

all, although we are hopeful that they will act when appropriate. Moreover, we do not give the attorneys general any new or special rights to intervene in the settlements. They must work within current law.

The simple goal of this legislation is to provide better information and better consumer protection through greater knowledge. We do not want to close the courthouse door to meritorious cases, but merely assure that people are provided with meaningful information so that they can defend themselves.

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. 254

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

#### SECTION 1. SHORT TITLE.

This section may be cited as the "Class Action Fairness Act of 1997".

#### SEC. 2. NOTIFICATION REQUIREMENT OF CLASS ACTION CERTIFICATION OR SETTLEMENT.

(a) IN GENERAL.—Part V of title 28, United States Code, is amended by inserting after chapter 113 the following new chapter:

##### "CHAPTER 114—CLASS ACTIONS

"Sec.

"1711. Notification of class action certifications and settlements.

##### § 1711. Notification of class action certifications and settlements

"(a) For purposes of this section, the term—

"(1) 'class' means a group of similarly situated individuals, defined by a class certification order, that comprise a party in a class action lawsuit;

"(2) 'class action' means a lawsuit filed pursuant to rule 23 of the Federal Rules of Civil Procedure or similar State rules of procedure authorizing a lawsuit to be brought by 1 or more representative individuals on behalf of a class;

"(3) 'class certification order' means an order issued by a court approving the treatment of a lawsuit as a class action;

"(4) 'class member' means a person that falls within the definition of the class;

"(5) 'class counsel' means the attorneys representing the class in a class action;

"(6) 'electronic legal databases' means computer services available to subscribers containing text of judicial opinions and other legal materials, such as LEXIS or WESTLAW;

"(7) 'official court reporter' means a publicly available compilation of published judicial opinions;

"(8) 'plaintiff class action' means a class action in which the plaintiff is a class; and

"(9) 'proposed settlement' means a settlement agreement between the parties in a class action that is subject to court approval before it becomes binding on the parties.

"(b) This section shall apply to)

"(1) all plaintiff class actions filed in Federal court; and

"(2) all plaintiff class actions filed in State court in which—

"(A) any class member resides outside the State in which the action is filed; and

"(B) the transaction or occurrence that gave rise to the lawsuit occurred in more than one State.

"(c) No later than 10 days after a proposed settlement in a class action is filed in court, class counsel shall serve the State attorney general of each State in which a class member resides and the Department of Justice as if they were parties in the class action with—

"(1) a copy of the complaint and any materials filed with the complaint and any amended complaints;

"(2) notice of any future scheduled judicial hearing in the class action;

"(3) any proposed or final notification to class members of—

"(A) their rights to request exclusion from the class action; and

"(B) a proposed settlement of a class action;

"(4) any proposed or final class action settlement;

"(5) any settlement or other agreement contemporaneously made between class counsel and counsel for the defendants;

"(6) any final judgment or notice of dismissal;

"(7)(A) if feasible the names of class members who reside in each State attorney general's respective State and their estimated proportionate claim to the entire settlement; or

(B) if not feasible, a reasonable estimate of the number of class members residing in each attorney general's State and their estimated proportionate claim to the entire settlement; and

"(8) any written judicial relating to the materials described under paragraphs (3) through (6).

"(d) A hearing to consider final approval of a proposed settlement may not be held earlier than 120 days after the date on which the State attorneys general and the Department of Justice are served notice under subsection (c).

"(f) Any court with jurisdiction over a plaintiff class action shall require that—

"(1) any written notice provided to the class through the mail or publication in printed media contain a short summary written in plain, easily understood language, describing—

"(A) the subject matter of the class action;

"(B) the legal consequences of joining the class action.

"(C) if the notice is informing class members of a proposed settlement agreement—

"(i) the benefits that will accrue to the class due to the settlement;

"(ii) the rights that class members will lose or waive through the settlement;

"(iii) obligations that will be imposed on the defendants by the settlement;

"(iv) a good faith estimate of the dollar amount of any attorney's fee if possible; and

"(v) an explanation of how any attorney's fee will be calculated and funded; and

"(D) any other material matter; and

"(2) any notice provided through television or radio to inform the class of its rights to be excluded from a class action or a proposed settlement shall, in plain, easily understood language—

"(A) describe the individuals that may potentially become class members in the class action; and

"(B) explain that the failure of individuals falling within the definition of the class to exercise their right to be excluded from a class action will result in the individual's inclusion in the class action.

"(g) Compliance with this section shall not immunize any party from any legal action under Federal or State law, including actions for malpractice or fraud.

"(h)(1) A class member may refuse to comply with and may choose not to be bound by a settlement agreement or consent decree in a class action lawsuit if the class member re-

sides in a State where the State attorney general has not been provided notice and materials under subsection (c). The rights created by this subsection shall apply only to class members or any person acting on their behalf, and shall not be construed to limit any other rights affecting a class member's participation in the settlement.

"(2) Nothing in this chapter shall be construed to impose any obligations, duties, or responsibilities upon State attorneys general" or the attorney general of the United States.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part V of title 28, United States Code, is amended by inserting after the item relating to chapter 113 the following:

"114. Class Actions

1711".

#### SEC. 3.

##### APPLICABILITY.

This section and the amendments made by this section shall apply to all class action lawsuits filed after or pending one year after the date of enactment of this Act.●

#### ADDITIONAL COSPONSORS

S. 4

At the request of Mr. ASHCROFT, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 4, a bill to amend the Fair Labor Standards Act of 1938 to provide to private sector employees the same opportunities for time-and-a-half compensatory time off, biweekly work programs, and flexible credit hour programs as Federal employees currently enjoy to help balance the demands and needs of work and family, to clarify the provisions relating to exemptions of certain professionals from the minimum wage and overtime requirements of the Fair Labor Standards Act of 1938, and for other purposes.

S. 11

At the request of Mr. INOUE, his name was added as a cosponsor of S. 11, a bill to reform the Federal election campaign laws applicable to Congress.

S. 19

At the request of Mr. DODD, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of S. 19, a bill to provide funds for child care for low-income working families, and for other purposes.

S. 29

At the request of Mr. LUGAR, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 29, a bill to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers.

S. 30

At the request of Mr. LUGAR, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 30, a bill to increase the unified estate and gift tax credit to exempt small businesses and farmers from inheritance taxes.

S. 31

At the request of Mr. LUGAR, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 31, a bill to phase-out and repeal the Federal estate and gift taxes

and the tax on generation-skipping transfers.

S. 86

At the request of Ms. SNOWE, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 86, a bill to amend the Public Health Service Act to provide, with respect to research on breast cancer, for the increased involvement of advocates in decision making at the National Cancer Institute.

S. 122

At the request of Mr. MOYNIHAN, the name of the Senator from West Virginia [Mr. BYRD], was added as a cosponsor of S. 122, a bill to amend the Internal Revenue Code of 1986 to correct the treatment of tax-exempt financing of professional sports facilities.

S. 127

At the request of Mr. MOYNIHAN, the names of the Senator from Arkansas [Mr. BUMPERS], the Senator from Indiana [Mr. COATS], the Senator from Mississippi [Mr. COCHRAN], the Senator from California [Mrs. FEINSTEIN], the Senator from Hawaii [Mr. INOUE], the Senator from Vermont [Mr. JEFFORDS], the Senator from New Jersey [Mr. LAUTENBERG], and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of S. 127, a bill to amend the Internal Revenue Code of 1986 to make permanent the exclusion for employer-provided educational assistance programs, and for other purposes.

S. 183

At the request of Mr. DODD, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 183, a bill to amend the Family and Medical Leave Act of 1993 to apply the Act to a greater percentage of the United States workforce, and for other purposes.

S. 207

At the request of Mr. MCCAIN, the names of the Senator from Michigan [Mr. ABRAHAM] and the Senator from Maine [Ms. COLLINS] were added as cosponsors of S. 207, a bill to review, reform, and terminate unnecessary and inequitable Federal subsidies.

#### SENATE RESOLUTION 36— RELATIVE TO RETIREMENTS

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 36

Whereas Arthur Curran, Donn Larson and Richard Gibbons will retire from the Senate on January 31, 1997;

Whereas Arthur Curran was appointed as a Senate Doorkeeper in 1975 by Vice President Rockefeller;

Whereas Arthur Curran rose to the post of Superintendent of Doorkeepers and has dutifully served in that post for the last 15 years;

Whereas Donn Larson first began his Senate career under an appointment from Senator Milton Young in 1959;

Whereas Donn Larson served in the Republican cloakroom from 1961 to 1968, leaving to

work in the Federal Government until his return to the Senate in 1977, where he has served as deputy supervisor of the Doorkeepers since 1981;

Whereas Richard Gibbons has served as a Senate Doorkeeper since 1977, acting as press liaison outside the President's room just off the Senate floor;

Whereas since the 103d Congress Richard Gibbons has served in the Senate Chamber and has diligently assisted both Senators and staff alike in a myriad of tasks in addition to his role of helping to maintain order in the Chamber;

Whereas each of these three gentlemen has faithfully served the Senate and they have carried out their duties with efficiency and good nature: Now, therefore, be it

*Resolved*, That the Senate extends its thanks to Arthur Curran, Donn Larson, and Richard Gibbons for their many years of dedicated service and wishes them well in their future aspirations.

The Secretary of the Senate shall transmit a copy of this resolution to Arthur Curran, Donn Larson, and Richard Gibbons.

#### SENATE RESOLUTION 37—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON FOREIGN RELATIONS

Mr. HELMS, from the Committee on Foreign Relations, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 37

*Resolved*, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Foreign Relations, is authorized from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1997, through February 28, 1998, under this resolution shall not exceed \$2,710,573, of which amount (1) not to exceed \$45,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed \$1,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1998, through February 28, 1999, expenses of the committee under this resolution shall not exceed \$2,782,749, of which amount (1) not to exceed \$45,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed \$1,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j)

of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1997, and February 28, 1998, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

#### SENATE RESOLUTION 38—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURE BY THE COMMITTEE ON ARMED SERVICES

Mr. THURMOND, from the Committee on Armed Services, reported the following original resolutions; which was referred to the Committee on Rules and Administration:

S. RES. 38

*Resolved*, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, and reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Armed Services is authorized from March 1, 1997, through February 28, 1998, and March 1, 1998, through February 28, 1999, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel or any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1997, through February 28, 1998, under this resolution shall not exceed \$2,704,397.

(b) For the period March 1, 1998, through February 28, 1999, expenses of the committee under this resolution shall not exceed \$2,776,389.

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1997, and February 28, 1998, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee,