to an owner, lessee, or other operator of a motor vehicle or motorboat for use as a fuel in such motor vehicle or motorboat, or

''(II) used by any person as a fuel in a motor vehicle or motorboat unless there was a taxable sale of such gas under subclause (I).

''(ii) RATE OF TAX.—The rate of tax imposed by this paragraph shall be—

''(I) in the case of compressed natural gas, 48.54 cents per MCF (determined at standard temperature and pressure), and

''(II) in the case of liquefied natural gas, 3.54 cents per gallon.'', and

(2) by inserting ''OR LIQUEFIED'' after ''COMPRESSED'' in the heading.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 4041(a)(2) is amended by striking ''other than a Kerosene'' and inserting ''other than liquefied natural gas, kerosene''.

(2) The heading for section 9503(f)(2)(D) is amended by inserting ''OR LIQUEFIED'' after ''COMPRESSED''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

By Mr. HELMS (for himself, Mr. FEINGOLD, Mr. HUTCHINSON, and Mr. WELLSTONE):

S.J. Res. 31. A joint resolution disapproving the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of the People's Republic of China; to the Committee on Finance.

MOST-FAVORED-NATION TREATMENT DISAPPROVAL JOINT RESOLUTION

Mr. HELMS. Mr. President, in offering this resolution, Mr. President, which formally disapproves President Clinton's renewal of MFN for China, I am pleased that the able Senator from Wisconsin [Mr. FEINGOLD] is a principal cosponsor of the resolution of disapproval.

In moving around my State during the Memorial Day recess I was impressed with the attitude of a majority of North Carolinians who are absolutely persuaded that the United States must conduct its policy toward China on the basis of morality as well as pragmatism. It has made no sense either morally or practically for the United States to have conducted its China policy as it has for so long.

There are many who are asserting the truth that the term MFN, which stands for most favored nation, is certainly a misnomer. MFN, in fact, means that a country gets trade treatment as good as anybody else's, not that it gets more favorable treatment than any other country. I accept that and I oppose MFN on exactly those grounds. China gets the same trade treatment that virtually everybody else gets. When a country like China gets normal trade relations with the United States it is getting better treatment than China deserves. That is just plain foolish.

Those who favor MFN for Communist China also like to point out that other countries with at least equally dubious records—like Iran, Iraq, Syria, Libya and Burma—qualify for MFN without an annual debate. Therefore, the proMFN crowd says China ought to get MFN without an annual debate.

I dissent. The trouble with that, Mr. President, is this. Those people who rely on the cases of these countries to make their points about MFN for China just have not done their homework. It is disingenuous at best for the proMFN lobby to create the impression that Iran, Iraq, Libya and Syria, enjoy MFN status, because they absolutely

do not. MFN for Iran, Iraq, Syria, and Libya is a moot point since nearly all trade is banned with them due to their involvement in state-sponsored terrorism.

Burma may technically have MFN status but it, also, is the subject of a ban on new United States investment. Syria and Burma both are denied low-tariff benefits under the generalized system of preferences. Besides that, policies against individual countries have evolved in response to historical developments and the needs of U.S. policy. No proponent of MFN renewal would say that the United States should treat every country exactly the same way regardless of specific conditions inside the country, the type of government it has, or the type of threat it poses to the United States or to the neighbors of the United States.

Now, China is a special case, Mr. President. When you stop to think about it there is no valid reason for the United States—this is the world's leader in freedom—offering the same trading terms for China that the United States offers to other nations that do honor their citizens' human rights and that do respect the rule of law. Now, there can be no such thing as normal trade with the world's largest country, a Communist system engaging in proliferation of conventional nuclear, biological, and chemical weapons.

A country of which our State Department can say, there was not a single dissident active in 1996.

A country which is violating commitments it made in an international agreement to preserve Hong Kong's institutions and way of life virtually intact.

A country whose economy is built on prison labor and Peoples Liberation Army joint ventures with U.S. companies.

A country which fires missiles across the Taiwan strait in an attempt to intimidate the people of Taiwan from conducting democratic elections.

A country which makes money from organ transplants taken from prisoners, who have just been shot in the head.

A country which has a policy of forced abortion.

A country which has systematically destroyed Tibet's religion and culture.

A country which violates international law in the South China Sea.

A country which has a huge and growing trade deficit with the United States.

It matters not whether one calls China's trade status most favored nation, or normal trade relations as the White House Office of ''newspeak'' wishes to call it. Either way, it's a bad policy, when one considers that in every important area of United States-China relations—from weapons proliferation, to human rights, to trade and intellectual property, to Hong Kong—the White House crowd has made the word ''engagement'' synonymous with the word ''appeasement.''

Let's talk for a little while about China's record of weapons proliferation. In April, a subcommittee of the Governmental Affairs Committee chaired by the able Senator from Mississippi, [Mr. COCHRAN], held a hearing which laid out the truth about Chinese proliferation, that this administration has repeatedly failed to impose sanctions required by United States law for China's transfers of equipment, components and weapons of mass destruction to Iran and Pakistan.

On human rights, the State Department acknowledges continued widespread abuse of human rights by China. This year's annual human rights report catalogues violations of rights of speech, assembly, and association, and abuses including extra-judicial punishment, prison labor, and religious repression.

Even more shocking than the extent of these abuses is the administration's refusal to use United States leverage to influence China, or even United States allies. This year, the United States failed to mount a credible campaign to introduce and pass a resolution condemning Chinese human rights abuses at the U.N. Human Rights Commission in Geneva.

The Commission's meeting is not a mystery. It is scheduled a year in advance. Yet this administration did almost no lobbying until the last minute. That's because the administration hoped against hope that the Vice President's trip to China would result in some concessions by the Chinese which would enable the administration to abandon the resolution once and for all.

But just guess what happened. China did not make concessions to Vice President GORE and the Clinton administration was left trying to put together a coalition at Geneva.

In trade, the story is the same. There is absolutely no improvement. The United States trade deficit with China climbed once again this year, to just under 40 percent. According to the President, that's an increase of 17 percent over last year. United States companies have precious little access to China's market, even as they are pouring investment into China. Sometimes, United States companies deal with the People's Liberation Army. Sometimes they deal with factories using with prison labor. That is the way the game is played—under cover, under the table.

The United States buys 30 percent of China's exports. Yet China makes up just 2 percent of the United States export market—30 vs. 2. This past year, United States exports to Taiwan, Hong Kong—and even to Belgium, if you believe that, were greater than United States exports to China, even though the populations of each of these countries are a tiny fraction of China's population.

Just the same, we hear the same old rhetoric from certain businessmen. They come to my office day after day. I like them. I am sorry I can't agree with them. But I tell them I do not agree with them. They sit there and contend that the United States needs to trade with China. It will open up society; that is to say, the Chinese society, they say. But what is going on in China isn't free trade but trade on the Chinese Government's terms, which can be changed every hour on the hour.

The Chinese military operates commercial enterprises. Let me repeat that. The Chinese military army, all the rest of it, they are in business. They do that so they can pay for the ever-growing cost of operating their military establishment—and, by the way, collect technology from the United States and other sucker governments who send it to them.

No rule of law protects Chinese or foreign investors. Official corruption is widespread, and everybody knows it. A disagreement with a business partner who has an official connection can land you in jail in China, or worse. You might be one of the guys hauled out on that field tomorrow morning with a bullet through your head so that one of your organs can be sold for $40,000 cash money.

Want a run down of stories you won't hear from those lobbying Congress for MFN?

In 1994, Revpower, a Florida company won an international arbitration award against a Chinese state-owned enterprise. Despite China's obligations as a party to the 1958 Convention on Recognition and Enforcement of Foreign Arbitral Awards, China has failed to enforce the award in its courts.

In 1994, James Peng, an Australian citizen, was seized by Chinese police in Macau—which is not yet under Chinese control—and taken to China. In this case, the court found Peng innocent of any wrongdoing, but local officials who saw an opportunity to extort money from Peng and his partners. Peng has been in jail ever since.

Troy McBride, a United States businessman, had his passport seized and was detained for several weeks in a hotel in China in 1995. You can read about this in last year's State Department Human Rights Report.

According to the Chicago Tribune, Philip Cheng, a Chinese-American, was jailed without charges in 1993 over a dispute with his joint venture partner. In the story about Mr. Cheng, a Western diplomat was quoted as saying:

> When a deal goes sour we only hear about the worst cases. But dozens, perhaps hundreds of businessmen have been mobbed, punched and even jailed to make them pay what the locals demand. In most cases the victims make no fuss because their companies want to keep doing business in China.

Zhang Gueixing, a U.S. resident immigrant was imprisoned for 2½ years in connection with a dispute over bicycles. While in prison, Zhang witnessed executions of prisoners.

China has steadily reneged on its commitments in the 1984 Joint Declaration. In that agreement, China

promised that Hong Kong would have an elected legislature, an accountable executive, an independent judiciary, and a broad range of personal and political freedoms including rights of speech, assembly, association, and religion. For the past several years China has first announced a violation of the joint declaration, then carried it out. This is all a matter of public record.

Yet, the United States has failed to prevent or reverse a single violation of the joint declaration. How can it when the administration's official position is that the United States is not entitled to say what does or does not violate the Joint Declaration?

Where the President will not lead, the Congress must act. An editorial from *The Weekly Standard* noted that:

> The Clinton Administration obstinately refuses to link U.S. China policy to anything the Chinese do or fail to do. Linkage must be reestablished; equilibrium must be restored to the relationship between the United States and its most troublesome and persistent challenger. That mission falls to the Congress by default.

For far too long, the United States has failed to recognize and use its leverage over China.

Mr. President, revoking MFN will not be the end of our China policy. MFN is the means toward restoring equilibrium in the relationship.

China scholar Harry Harding's book, ''A Fragile Relationship,'' chronicles the early 1990's, when there was a real threat of MFN revocation in response to the Tiananmen Square Massacre. In response to the threat Beijing ended martial law, released several hundred political prisoners, bought Boeing aircraft and let a prominent dissident out of the country.

The Congress should withhold MFN status for China this year, otherwise the administration will continue to acquiesce to every violation of international law, international agreement, bilateral agreement, and United States law. The administration's policy toward China has been an abject failure. Abject, means both ''utterly hopeless'' and ''shamelessly servile.'' Which, it seems to me, fairly sums up the situation.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The joint resolution will be appropriately referred.

● Mr. FEINGOLD. Mr. President, the Chairman of the Foreign Relations Committee [Mr. HELMS] and I have today introduced a joint resolution of disapproval for the President's decision to extend most-favored-nation status to China.

This is third year in a row that I will be introducing this joint resolution, and—I am pleased to say—the second time with Senator HELMS. I have joined with the chairman once again because I believe that trade policy is an effective tool that the United States can and should use with respect to the Chinese Government. I am pleased that Senators WELLSTONE and HUTCHINSON of Arkansas have joined us in introducing this bipartisan resolution.

Mr. President, on May 19, President Clinton announced his intention to extend for another year most-favored-nation trading status to China, which he formally requested from the Congress last week. Although we have expected the President to make such a decision for some time now, I can only say that I am once again disappointed in the President's decision. In fact, I have objected to the President's policy regarding the extension of MFN status to China since 1994, when he de-linked the issue of human rights from our trading policy. The argument made then is that trade rights and human rights are not interrelated. At the same time, it was said, through ''constructive engagement'' on economic matters, and dialogue on other issues, including human rights, the United States could better influence the behavior of the Chinese Government.

That was a mistake.

Let those who support ''constructive engagement'' visit the terribly ill Wei Jingsheng in his prison cell, and ask him if developing markets for toothpaste or breakfast cereal will help him win his freedom or save his life. I do not see how closer economic ties alone will somehow transform China's authoritarian system into a more democratic one. Unless we press the case for improvement in China's human rights record, using the leverage afforded us by the Chinese Government's desire to expand its economy and increase trade with us, I do not see how conditions will get much better.

De-linking MFN has resulted only in the continued despair of millions of Chinese people, and there is no evidence that MFN has influenced Beijing to improve its human rights policies. Basic freedoms—of expression, of religion, of association—are routinely denied. Rule of law, at least as I would define it, does not exist.

Mr. President, shortly before the Memorial Day recess, the Foreign Relations Committee held several hearings on the current situation in China. We had, for example, an excellent hearing on the situation in Tibet, where China continues its cultural and political repression and still refuses to begin a dialogue with the Dalai Lama, a Nobel laureate. We also heard testimony about how China is not sticking to its commitments under a 1992 Memorandum of Understanding with the United States on the issue of the use of forced prison labor. It is unconscionable that American consumers have unwittingly been used to help finance the abhorrent Chinese policy of reform through labor.

And that is not all.

Virtually every review of the behavior of the Chinese Government over the past year demonstrates that not only has there been no improvement in the human rights situation in China, but in many cases, it has worsened.

Now, 3 years after the President's decision to de-link MFN from human rights, the State Department's most recent Human Rights report on China describes, once again, an abysmal situation. According to the report,

> The Government continued to commit widespread and well-documented human rights abuses, in violation of internationally accepted norms, stemming from the authorities' intolerance of dissent, fear of unrest, and the absence or inadequacy of laws protecting basic freedoms. . . . Abuses included torture and mistreatment of prisoners, forced confessions, and arbitrary and lengthy incommunicado detention. Prison conditions remained harsh. The Government continued severe restrictions on freedom of speech, the press, assembly, association, religion, privacy, and worker rights.

In October 1996, we were witness to yet another example of these policies, when Wang Dan, one of the leaders of the 1989 pro-democracy demonstrations in Tiananmen Square, was sentenced to 11 years in prison. This was, of course, after he had already been held in incommunicado detention for 17 months in connection with the issuance of a pro-democracy petition. Many political prisoners—some whose names we know, like Mr. Wang and Mr. Wei, and many of whose names we do not—have become ill as a result of their prolonged incarcerations, and are not receiving proper medical care.

The past year also saw the December arrest of Ngawang Choepel, a Tibetan musicologist and former Fulbright scholar who was the subject of a recent Moynihan resolution that I was proud to cosponsor. Also in December, a Beijing court sentenced activist Li Hai for collecting information on Tiananmen activists in prison. Li was trying to compile a list giving the name, age, family situation, crime, length of sentence, and the location of the prison in which these activists were held.

In June 1996, university teacher Zhang Zong-ai was arrested and later sentenced for meeting with Wang Dan and writing to Taiwanese leaders. Earlier this year, reports emerged from Tibet indicating severe torture of Tibetan nuns allegedly involved in separatist activities.

Freedom of expression is curtailed by other means as well. Although the government has recently encouraged the expansion of the Internet and other communications infrastructure, it requires Internet users to register and sign a pledge not to endanger security. Selected web sites, like those from news organizations based in Hong Kong and Taiwan, or those hosted by dissidents, are blocked by the government, and authorities continue to jam Voice of America broadcasts.

Mr. President, Beijing's contempt for United States values is evident in many fora: in the loathsome compulsory one-child family planning program, in the increased incidence of religious persecution, in the sales of nuclear equipment to Pakistan or missiles to Iran, and in China's utter disregard for agreements to end violations of United States intellectual property

rights. Lack of progress in these areas flies in the face of the United States policy of ''constructive engagement,'' with respect to China.

In my view—and I know that Senator HELMS agrees with me here—it is impossible to come to any other conclusion except that ''constructive engagement'' has failed to make any change in Beijing's human rights behavior. I would say that the evidence justifies the exact opposite conclusion: human rights have deteriorated and the regime continues to act recklessly in other areas vital to U.S. national interest.

At the May 13, 1997, Senate Foreign Relations Committee hearing on The Situation of Tibet and its People, Dr. Robert Thurman, a renowned expert in Tibetan culture who has traveled to the region numerous times over the past 35 years, presented compelling testimony about the Chinese Government's intentions toward the Tibetan people. Dr. Thurman explained quite clearly that, ''It is a calculated policy consistent [of the] Chinese Government . . . to eradicate those who might some day claim the land of Tibet back to them.'' In order to achieve this goal, Dr. Thurman explained, the Chinese Government engages in all kinds of activities to destroy Tibetan culture, Tibetan religion and Tibetan identity, and in so doing, attempts to assimilate Tibetans into the Chinese way of life.

But what was most striking about Dr. Thurman's testimony was his description of the behavior of the Chinese Government over the past 3 years, and in particular, Beijing's reaction to United States trade policy. Mr. President, allow me to read from his oral testimony:

It is definitely a fact that anyone who goes to Tibet regularly—and I have been there eight times—anyone who goes there regularly will tell you that since 1994, when our Executive Branch misguidedly delinked . . . trade privileges from the Chinese behavior, the Chinese behavior accelerated in a negative direction to an extreme degree. Since 1994, the complete oppression of Tibetan religion and the Tibetan national identity has been reembarked upon by the recent and current administration in China. From 1994 to 1997, their policy has returned to being completely genocidal, no longer pretending even to tolerate Tibetan religion. . . . They have expelled many monks from monasteries. They have closed important monasteries. . . . [The Chinese] will never abandon [Tibet] when they feel we have no real will to do anything serious no matter what they do. . . . This has been proven in religious terms . . . in the last three years, since 1994. Once you delinked the money from their treatment of human rights, from their treatment of religion in Tibet, they just went and completely abused everything totally. They undid all sorts of liberties that had been allowed in the 1980s, in fact. They completely have undone them.

So, Mr. President, we have here compelling testimony of my main argument: that the delinking of trade privileges from human rights issues has actually led to a worsening of the human rights situation in China.

Perhaps equally disturbing, China continues to violate agreements with the United States on other issues. Violations of agreements on intellectual property rights cost U.S. firms an estimated $1.8 billion annually. Violations of the memorandum of understanding on prison labor, according to some estimates, have resulted in millions of dollars worth of tainted goods being imported into our country. And China's blatant disregard for international efforts to control nuclear proliferation cost us unimaginable sums in future international security.

We have so few levers that we can use against China. And if China is accepted by the international community as a superpower under the current conditions, it will believe it can continue to abuse human rights with impunity. The more we ignore the signals and allow trade to dictate our policy, the worse we can expect the human rights situation to become.

We know that putting pressure on the Chinese Government can have some impact. China released dissident Harry Wu from prison when his case threatened to disrupt the First Lady's trip to Beijing for the U.N. Conference on Women, and it similarly released both Wei Jingsheng and Wang Dan around the same time that China was pushing to have the 2000 Olympic Games in Beijing. After losing that bid, and once the spotlight was off, the Chinese government rearrested both Wei and Wang.

Examples such as this only affirm my belief that the United States should make it clear that human rights are of real—as opposed to rhetorical—concern to this country. Until Wei Jingsheng, Wang Dan, and others committed to reform in China are allowed to speak their voices freely and work for change, United States-China relations should not be based on a business-as-usual basis. Last Sunday, Fred Hiatt illustrated this point in a Washington Post editorial called The Skyscraper and the Bookstore. In recalling the 1993 tour of Beijing that Chinese leaders offered to Mr. Wei after he had been in prison for 14 years, Hiatt wonders whether the skyscraper, a powerful symbol of Western-style economic modernization, or a bookstore, in which Wei found little literary diversity, is the more significant portent for China's future. Hiatt's point is that the more the United States focuses on its trade and economic relations with China, the more skyscrapers might be built in Beijing. But despite massive urban development, there has not been massive development in the most basic freedoms of expression and ideas.

Mr. President, I ask unanimous consent that the full text of Hiatt's June 1, 1997, Washington Post op-ed be included in the RECORD.

Mr. President, this year—1997—is perhaps the most important year since 1989 with respect to our relationship with the Chinese Government. In less than 1 month, Hong Kong will revert to China, and already there are fears of what the transition may mean for democratic liberties in that city. There may also be significant developments with respect to China's desire to join the World Trade Organization. And of course, there are the myriad other issues I have already mentioned.

But even with all that is going on, the United States and others in the international community failed to pass a resolution regarding China at the United Nations Commission on Human Rights earlier this year largely because China lobbied hard to prevent it. That failure proves that it is even more important for the United States to use the levers that we do have to pressure China's leaders.

Mr. President, if moral outrage at blatant abuse of human rights is not reason enough for taking a tough stance with China—and I believe it is and that the American people do as well—then let us do so on grounds of real political and economic self-interest. We must not forget that we currently have a trade deficit of nearly $40 billion. Forty billion dollars. Political considerations aside, such a deficit represents a formidable obstacle to developing normal trading relations with China at any point in the near future. Plus, China is becoming more and more dangerously involved in nefarious arms dealings with Iran and Pakistan.

But, Mr. President, my main objective today is to push for the United States to once again make the link between human rights and trading relations with respect to our policy in China. As I have said before, I believe that trade—embodied by the peculiar annual exercise of MFN renewal—is one of the most powerful levers we have, and that it was a mistake for the President to de-link this exercise from human rights considerations.

So, Mr. President, for those who care about human rights, about freedom of religion, and about America's moral leadership in the world, I urge support for the Helms-Feingold resolution disapproving the President's decision to renew most-favored-nation status for China.

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

[From the Washington Post, June 1, 1997]

THE SKYSCRAPER AND THE BOOKSTORE

(By Fred Hiatt)

After keeping him in prison for 14 years, Chinese leaders decided one day in 1993 to give their leading dissident, Wei Jingsheng, a tour of Beijing. For Wei, the tour produced a shock—and perhaps something of a reproof as well. Wei had been writing from his solitary cell that economic modernization could not take place without democracy; yet the sleepy capital he remembered from 1979, with only bicycles clogging its wide boulevards, had become a modern city with traffic jams, skyscrapers and fancy new hotels.

''The changes are enormous,'' Wei admitted. ''They made an old Beijinger like myself feel like a tourist—a stranger in his own hometown.''

But then Wei insisted that his keepers take him to a bookstore. There he found offerings no broader than they had been before the Cultural Revolution. The economy had

expanded, but freedom of thought and expression had not. ''But this is precisely your goal,'' Wei wrote to China's president. ''Widespread cultural ignorance is the foundation for dictatorship.''

The contrast Wei noted during his brief field trip from jail underlies Washington's current debate over extending most-favored-nation (MFN) trading status to China and, more broadly, U.S.-China relations. Which is the more significant portent for China's future, the skyscraper or the bookshop?

Those who favor MFN extension point to the skyscraper, arguing that economic modernization inevitably will lead to political liberalization—that if you get enough skyscrapers, eventually you'll get books and newspapers, too. This has been the pattern in South Korea and Taiwan, after all, where a rising middle class eventually insisted on democratic rights. Even in China, where authoritarian rulers maintain tight political control, market reforms have brought new freedoms—to choose one's place of work and residence, to live private and personal lives.

Yet a South Korea-style progression is not inevitable. Nazi Germany proved that a totalitarian political regime can comfortably co-exist with capitalism—with private shopkeepers, big corporations, a developed middle class.

Ah, but the advent of the information age has changed all that, the argument continues. Knowledge is the essential commodity of tomorrow's economies, and no nation that limits its flow can prosper.

It's a seductive argument, and it may be true in the very long run. The demise of the Soviet Union, where even a copying machine was considered subversive, gave currency to the view. But totalitarian regimes can use information technologies as well as be undermined by them as George Orwell realized some time ago. China's regime so far has proved far more adept than the Soviet Union at attracting commercial knowledge and technology from outside while controlling the political debate inside—intimidating print media in Hong Kong, monitoring Internet access in China, whipping up nationalistic fervor to promote its own survival.

So China might become more democratic; it also might become more fascist, a danger to its neighbors and to U.S. interests, too. Given that uncertainty, the debate shifts: Can other nations do anything to steer China toward the first outcome? Supporters of MFN extension argue that trade sanctions won't work; China ''has steadfastly resisted efforts to link its commercial interests to its behavior in other areas,'' Laura D'Andrea Tyson, President Clinton's first term economic adviser, wrote in the Wall Street Journal last week.

This isn't quite right either. In the few years after the Tiananmen Square massacre, when China's leaders believed Congress would impose serious sanctions, they released political prisoners and allowed a leading dissident to go into exile. Once President Clinton ''delinked'' trade and human rights, the concessions stopped.

Yet trade sanctions are surely an imperfect tool. Are there others? Tyson argues that ''with the limited means at our disposal, we can try to shape the kind of great power China will become and the path it will travel to get there.'' She doesn't say what those means might be, but in 1994 the Clinton administration produced a long list of possibilities. The United States would no longer use MFN as a lever, Clinton said then, but it would prod China in many other ways: supporting ''civic society,'' pushing human rights issues in international forums, working with U.S. businesses to develop voluntary principles for operating in China and more.

Unfortunately, most of these resolutions fell by the wayside, some right away, some after a few years. Clinton's promise to use non-trade methods to ''try to shape'' China, in Tyson's words, proved to be more spin than policy, so the concept was never really put to the test. As a result, political freedoms in China are, if anything, more restricted, and many in Congress see MFN as the only way to send a message.

Wei is back in prison and unavailable for comment on this turn of events. In his prison letters, though (recently published in this country), Wei maintained that a peaceful evolution toward democracy would be almost impossible for China unless other nations pushed in that direction, supporting those Chinese who share their values.

''One way to minimize losses and setbacks for all sides is for countries with related interests to exert pressure and help bring about internal progress and reform,'' Wei wrote in 1991. Six years later, Wei undoubtedly is still waiting.

The writer is a member of the editorial page staff.●

ADDITIONAL COSPONSORS

S. 50

At the request of Mr. FAIRCLOTH, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 50, a bill to amend the Internal Revenue Code of 1986 to provide a nonrefundable tax credit for the expenses of an education at a 2-year college.

S. 89

At the request of Ms. SNOWE, the name of the Senator from Illinois [Mr. DURBIN] was added as a cosponsor of S. 89, a bill to prohibit discrimination against individuals and their family members on the basis of genetic information, or a request for genetic services.

S. 92

At the request of Mr. KERRY, the name of the Senator from Washington [Mrs. MURRAY] was added as a cosponsor of S. 92, a bill to amend title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodation in employment, and for other purposes.

S. 191

At the request of Mr. HELMS, the name of the Senator from Arkansas [Mr. HUTCHINSON] was added as a cosponsor of S. 191, a bill to throttle criminal use of guns.

S. 232

At the request of Mr. HARKIN, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 232, a bill to amend the Fair Labor Standards Act of 1938 to prohibit discrimination in the payment of wages on account of sex, race, or national origin, and for other purposes.

S. 263

At the request of Mr. MCCONNELL, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 263, a bill to prohibit the import, export, sale, purchase, possession, transportation, acquisition, and receipt of bear viscera or products that contain or claim to contain bear viscera, and for other purposes.

S. 332

At the request of Mr. HARKIN, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 332, a bill to prohibit the importation of goods produced abroad with child labor, and for other purposes.

S. 350

At the request of Mr. THURMOND, the name of the Senator from Maine [Ms. SNOWE] was added as a cosponsor of S. 350, a bill to authorize payment of special annuities to surviving spouses of deceased members of the uniformed services who are ineligible for a survivor annuity under transition laws relating to the establishment of the Survivor Benefit Plan under chapter 73 of title 10, United States Code.

S. 358

At the request of Mr. DEWINE, the names of the Senator from California [Mrs. FEINSTEIN] and the Senator from Utah [Mr. BENNETT] were added as cosponsors of S. 358, a bill to provide for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products, and for other purposes.

S. 387

At the request of Mr. HATCH, the names of the Senator from Nebraska [Mr. KERREY], the Senator from Texas [Mr. GRAMM], the Senator from New Jersey [Mr. LAUTENBERG], and the Senator from Virginia [Mr. ROBB] were added as cosponsors of S. 387, a bill to amend the Internal Revenue Code of 1986 to provide equity to exports of software.

S. 389

At the request of Mr. ABRAHAM, the names of the Senator from North Carolina [Mr. FAIRCLOTH], and the Senator from Maine [Ms. COLLINS] were added as cosponsors of S. 389, a bill to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes.

S. 405

At the request of Mr. HATCH, the names of the Senator from Kentucky [Mr. FORD], the Senator from Nebraska [Mr. HAGEL], and the Senator from Connecticut [Mr. DODD] were added as cosponsors of S. 405, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit and to allow greater opportunity to elect the alternative incremental credit.

S. 406

At the request of Mr. HATCH, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of S. 406, a bill to amend the Internal Revenue Code of 1986 to provide clarification for the deductibility of expenses incurred by a taxpayer in connection with the business use of the home.

S. 433

At the request of Mr. BROWNBACK, the names of the Senator from North Carolina [Mr. FAIRCLOTH] and the Senator