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Senate

The Senate met at 12 noon, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

God of all nations, Father of every tribe, color, and tongue of humankind, You have created us to live at peace with one another in Your family. You have revealed to us Your desire that all Your children should be free to worship You. Here in America, freedom of religion is a basic fabric of our life. Sadly, this freedom is not enjoyed in so many places in our world. We are grieved by the shocking accounts of religious persecution. Prejudice expressed in hostility and then in hatred and violence exists throughout the world. Yesterday, millions joined in an International Day of Prayer for the Persecuted Church. As we think of the needs, pain, and suffering inflicted on Christians because of their faith, we are reminded of all forms of intolerance over religion in the world. We remember the suffering of the Jews in this century. Forgive any prejudice in our own hearts and purge from us any vestige of imperious judgmentalism of people whose expression of faith in You differs from our own. We pray for tolerance in the human family. Through our Lord and Saviour. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader is recognized.

SCHEDULE

Mr. LOTT. Mr. President, today the Senate will resume consideration of S. 25, the pending campaign finance reform bill.

As a reminder to all Senators, no votes will occur during today's session of the Senate. The next vote will occur 11 a.m. on Tuesday, September 30, on the motion to invoke cloture on the Coats amendment regarding scholarships. That amendment is to the District of Columbia appropriations bill, which is the last appropriations bill that we need to pass through the Senate for this fiscal year. It is hoped that the Senate will be able to complete action on the D.C. appropriations bill on Tuesday, although there are still some amendments that are being negotiated that could require more time, maybe even another cloture vote. I hope it will be worked out, though. Also during Tuesday's session of the Senate, the Senate will consider the continuing resolution. As Members are aware, we have been able to make good progress on the appropriations bills, so it is hoped that the continuing resolution and the remaining appropriations conference reports can be acted upon in a timely manner. We don't know of any problem with the continuing resolution. We think and we hope that it will be a clean CR, with a limited amount of time for debate, although we have not worked out those details yet. I will discuss it with the minority leader and we will advise the Members as to how much time would be required there.

With those things in mind, Members can anticipate votes throughout the day on Tuesday. With regard to the pending campaign finance reform bill, I encourage all Members to come to the floor and participate in this important debate. We will have time throughout this week, even though we will, of course, be affected, regarding how much time we can use toward the end of the week on this debate, by the Jewish religious holiday. We still need to work with those that would be needing leave to go to their respective States, as to how we will deal with that on Thursday and Friday. We will work that out.

As I announced last week, there will be no votes after 1 p.m. on Wednesday in observance of the Jewish holiday. However, the Senate will remain in session as is necessary in order for Members to fully debate S. 25. Still, we will need to talk about exactly how we will do that to make sure we are not inconveniencing any Senator that would need to be away for the Jewish holiday who would also like to be involved in that debate. We will work that through as the week goes on.

Mr. President, I believe now we are ready for the reporting of S. 25 by the clerk and the modification by Senator MCCAIN.

BIPARTISAN CAMPAIGN REFORM ACT OF 1997

The PRESIDING OFFICER (Mr. KYL). Under the previous order, the Senate will now resume consideration of S. 25 which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 25) to reform the financing of Federal elections.

The Senate resumed consideration of the bill.

Mr. MCCAIN. Mr. President, I would like to ask the majority leader a question before I send a modification to the desk. Maybe I can discuss this with him on the floor.

It is not clear to me as to what his plans are for the following week. I understand tomorrow is taken up with conference reports and other business. As he said, we would go back on Wednesday to debate S. 25 with the modification. And then would it be his intention to begin votes later this week, or the following week? I know it is a little hard to tell, but I wonder if maybe we should have some discussion off the floor on this issue.

Mr. LOTT. Mr. President, if the Senator will yield so that I may make a comment on that, I hope, first, that we will have some time on Tuesday of this week, before or after, during some of the votes that may be occurring on the continuing resolution, as well as the

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

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appropriations conference reports. I hope that most of those won't take a lot of time. We will have some time for debate tomorrow. But until we see exactly what will be available and how much time is needed on the CR, we won't know for sure. But we will find that out, hopefully, today and we will confer with the leadership on both sides of the aisle, as well as the Senators interested in this bill.

I had hoped that we could also have some debate on Wednesday afternoon, even though we would not have any votes after 1 o'clock. But we would still have debate up until about 4 o'clock, and then Thursday is open. We don't want to, in any way, infringe on the religious holiday. So we will need to talk that through. We could have some debate on Thursday and, of course, we can, and I assume will, have some debate Friday. We want to talk that through to make sure everybody is comfortable with that.

My hope is that we could continue debate on Monday the 6th and begin having votes on Tuesday, and the possibility also on Wednesday. But, again, we need to go and get started with debate and see how that is going to stack up, and we will talk about that. It is a little bit broken up because of the religious holiday, but we want to have full time for debate, and we will start votes after that. That was my thinking.

Mr. MCCAIN. I thank the majority leader. I think that clarifies a great deal. I also appreciate his sensitivity to those who have to be home at this holiday season. I know my colleague from Wisconsin and other Senators who need to be involved in this issue. I want to thank the majority leader for what seems to me to be a generous amount of time for debate and discussion of this issue.

Mr. President, in just a few moments, I will lay before the Senate the modified version of the McCain-Feingold campaign finance reform bill. After I do so, the leader will be recognized to offer an amendment to the bill. Therefore, I wanted to take a few minutes before that action occurs to speak briefly to the modification.

First, I want to thank my cosponsors and allies in this fight. Senator THOMPSON and Senator COLLINS have played crucial roles as we moved forward on this matter. Their steadfast support, advice, and friendship is greatly appreciated.

But more than anybody, I want to thank my friend from the other side of the aisle, the Senator from Wisconsin, RUSS FEINGOLD. I do not believe that when he and I first sat down and began a discussion on this matter that we would be where are today—engaged in a historic battle to reform the electoral system of this great Nation. My friend, as he is indeed my friend, has been steadfast in his commitment and his belief in this cause and I want to state for the RECORD that I am grateful he is my ally in this fight.

Mr. President, I want to briefly highlight again what the modified bill does and does not do. This is not a big government solution. The modified test is just over 50 pages long.

The defenders of the status quo are not defending an unbridled, unregulated bastion of free speech. The Federal Election Campaign Act, known as FECA, governs Federal elections today.

Elections are regulated today. They need to be regulated. We do not want corporations, unions, or wealthy individuals to buy and sell elections. This is not a country where a royal class controls the Government. No one here wants corporations to give directly to campaigns. The fact is that at certain times and certain places, there is a role for some regulation and restraint in order to protect the greater public good.

Title I of the modified bill seeks to reduce the influence of special interest money in campaigns by banning the use of soft money in Federal races. Soft money would be allowed to be contributed to State parties in accordance with State law.

We do, however, seek to differentiate between State and Federal activities. Soft money contributed to State parties could be used for any and all State candidate activities. Let me repeat that statement. Soft money given to the State parties could be used for any State electioneering activities.

If a State allows soft money to be used in a gubernatorial race, a State senate race, or the local sheriff's race, it would still be allowed under this bill. However, if a State party seeks to use soft money to indirectly influence a Federal race, such activity would be banned 120 days prior to the general election. Using such funds to finance voter registration activities would be allowed except during the 120 days prior to the election.

Voter registration efforts are very important. I know my colleagues recognize that fact. We want individuals to register and then to vote. This bill recognizes that fact and allows parties to engage in voter registration activities. Additionally, State parties would be allowed, within limits, to engage in generic party advertising. These activities help build the party and encourage people to vote.

To make up for the loss of soft money, the modified bill doubles the limit that individuals can give to State parties in hard money. Consequently, the aggregate contribution limit for hard money that individuals could donate to political races would rise to $30,000.

Title II of the modified bill seeks to limit the role of independent expenditures in political campaigns.

Mr. President, I think we ought to pay attention to this part of it because, over the weekend, it seems to be the attack point for various pundits and those throughout the Nation, most of whom by the way have not seen the bill.

The bill in no way bans, curbs, or seeks to control real, independent, noncoordinated expenditures in any manner. Additionally, if hard money—money that is recorded and traceable—is used, then there are no restrictions of any kind on advertising.

Let me repeat that fact. This bill in no way restricts any message or any use of the airwaves. It does however place limits and controls on expenditures if certain kinds of money are used to fund such activity.

Any independent expenditure made to advocate any cause, with the exception of the express advocacy of a candidate's victory or defeat, is fully allowed. To do any thing else would violate the first amendment.

However, the bill does expand the definition of express advocacy. The courts have routinely ruled that the Congress may define express advocacy. In fact, current standards of express advocacy have been derived from the Buckley case itself.

As we all know, the Supreme Court case of Buckley versus Valeo stated that campaign spending cannot be mandatorily capped. This bill is fully consistent with the Buckley decision. I ask unanimous consent that a letter signed by 126 legal scholars expressing support for the constitutionality of this bill be printed in the RECORD at this time.

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

BRENNAN CENTER FOR JUSTICE,
New York, NY, September 22, 1997.

Senator JOHN MCCAIN,
Senator RUSSELL FEINGOLD,
U.S. Senate, Washington, DC.

DEAR SENATORS MCCAIN AND FEINGOLD: We are academics who have studied and written about the First Amendment to the United States Constitution. We submit this letter to respond to a series of recent public challenges to two components of S. 25, the McCain-Feingold bill. Critics have argued that it is unconstitutional to close the so-called ''soft money loophole'' by placing restrictions on the source and amount of campaign contributions to political parties. Critics have also argued that it is unconstitutional to offer candidates benefits, such as reduced broadcasting rates, in return for their commitment to cap campaign spending. We are deeply committed to the principles underlying the First Amendment and believe strongly in preserving free speech and association in our society, especially in the realm of politics. We are not all of the same mind on how best to address the problems of money and politics; indeed, we do not all agree on the constitutionality of various provisions of the McCain-Feingold bill itself. Nor are we endorsing every aspect of the bill's soft money and voluntary spending limits provisions. We all agree, however, that the current debate on the merits of campaign finance reform is being sidetracked by the argument that the Constitution stands in the way of a ban on unlimited contributions to political parties and a voluntary spending limits scheme based on offering inducements such as reduced media time.

I. LIMITS ON ENORMOUS CAMPAIGN CONTRIBUTIONS TO POLITICAL PARTIES FROM CORPORATIONS, LABOR UNIONS, AND WEALTHY CONTRIBUTORS ARE CONSTITUTIONAL

To prevent corruption and the appearance of corruption, federal law imposes limits on

the source and amount of money that can be given to candidates and political parties ''in connection with'' federal elections. The money raised under these strictures is commonly referred to as ''hard money.'' Since 1907, federal law has prohibited corporations from making hard money contributions to candidates or political parties. See 2 U.S.C. §441b(a) (current codification). In 1947, that ban was extended to prohibit union contributions as well. Id. Individuals, too, are subject to restrictions in their giving of money to influence federal elections. The Federal Election Campaign Act (''FECA'') limits an individual's contributions to (1) $1,000 per election to a federal candidate; (2) $20,000 per year to national political party committees; and (3) $5,000 per year to any other political committee, such as a PAC or a state political party committee. 2 U.S.C. §441a(a)(1). Individuals are also subject to a $25,000 annual limit on the total of all such contributions. Id. §441a(a)(3).

The soft money loophole was created not by Congress, but by a Federal Election Commission (''FEC'') ruling in 1978 that opened a seemingly modest door to allow non-regulated contributions to political parties, so long as the money was used for grassroots campaign activity, such as registering voters and get-out-the-vote efforts. These unregulated contributions are known as ''soft money'' to distinguish them from the hard money raised under FECA's strict limits. In the years since the FEC's ruling, this modest opening has turned into an enormous loophole that threatens the integrity of the regulatory system. In the last presidential elections, soft money contributions soared to the unprecedented figure of $263 million. It was not merely the total amount of soft money contributions that was unprecedented, but the size of the contributions as well, with donors being asked to give amounts $100,000, $250,000 or more to gain preferred access to federal officials. Moreover, the soft money raised is, for the most part, not being spent to bolster party grassroots organizing. Rather, the funds are often solicited by federal candidates and used for media advertising clearly intended to influence federal elections. In sum, soft money has become an end run around the campaign contribution limits, creating a corrupt system in which monied interests appear to buy access to, and inappropriate influence with, elected officials.

The McCain-Feingold bill would ban soft money contributions to national political parties, by requiring that all contributions to national parties be subject to FECA's hard money restrictions. The bill also would bar federal officeholders and candidates for such offices from soliciting, receiving, or spending soft money and would prohibit state and local political parties from spending soft money during a federal election year for any activity that might affect a federal election (with exceptions for specified activities that are less likely to impact on federal elections).

We believe that such restrictions are constitutional. The soft money loophole has raised the specter of corruption stemming from large contributions (and those from prohibited sources) that led Congress to enact the federal contribution limits in the first place. In Buckley v. Valeo, the Supreme Court held that the government has a compelling interest in combating the appearance and reality of corruption, an interest that justifies restricting large campaign contributions in federal elections. 424 U.S. 1, 23–29 (1976). Significantly, the Court upheld the $25,000 annual limit on an individual's total contributions in connection with federal elections. Id. at 26–29, 38. In later cases, the Court rejected the argument that corporations have a right to use their general treasury funds to influence elections. See, e.g., Austin v. Michigan Chamber of Commerce, 494 U.S. 652 (1990). Under Buckley and its progeny, Congress clearly possesses power to close the soft money loophole by restricting the source and size of contributions to political parties, just as it does for contributions to candidates, for use in connection with federal elections.

Moreover, Congress has the power to regulate the source of the money used for expenditures by state and local parties during federal election years when such expenditures are used to influence federal elections. The power of Congress to regulate federal elections to prevent fraud and corruption includes the power to regulate conduct which, although directed at state or local elections, also has an impact on federal races. During a federal election year, a state or local political party's voter registration or get-out-the-vote drive will have an effect on federal elections. Accordingly, Congress may require that during a federal election year state and local parties' expenditures for such activities be made from funds raised in compliance with FECA so as not to undermine the limits therein.

Any suggestion that the recent Supreme Court decision in Colorado Republican Federal Campaign Committee v. FEC, 116 S. Ct. 2309 (1996), casts doubt on the constitutionality of a soft money ban is flatly wrong. Colorado Republican did not address the constitutionality of banning soft money contributions, but rather the expenditures by political parties of hard money, that is, money raised in accordance with FECA's limits. Indeed, the Court noted that it ''could understand how Congress, were it to conclude that the potential for evasion of the individual contribution limits was a serious matter, might decide to change the statute's limitations on contributions to political parties.'' Id. at 2316.

In fact, the most relevant Supreme Court decision is not Colorado Republican, but Austin v. Michigan Chamber of Commerce, in which the Supreme Court held that corporations can be walled off from the electoral process by forbidding both contributions and independent expenditures from general corporate treasuries. 494 U.S. at 657–61. Surely, the law cannot be that Congress has the power to prevent corporations from giving money directly to a candidate, or from expending money on behalf of a candidate, but lacks the power to prevent them from pouring unlimited funds into a candidate's political party in order to buy preferred access to him after the election.

Accordingly, closing the loophole for soft money contributions is in line with the longstanding and constitutional ban on corporate and union contributions in federal elections and with limits on the size of individuals' contributions to amounts that are not corrupting.

II. EFFORTS TO PERSUADE CANDIDATES TO LIMIT CAMPAIGN SPENDING VOLUNTARILY BY PROVIDING THEM WITH INDUCEMENTS LIKE FREE TELEVISION TIME ARE CONSTITUTIONAL

The McCain-Feingold bill would also invite candidates to limit campaign spending in return for free broadcast time and reduced broadcast and mailing rates. In Buckley, the Court explicitly declared that ''Congress . . . may condition acceptance of public funds on an agreement by the candidate to abide by specified expenditure limitations.'' 424 U.S. at 56 n.65. The Court explained: ''Just as a candidate may voluntarily limit the size of the contributions he chooses to accept, he may decide to forgo private fundraising and accept public funding.'' Id.

That was exactly the Buckley Court's approach when it upheld the constitutionality of the campaign subsidies to Presidential candidates in return for a promise to limit campaign spending. At the time, the subsidy to Presidential nominees was $20 million, in return for which Presidential candidates agreed to cap expenditures at that amount and raise no private funds at all. The subsidy is now worth over $60 million and no Presidential nominee of a major party has ever turned down the subsidy.

In effect, the critics argue that virtually any inducement offered to a candidate to persuade her to limit campaign spending is unconstitutional as a form of indirect ''coercion.'' But the Buckley Court clearly distinguished between inducements designed to elicit a voluntary decision to limit spending and coercive mandates that impose involuntary spending ceilings. If giving a Presidential candidate a $60 million subsidy is a constitutional inducement, surely providing free television time and reduced postal rates falls into the same category of acceptable inducement. The lesson from Buckley is that merely because a deal is too good to pass up does not render it unconstitutionally ''coercive.''

Respectfully submitted,

RONALD DWORKIN,
Professor of Jurisprudence and Fellow of University College at Oxford University; Frank H. Sommer Professor of Law, New York University School of Law.

BURT NEUBORNE,
John Norton Pomeroy Professor of Law, Legal Director, Brennan Center for Justice, New York University School of Law.

Mr. MCCAIN. What the modified bill seeks to do is establish a so-called bright line test 60 days out from an election. Any independent expenditures that fall within that 60-day window could not use a candidate's name or his or her likeness. During this 60-day period, ads could run that advocate any number of issues. Pro-life ads, pro-choice ads, antilabor ads, prowilderness ads, pro-Republican party or Democratic party ads—all could be aired without restriction. However, ads mentioning candidates themselves could not be aired.

This accomplishes much. First, if soft money is banned to the political parties, such money will inevitably flow to independent campaign organizations. These groups often run ads that the candidates themselves disapprove of. Further, these ads are almost always negative attack ads and do little to further beneficial debate and a healthy political dialog. To be honest, they simply drive up an individual candidate's negative polling numbers and increase public cynicism for public service in general.

The modified bill explicitly protects voter guides. I believe this is a very important point. Some have unfairly criticized the original bill because they thought it banned or prohibited the publication and distribution of voter guides and voting records. While I disagree with those individual's conclusions, the sponsors of the modified bill sought to clarify this matter.

Let me state that voter guides are completely protected in the modified bill. Any statements to the contrary are simply not true.

Some of my colleagues have voiced concern about the 60-day bright line test as being arbitrary. They have noted that different standards would exist prior to 60 days out. They are right. But what is their point. Election law is riddled with deadlines and time frames. When a candidate runs for office, he or she must file papers by a certain date. In order to appear on the ballot, certain deadlines must be met, certain events must occur. What is their point. Would they advocate abolishing all time frames and just let elections occur as spontaneous events? I don't think so.

I hope that we will not allow our attention to be distracted from the real issues at hand—how to raise the tenor of the debate in our elections and give people real choices. No one benefits from negative ads. They don't aid our Nation's political dialog. Again, if someone chooses to run negative ads, this bill will not restrict their right to do so. But we should not just throw up our hands and say, ''Who cares?'' We should seek, within the protections of the Constitution, to encourage a healthy political debate.

I believe that in 1994 it was not better funding and more money that gave Republicans victory; it was better and more ideas. If money was the key to Republican victory, why then did it take so long?

I am very serious about this point. Some have stated that money helps equalize the Republican Party's ability to win elections due to the liberal press. If that is true, then why didn't it work? Since 1974, when we last reformed the campaign finance system, throughout the 1970's and 1980's and 1990's, Republicans routinely have outraised and outspent Democrats. Yet, with the exception of 1980 to 1986 in the Senate, we did not control the Congress. I would argue that the 6 years in which we controlled the Senate during the 1980's was due to the strength and leadership of Ronald Reagan; not our ability to spend.

When we took over the Congress in 1994—and I say this not to agitate my Democrat colleagues—it was not due to money. It was due to our superior ideas. It was due to the Contract With America. It was due to a fundamental change in the views of the American electorate. It was not due to a spate of negative campaign advertising.

Title III of the modified bill mandates greater disclosure. Our bill mandates that all FEC filings documenting campaign receipts and expenditures be made electronically and that they then be made accessible to the public on the Internet not later than 24 hours after the information is received by the Federal Election Commission.

Additionally, current law allows for campaigns to make a ''best effort'' to obtain the name, address, and occupation information of the donors, et cetera. The bill also mandates random audits of campaigns. Such audits would only occur after an affirmative vote of at least four of the six members of the FEC. This will prevent the use of audits as a purely partisan attack.

Title IV seeks to encourage individuals to limit the amount of personal money they spend on their own campaigns. If an individual voluntarily elects to limit the amount of money he or she spends in his or her race to $50,000, then the national parties are able to use funds known as ''coordinated expenditures'' to aid such candidates. If candidates refuse to limit their own personal spending, the parties are prohibited from contributing coordinated funds to the candidate.

This serves to limit the advantage that wealthy candidates enjoy and strengthens the party system by encouraging candidates to work more closely with the parties.

Lastly, the bill codifies the Beck decision, which states that nonunion employees in a closed-shop union workplace who are required to contribute funds to the union can request and ensure that his or her money not be used for political purposes.

I personally support stronger language. I believe no individual should be forced to contribute to political activities. However, I recognize stronger language would invite a filibuster of this bill and would doom its final passage.

Mr. President, what I have outlined is a basic summary of our modification to the original bill.

I have heard many colleagues say that they could not support S. 25, the original McCain-Feingold bill, for a wide variety of reasons. Some oppose spending limits. Others oppose free or reduced rate broadcast time. Yet others could not live with postal subsidies to candidates, and others complain that nothing was being done about labor.

Again, as I stated in the opening debate on Friday, I hope all of my colleagues who made such statements will take a new and openminded look at this bill. Gone are spending limits. Gone is free broadcast time. Gone are reduced rate TV time and postal subsidies. We have sought to address the problem of undue influence being exercised by the labor unions. All of the excuses of the past are gone.

Mr. President, let me close again by emphasizing that the sponsors of this legislation have but one purpose—to enact a fair, bipartisan campaign reform that seeks no advantage for one party or the other but only seeks to find common ground upon which we can all agree to pass the best, most balanced, and most important reform we have ever had.

All we ask of our colleagues is that they approach this debate with the same purpose in mind.

To those who accuse the opponents of this bill of being unyielding in their opposition to any reform, let me recite the words of my friend from Kentucky from an op-ed piece he wrote for the Washington Post in 1993. My friend, Senator MCCONNELL from Kentucky, said:

''The truth is that Republicans support a ban on all soft money,'' Senator MCCONNELL wrote, ''regardless of whether it benefits Republicans or Democrats.''

Let me repeat that.

''The truth is that Republicans support a ban on all soft money,'' Senator MCCONNELL wrote, ''regardless of whether it benefits Republicans or Democrats.''

The Senator went on to identify himself and the Republican Party with the advocates of reform:

Truly campaign finance reform is needed—

truly campaign finance reform is needed—

but it should not have to cost the taxpayers, and it does not have to include spending limits. If we are going to pass a meaningful bipartisan campaign finance bill, we must drop the roadblocks to reform: taxpayers financing and spending limits.

Mr. President, I say to my friend from Kentucky that, as a sign of our good faith, the sponsors of this bill have listened to his objections, and we have dropped the provisions which he once criticized as roadblocks. Moreover, we share Senator MCCONNELL's view that soft money must be banned.

I would say that we are very close to the proposed reforms that Senator MCCONNELL proposed in 1993. We pled with our colleagues not to use the amendment process only to kill the prospects for real reform by offering amendments intended to be, as Senator MCCONNELL put it, ''roadblocks'' to reform.

If Senator MCCONNELL is as sincere in proposing reforms as he was a few years ago—which I do not doubt—work with us to resolve our very few remaining differences and help us reach our common goal of genuine campaign finance reform.

MODIFICATION TO S. 25

Mr. MCCAIN. Mr. President, I send the modification to the desk.

The PRESIDING OFFICER. The bill is so modified.

The modification is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Bipartisan Campaign Reform Act of 1997''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—REDUCTION OF SPECIAL INTEREST INFLUENCE

Sec. 101. Soft money of political parties.
Sec. 102. Increased contribution limits for State committees of political parties and aggregate contribution limit for individuals.
Sec. 103. Reporting requirements.

TITLE II—INDEPENDENT AND COORDINATED EXPENDITURES

Sec. 201. Definitions.
Sec. 202. Civil penalty.

Sec. 203. Reporting requirements for certain independent expenditures.
Sec. 204. Independent versus coordinated expenditures by party.
Sec. 205. Coordination with candidates.
TITLE III—DISCLOSURE
Sec. 301. Filing of reports using computers and facsimile machines; filing by Senate candidates with Commission.
Sec. 302. Prohibition of deposit of contributions with incomplete contributor information.
Sec. 303. Audits.
Sec. 304. Reporting requirements for contributions of $50 or more.
Sec. 305. Use of candidates' names.
Sec. 306. Prohibition of false representation to solicit contributions.
Sec. 307. Soft money of persons other than political parties.
Sec. 308. Campaign advertising.
TITLE IV—PERSONAL WEALTH OPTION
Sec. 401. Voluntary personal funds expenditure limit.
Sec. 402. Political party committee coordinated expenditures.
TITLE V—MISCELLANEOUS
Sec. 501. Codification of Beck decision.
Sec. 502. Use of contributed amounts for certain purposes.
Sec. 503. Limit on congressional use of the franking privilege.
Sec. 504. Prohibition of fundraising on Federal property.
Sec. 505. Penalties for knowing and willful violations.
Sec. 506. Strengthening foreign money ban.
Sec. 507. Prohibition of contributions by minors.
Sec. 508. Expedited procedures.
Sec. 509. Initiation of enforcement proceeding.
TITLE VI—SEVERABILITY; CONSTITUTIONALITY; EFFECTIVE DATE; REGULATIONS
Sec. 601. Severability.
Sec. 602. Review of constitutional issues.
Sec. 603. Effective date.
Sec. 604. Regulations.

TITLE I—REDUCTION OF SPECIAL INTEREST INFLUENCE

SEC. 101. SOFT MONEY OF POLITICAL PARTIES.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following:

"SEC. 324. SOFT MONEY OF POLITICAL PARTIES.

''(a) NATIONAL COMMITTEES.—

''(1) IN GENERAL.—A national committee of a political party (including a national congressional campaign committee of a political party) and any officers or agents of such party committees, shall not solicit, receive, or direct to another person a contribution, donation, or transfer of funds, or spend any funds, that are not subject to the limitations, prohibitions, and reporting requirements of this Act.

''(2) APPLICABILITY.—This subsection shall apply to an entity that is directly or indirectly established, financed, maintained, or controlled by a national committee of a political party (including a national congressional campaign committee of a political party), or an entity acting on behalf of a national committee, and an officer or agent acting on behalf of any such committee or entity.

''(b) STATE, DISTRICT, AND LOCAL COMMITTEES.—

''(1) IN GENERAL.—An amount that is expended or disbursed by a State, district, or local committee of a political party (including an entity that is directly or indirectly established, financed, maintained, or controlled by a State, district, or local committee of a political party and an officer or agent acting on behalf of such committee or entity) for Federal election activity shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act.

''(2) FEDERAL ELECTION ACTIVITY.—

''(A) IN GENERAL.—The term 'Federal election activity' means—

''(i) voter registration activity during the period that begins on the date that is 120 days before the date a regularly scheduled Federal election is held and ends on the date of the election;

''(ii) voter identification, get-out-the-vote activity, or generic campaign activity conducted in connection with an election in which a candidate for Federal office appears on the ballot (regardless of whether a candidate for State or local office also appears on the ballot); and

''(iii) a communication that refers to a clearly identified candidate for Federal office (regardless of whether a candidate for State or local office is also mentioned or identified) and is made for the purpose of influencing a Federal election (regardless of whether the communication is express advocacy).

''(B) EXCLUDED ACTIVITY.—The term 'Federal election activity' does not include an amount expended or disbursed by a State, district, or local committee of a political party for—

''(i) campaign activity conducted solely on behalf of a clearly identified candidate for State or local office, provided the campaign activity is not a Federal election activity described in subparagraph (A);

''(ii) a contribution to a candidate for State or local office, provided the contribution is not designated or used to pay for a Federal election activity described in subparagraph (A);

''(iii) the costs of a State, district, or local political convention;

''(iv) the costs of grassroots campaign materials, including buttons, bumper stickers, and yard signs that name or depict only a candidate for State or local office;

''(v) the non-Federal share of a State, district, or local party committee's administrative and overhead expenses (but not including the compensation in any month of an individual who spends more than 20 percent of the individual's time on Federal election activity) as determined by a regulation promulgated by the Commission to determine the non-Federal share of a State, district, or local party committee's administrative and overhead expenses; and

''(vi) the cost of constructing or purchasing an office facility or equipment for a State, District or local committee.

''(c) FUNDRAISING COSTS.—An amount spent by a national, State, district, or local committee of a political party, by an entity that is established, financed, maintained, or controlled by a national, State, district, or local committee of a political party, or by an agent or officer of any such committee or entity, to raise funds that are used, in whole or in part, to pay the costs of a Federal election activity shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act.

''(d) TAX-EXEMPT ORGANIZATIONS.—A national, State, district, or local committee of a political party (including a national congressional campaign committee of a political party, an entity that is directly or indirectly established, financed, maintained, or controlled by any such national, State, district, or local committee or its agent, an agent acting on behalf of any such party committee, and an officer or agent acting on behalf of any such party committee or entity), shall not solicit any funds for, or make or direct any donations to, an organization that is described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code (or has submitted an application to the Secretary of the Internal Revenue Service for determination of tax-exemption under such section).

''(e) CANDIDATES.—

''(1) IN GENERAL.—A candidate, individual holding Federal office, or agent of a candidate or individual holding Federal office shall not solicit, receive, direct, transfer, or spend funds for a Federal election activity on behalf of such candidate individual, agent or any other person unless the funds are subject to the limitations, prohibitions, and reporting requirements of this Act.

''(A) STATE LAW.—Paragraph (1) does not apply to the solicitation or receipt of funds by an individual who is a candidate for a State or local office if the solicitation or receipt of funds is permitted under State law for any activity other than a Fedral election activity.

''(B) FUNDRAISING EVENTS.—Paragraph (1) does not apply in the case of a candidate who attends, speaks, or is a featured guest at a fundraising event sponsored by a State, district, or local committee of a political party.''.

SEC. 102. INCREASED CONTRIBUTION LIMITS FOR STATE COMMITTEES OF POLITICAL PARTIES AND AGGREGATE CONTRIBUTION LIMIT FOR INDIVIDUALS.

(a) CONTRIBUTION LIMIT FOR STATE COMMITTEES OF POLITICAL PARTIES.—Section 315(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)) is amended—

(1) in subparagraph (B), by striking ''or'' at the end;

(2) in subparagraph (C)—

(A) by inserting ''(other than a committee described in subparagraph (D))'' after ''committee''; and

(B) by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(D) to a political committee established and maintained by a State committee of a political party in any calendar year that, in the aggregate, exceed $10,000''.

(b) AGGREGATE CONTRIBUTION LIMIT FOR INDIVIDUAL.—Section 315(a)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(3)) is amended by striking ''$25,000'' and inserting ''$30,000''.

SEC. 103. REPORTING REQUIREMENTS.

(a) REPORTING REQUIREMENTS.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) (as amended by section 203) is amended by adding at the end the following:

''(e) POLITICAL COMMITTEES.—

''(1) NATIONAL AND CONGRESSIONAL POLITICAL COMMITTEES.—The national committee of a political party, any national congressional campaign committee of a political party, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period.

''(2) OTHER POLITICAL COMMITTEES TO WHICH SECTION 324 APPLIES.—A political committee (not described in paragraph (1)) to which section 324(b)(1) applies shall report all receipts and disbursements made for activities described in paragraphs (2) and (3)(A)(v) of section 324(b).

''(3) ITEMIZATION.—If a political committee has receipts or disbursements to which this subsection applies from any person aggregating in excess of $200 for any calendar year, the political committee shall separately itemize its reporting for such person in the same manner as required in paragraphs (3)(A), (5), and (6) of subsection (b).

''(4) REPORTING PERIODS.—Reports required to be filed under this subsection shall be filed for the same time periods required for political committees under subsection (a).''.

(b) BUILDING FUND EXCEPTION TO THE DEFINITION OF CONTRIBUTION.—Section 301(8)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(B)) is amended—

(1) by striking clause (viii); and

(2) by redesignating clauses (ix) through (xiv) as clauses (viii) through (xiii), respectively.

TITLE II—INDEPENDENT AND COORDINATED EXPENDITURES

SEC. 201. DEFINITIONS.

(a) DEFINITION OF INDEPENDENT EXPENDITURE.—Section 301 of the Federal Election Campaign Act (2 U.S.C. 431) is amended by striking paragraph (17) and inserting the following:

''(17) INDEPENDENT EXPENDITURE.—

''(A) IN GENERAL.—The term 'independent expenditure' means an expenditure by a person—

''(i) for a communication that is express advocacy; and

''(ii) that is not provided in coordination with a candidate or a candidate's agent or a person who is coordinating with a candidate or a candidate's agent.''.

(b) DEFINITION OF EXPRESS ADVOCACY.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by adding at the end the following:

''(20) EXPRESS ADVOCACY.—

''(A) IN GENERAL.—The term 'express advocacy' means a communication that advocates the election or defeat of a candidate by—

''(i) containing a phrase such as 'vote for', 're-elect', 'support', 'cast your ballot for', '(name of candidate) for Congress', '(name of candidate) in 1997', 'vote against', 'defeat', 'reject', or a campaign slogan or words that in context can have no reasonable meaning other than to advocate the election or defeat of 1 or more clearly identified candidates;

''(ii) referring to 1 or more clearly identified candidates in a paid advertisement that is broadcast by a radio broadcast station or a television broadcast station within 60 calendar days preceding the date of an election of the candidate and that appears in the State in which the election is occurring, except that with respect to a candidate for the office of Vice President or President, the time period is within 60 calendar days preceding the date of a general election; or

''(iii) expressing unmistakable and unambiguous support for or opposition to 1 or more clearly identified candidates when taken as a whole and with limited reference to external events, such as proximity to an election.

''(B) VOTING RECORD AND VOTING GUIDE EXCEPTION.—The term 'express advocacy' does not include a printed communication that—

''(i) presents information in an educational manner solely about the voting record or position on a campaign issue of 2 or more candidates;

''(ii) that is not made in coordination with a candidate, political party, or agent of the candidate or party; or a candidate's agent or a person who is coordinating with a candidate or a candidate's agent;

''(iii) does not contain a phrase such as 'vote for', 're-elect', 'support', 'cast your ballot for', '(name of candidate) for Congress', '(name of candidate) in 1997', 'vote against', 'defeat', or 'reject', or a campaign slogan or words that in context can have no reasonable meaning other than to urge the election or defeat of 1 or more clearly identified candidates.''.

(c) DEFINITION OF EXPENDITURE.—Section 301(9)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9)(A)) is amended—

(1) in clause (i), by striking ''and'' at the end;

(2) in clause (ii), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(iii) a payment for a communication that is express advocacy; and

''(iv) a payment made by a person for a communication that—

''(I) refers to a clearly identified candidate;

''(II) is provided in coordination with the candidate, the candidate's agent, or the political party of the candidate; and

''(III) is for the purpose of influencing a Federal election (regardless of whether the communication is express advocacy).''

SEC. 202. CIVIL PENALTY.

Section 309 of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g) is amended—

(1) in subsection (a)—

(A) in paragraph (4)(A)—

(i) in clause (i), by striking ''clause (ii)'' and inserting ''clauses (ii) and (iii)''; and

(ii) by adding at the end the following:

''(iii) If the Commission determines by an affirmative vote of 4 of its members that there is probable cause to believe that a person has made a knowing and willful violation of section 304(c), the Commission shall not enter into a conciliation agreement under this paragraph and may institute a civil action for relief under paragraph (6)(A).''; and

(B) in paragraph (6)(B), by inserting ''(except an action instituted in connection with a knowing and willful violation of section 304(c))'' after ''subparagraph (A)''; and

(2) in subsection (d)(1)—

(A) in subparagraph (A), by striking ''Any person'' and inserting ''Except as provided in subparagraph (D), any person''; and

(B) by adding at the end the following:

''(D) In the case of a knowing and willful violation of section 304(c) that involves the reporting of an independent expenditure, the violation shall not be subject to this subsection.''.

SEC. 203. REPORTING REQUIREMENTS FOR CERTAIN INDEPENDENT EXPENDITURES.

Section 304(c) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(c)) is amended—

(1) in paragraph (2), by striking the undesignated matter after subparagraph (C);

(2) by redesignating paragraph (3) as paragraph (7); and

(3) by inserting after paragraph (2) (as amended by paragraph (1)) the following:

''(d) TIME FOR REPORTING CERTAIN EXPENDITURES.—

''(1) EXPENDITURES AGGREGATING $1,000.—

''(A) INITIAL REPORT.—A person (including a political committee) that makes or contracts to make independent expenditures aggregating $1,000 or more after the 20th day, but more than 24 hours, before the date of an election shall file a report describing the expenditures within 24 hours after that amount of independent expenditures has been made.

''(B) ADDITIONAL REPORTS.—After a person files a report under subparagraph (A), the person shall file an additional report within 24 hours after each time the person makes or contracts to make independent expenditures aggregating an additional $1,000 with respect to the same election as that to which the initial report relates.

''(2) EXPENDITURES AGGREGATING $10,000.—

''(A) INITIAL REPORT.—A person (including a political committee) that makes or contracts to make independent expenditures aggregating $10,000 or more at any time up to and including the 20th day before the date of an election shall file a report describing the expenditures within 48 hours after that amount of independent expenditures has been made.

''(B) ADDITIONAL REPORTS.—After a person files a report under subparagraph (A), the person shall file an additional report within 48 hours after each time the person makes or contracts to make independent expenditures aggregating an additional $10,000 with respect to the same election as that to which the initial report relates.

''(3) PLACE OF FILING; CONTENTS.—A report under this subsection—

''(A) shall be filed with the Commission; and

''(B) shall contain the information required by subsection (b)(6)(B)(iii), including the name of each candidate whom an expenditure is intended to support or oppose.''.

SEC. 204. INDEPENDENT VERSUS COORDINATED EXPENDITURES BY PARTY.

Section 315(d) of the Federal Election Campaign Act (2 U.S.C. 441a(d)) is amended—

(1) in paragraph (1), by striking ''and (3)'' and inserting '', (3), and (4)''; and

(2) by adding at the end the following:

''(4) INDEPENDENT VERSUS COORDINATED EXPENDITURES BY PARTY.—

''(A) IN GENERAL.—On or after the date on which a political party nominates a candidate, a committee of the political party shall not make both expenditures under this subsection and independent expenditures (as defined in section 301(17)) with respect to the candidate during the election cycle.

''(B) CERTIFICATION.—Before making a coordinated expenditure under this subsection with respect to a candidate, a committee of a political party shall file with the Commission a certification, signed by the treasurer of the committee, that the committee has not and shall not make any independent expenditure with respect to the candidate during the same election cycle.

''(C) APPLICATION.—For the purposes of this paragraph, all political committees established and maintained by a national political party (including all congressional campaign committees) and all political committees established and maintained by a State political party (including any subordinate committee of a State committee) shall be considered to be a single political committee.

''(D) TRANSFERS.—A committee of a political party that submits a certification under subparagraph (B) with respect to a candidate shall not, during an election cycle, transfer any funds to, assign authority to make coordinated expenditures under this subsection to, or receive a transfer of funds from, a committee of the political party that has made or intends to make an independent expenditure with respect to the candidate.''.

SEC. 205. COORDINATION WITH CANDIDATES.

(a) DEFINITION OF COORDINATION WITH CANDIDATES.—

(1) SECTION 301(8).—Section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)) is amended—

(A) in subparagraph (A)—

(i) by striking ''or'' at the end of clause (i);

(ii) by striking the period at the end of clause (ii) and inserting ''; or''; and

(iii) by adding at the end the following:

''(iii) anything of value provided by a person in coordination with a candidate for the purpose of influencing a Federal election, regardless of whether the value being provided is a communication that is express advocacy, in which such candidate seeks nomination or election to Federal office.''; and

(B) by adding at the end the following:

''(C) The term 'provided in coordination with a candidate' includes—

''(i) a payment made by a person in cooperation, consultation, or concert with, at the request or suggestion of, or pursuant to any general or particular understanding with a candidate, the candidate's authorized committee, or an agent acting on behalf of a candidate or authorized committee;

''(ii) a payment made by a person for the production, dissemination, distribution, or republication, in whole or in part, of any

broadcast or any written, graphic, or other form of campaign material prepared by a candidate, a candidate's authorized committee, or an agent of a candidate or authorized committee (not including a communication described in paragraph (9)(B)(i) or a communication that expressly advocates the candidate's defeat);

''(iii) a payment made by a person based on information about a candidate's plans, projects, or needs provided to the person making the payment by the candidate or the candidate's agent who provides the information with the intent that the payment be made;

''(iv) a payment made by a person if, in the same election cycle in which the payment is made, the person making the payment is serving or has served as a member, employee, fundraiser, or agent of the candidate's authorized committee in an executive or policymaking position;

''(v) a payment made by a person if the person making the payment has served in any formal policy making or advisory position with the candidate's campaign or has participated in formal strategic or formal policymaking discussions with the candidate's campaign relating to the candidate's pursuit of nomination for election, or election, to Federal office, in the same election cycle as the election cycle in which the payment is made;

''(vi) a payment made by a person if, in the same election cycle, the person making the payment retains the professional services of any person that has provided or is providing campaign-related services in the same election cycle to a candidate in connection with the candidate's pursuit of nomination for election, or election, to Federal office, including services relating to the candidate's decision to seek Federal office, and the person retained is retained to work on activities relating to that candidate's campaign;

''(vii) a payment made by a person who has engaged in a coordinated activity with a candidate described in clauses (i) through (vi) for a communication that clearly refers to the candidate and is for the purpose of influencing an election (regardless of whether the communication is express advocacy);

''(viii) direct participation by a person in fundraising activities with the candidate or in the solicitation or receipt of contributions on behalf of the candidate;

''(ix) communication by a person with the candidate or an agent of the candidate, occuring after the declaration of candidacy (including a pollster, media consultant, vendor, advisor, or staff member), acting on behalf of the candidate, about advertising message, allocation of resources, fundraising, or other campaign matters related to the candidate's campaign, including campaign operations, staffing, tactics, or strategy; or

''(x) the provision of in-kind professional services or polling data to the candidate or candidate's agent.

''(D) For purposes of subparagraph (C), the term 'professional services' includes services in support of a candidate's pursuit of nomination for election, or election, to Federal office such as polling, media advice, direct mail, fundraising, or campaign research.

''(E) For purposes of subparagraph (C), all political committees established and maintained by a national political party (including all congressional campaign committees) and all political committees established and maintained by a State political party (including any subordinate committee of a State committee) shall be considered to be a single political committee.''.

(2) SECTION 315(a)(7).—Section 315(a)(7) (2 U.S.C. 441a(a)(7)) is amended by striking subparagraph (B) and inserting the following:

''(B) a thing of value provided in coordination with a candidate, as described in section 301(8)(A)(iii), shall be considered to be a contribution to the candidate, and in the case of a limitation on expenditures, shall be treated as an expenditure by the candidate.

(b) MEANING OF CONTRIBUTION OR EXPENDITURE FOR THE PURPOSES OF SECTION 316.—Section 316(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)) is amended by striking ''shall include'' and inserting ''includes a contribution or expenditure, as those terms are defined in section 301, and also includes''.

TITLE III—DISCLOSURE

SEC. 301. FILING OF REPORTS USING COMPUTERS AND FACSIMILE MACHINES; FILING BY SENATE CANDIDATES WITH COMMISSION.

(a) USE OF COMPUTER AND FACSIMILE MACHINE.—Section 302(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)) is amended by striking paragraph (11) and inserting the following:

''(11)(A) The Commission shall promulgate a regulation under which a person required to file a designation, statement, or report under this Act—

''(i) is required to maintain and file a designation, statement, or report for any calendar year in electronic form accessible by computers if the person has, or has reason to expect to have, aggregate contributions or expenditures in excess of a threshold amount determined by the Commission; and

''(ii) may maintain and file a designation, statement, or report in electronic form or an alternative form, including the use of a facsimile machine, if not required to do so under the regulation promulgated under clause (i).

''(B) The Commission shall make a designation, statement, report, or notification that is filed electronically with the Commission accessible to the public on the Internet not later than 24 hours after the designation, statement, report, or notification is received by the Commission.

''(C) In promulgating a regulation under this paragraph, the Commission shall provide methods (other than requiring a signature on the document being filed) for verifying designations, statements, and reports covered by the regulation. Any document verified under any of the methods shall be treated for all purposes (including penalties for perjury) in the same manner as a document verified by signature.''.

(b) SENATE CANDIDATES FILE WITH COMMISSION.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended—

(1) in section 302, by striking subsection (g) and inserting the following:

''(g) FILING WITH THE COMMISSION.—All designations, statements, and reports required to be filed under this Act shall be filed with the Commission.''; and

(2) in section 304—

(A) in subsection (a)(6)(A), by striking ''the Secretary or''; and

(B) in the matter following subsection (c)(2), by striking ''the Secretary or''.

SEC. 302. PROHIBITION OF DEPOSIT OF CONTRIBUTIONS WITH INCOMPLETE CONTRIBUTOR INFORMATION.

Section 302 of Federal Election Campaign Act of 1971 (2 U.S.C. 432) is amended by adding at the end the following:

''(j) DEPOSIT OF CONTRIBUTIONS.—The treasurer of a candidate's authorized committee shall not deposit, except in an escrow account, or otherwise negotiate a contribution from a person who makes an aggregate amount of contributions in excess of $200 during a calendar year unless the treasurer verifies that the information required by this section with respect to the contributor is complete.''.

SEC. 303. AUDITS.

(a) RANDOM AUDITS.—Section 311(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(b)) is amended—

(1) by inserting ''(1) IN GENERAL.—'' before ''The Commission''; and

(2) by adding at the end the following:

''(2) RANDOM AUDITS.—

''(A) IN GENERAL.—Notwithstanding paragraph (1), the Commission may conduct random audits and investigations to ensure voluntary compliance with this Act. The selection of any candidate for a random audit or investigation shall be based on criteria adopted by a vote of at least 4 members of the Commission.

''(B) LIMITATION.—The Commission shall not conduct an audit or investigation of a candidate's authorized committee under subparagraph (A) until the candidate is no longer a candidate for the office sought by the candidate in an election cycle.

''(C) APPLICABILITY.—This paragraph does not apply to an authorized committee of a candidate for President or Vice President subject to audit under section 9007 or 9038 of the Internal Revenue Code of 1986.''.

(b) EXTENSION OF PERIOD DURING WHICH CAMPAIGN AUDITS MAY BE BEGUN.—Section 311(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(b)) is amended by striking ''6 months'' and inserting ''12 months''.

SEC. 304. REPORTING REQUIREMENTS FOR CONTRIBUTIONS OF $50 OR MORE.

Section 304(b)(3)(A) of the Federal Election Campaign Act at 1971 (2 U.S.C. 434(b)(3)(A) is amended—

(1) by striking ''$200'' and inserting ''$50''; and

(2) by striking the semicolon and inserting '', except that in the case of a person who makes contributions aggregating at least $50 but not more than $200 during the calendar year, the identification need include only the name and address of the person;''.

SEC. 305. USE OF CANDIDATES' NAMES.

Section 302(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(e)) is amended by striking paragraph (4) and inserting the following:

''(4)(A) The name of each authorized committee shall include the name of the candidate who authorized the committee under paragraph (1).

''(B) A political committee that is not an authorized committee shall not—

''(i) include the name of any candidate in its name; or

''(ii) except in the case of a national, State, or local party committee, use the name of any candidate in any activity on behalf of the committee in such a context as to suggest that the committee is an authorized committee of the candidate or that the use of the candidate's name has been authorized by the candidate.''.

SEC. 306. PROHIBITION OF FALSE REPRESENTATION TO SOLICIT CONTRIBUTIONS.

Section 322 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441h) is amended—

(1) by inserting after ''SEC. 322.'' the following: ''(a) IN GENERAL.—''; and

(2) by adding at the end the following:

''(b) SOLICITATION OF CONTRIBUTIONS.—No person shall solicit contributions by falsely representing himself or herself as a candidate or as a representative of a candidate, a political committee, or a political party.''.

SEC. 307. SOFT MONEY OF PERSONS OTHER THAN POLITICAL PARTIES.

(a) IN GENERAL.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) (as amended by section 103(c)) is amended by adding at the end the following:

''(g) DISBURSEMENTS OF PERSONS OTHER THAN POLITICAL PARTIES.—

''(1) IN GENERAL.—A person, other than a political committee or a person described in section 501(d) of the Internal Revenue Code of 1986, that makes an aggregate amount of disbursements in excess of $50,000 during a calendar year for activities described in paragraph (2) shall file a statement with the Commission—

''(A) on a monthly basis as described in subsection (a)(4)(B); or

''(B) in the case of disbursements that are made within 20 days of an election, within 24 hours after the disbursements are made.

''(2) ACTIVITY.—The activity described in this paragraph is—

''(A) Federal election activity;

''(B) an activity described in section 316(b)(2)(A) that expresses support for or opposition to a candidate for Federal office or a political party; and

''(C) an activity described in subparagraph (C) of section 316(b)(2).

''(3) APPLICABILITY.—This subsection does not apply to—

''(A) a candidate or a candidate's authorized committees; or

''(B) an independent expenditure.

''(4) CONTENTS.—A statement under this section shall contain such information about the disbursements made during the reporting period as the Commission shall prescribe, including—

''(A) the aggregate amount of disbursements made;

''(B) the name and address of the person or entity to whom a disbursement is made in an aggregate amount in excess of $200;

''(C) the date made, amount, and purpose of the disbursement; and

''(D) if applicable, whether the disbursement was in support of, or in opposition to, a candidate or a political party, and the name of the candidate or the political party.''.

(b) DEFINITION OF GENERIC CAMPAIGN ACTIVITY.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) (as amended by section 201(b)) is amended by adding at the end the following:

''(21) GENERIC CAMPAIGN ACTIVITY.—The term 'generic campaign activity' means an activity that promotes a political party and does not promote a candidate or non-Federal candidate.''.

SEC. 308. CAMPAIGN ADVERTISING.

Section 318 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441d) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by striking ''Whenever'' and inserting ''Whenever a political committee makes a disbursement for the purpose of financing any communication through any broadcasting station, newspaper, magazine, outdoor advertising facility, mailing, or any other type of general public political advertising, or whenever'';

(ii) by striking ''an expenditure'' and inserting ''a disbursement''; and

(iii) by striking ''direct''; and

(B) in paragraph (3), by inserting ''and permanent street address'' after ''name''; and

(2) by adding at the end the following:

''(c) Any printed communication described in subsection (a) shall—

''(1) be of sufficient type size to be clearly readable by the recipient of the communication;

''(2) be contained in a printed box set apart from the other contents of the communication; and

''(3) be printed with a reasonable degree of color contrast between the background and the printed statement.

''(d)(1) Any broadcast or cablecast communication described in paragraphs (1) or (2) of subsection (a) shall include, in addition to the requirements of that paragraph, an audio statement by the candidate that identifies the candidate and states that the candidate has approved the communication.

''(2) If a broadcast or cablecast communication described in paragraph (1) is broadcast or cablecast by means of television, the communication shall include, in addition to the audio statement under paragraph (1), a written statement that—

''(A) appears at the end of the communication in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds; and

''(B) is accompanied by a clearly identifiable photographic or similar image of the candidate.

''(e) Any broadcast or cablecast communication described in paragraph (3) of subsection (a) shall include, in addition to the requirements of that paragraph, in a clearly spoken manner, the following statement: '_____ is responsible for the content of this advertisement.' (with the blank to be filled in with the name of the political committee or other person paying for the communication and the name of any connected organization of the payor). If broadcast or cablecast by means of television, the statement shall also appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.''.

TITLE IV—PERSONAL WEALTH OPTION

SEC. 401. VOLUNTARY PERSONAL FUNDS EXPENDITURE LIMIT.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) (as amended by section 101) is amended by adding at the end the following:

''SEC. 325. VOLUNTARY PERSONAL FUNDS EXPENDITURE LIMIT.

''(a) ELIGIBLE SENATE CANDIDATE.—

''(1) PRIMARY ELECTION.—

''(A) DECLARATION.—A candidate is an eligible primary election Senate candidate if the candidate files with the Commission a declaration that the candidate and the candidate's authorized committees will not make expenditures in excess of the personal funds expenditure limit.

''(B) TIME TO FILE.—The declaration under subparagraph (A) shall be filed not later than the date on which the candidate files with the appropriate State officer as a candidate for the primary election.

''(2) GENERAL ELECTION.—

''(A) DECLARATION.—A candidate is an eligible general election Senate candidate if the candidate files with the Commission—

''(i) a declaration under penalty of perjury, with supporting documentation as required by the Commission, that the candidate and the candidate's authorized committees did not exceed the personal funds expenditure limit in connection with the primary election; and

''(ii) a declaration that the candidate and the candidate's authorized committees will not make expenditures in excess of the personal funds expenditure limit.

''(B) TIME TO FILE.—The declaration under subparagraph (A) shall be filed not later than 7 days after the earlier of—

''(i) the date on which the candidate qualifies for the general election ballot under State law; or

''(ii) if under State law, a primary or runoff election to qualify for the general election ballot occurs after September 1, the date on which the candidate wins the primary or runoff election.

''(b) PERSONAL FUNDS EXPENDITURE LIMIT.—

''(1) IN GENERAL.—The aggregate amount of expenditures that may be made in connection with an election by an eligible Senate candidate or the candidate's authorized committees from the sources described in paragraph (2) shall not exceed $50,000.

''(2) SOURCES.—A source is described in this paragraph if the source is—

''(A) personal funds of the candidate and members of the candidate's immediate family; or

''(B) proceeds of indebtedness incurred by the candidate or a member of the candidate's immediate family.

''(c) CERTIFICATION BY THE COMMISSION.—

''(1) IN GENERAL.—The Commission shall determine whether a candidate has met the requirements of this section and, based on the determination, issue a certification stating whether the candidate is an eligible Senate candidate.

''(2) TIME FOR CERTIFICATION.—Not later than 7 business days after a candidate files a declaration under paragraph (1) or (2) of subsection (a), the Commission shall certify whether the candidate is an eligible Senate candidate.

''(3) REVOCATION.—The Commission shall revoke a certification under paragraph (1), based on information submitted in such form and manner as the Commission may require or on information that comes to the Commission by other means, if the Commission determines that a candidate violates the personal funds expenditure limit.

''(4) DETERMINATIONS BY COMMISSION.—A determination made by the Commission under this subsection shall be final, except to the extent that the determination is subject to examination and audit by the Commission and to judicial review.

''(d) PENALTY.—If the Commission revokes the certification of an eligible Senate candidate—

''(1) the Commission shall notify the candidate of the revocation; and

''(2) the candidate and a candidate's authorized committees shall pay to the Commission an amount equal to the amount of expenditures made by a national committee of a political party or a State committee of a political party in connection with the general election campaign of the candidate under section 315(d).''.

SEC. 402. POLITICAL PARTY COMMITTEE COORDINATED EXPENDITURES.

Section 315(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(d)) (as amended by section 204) is amended by adding at the end the following:

''(5) This subsection does not apply to expenditures made in connection with the general election campaign of a candidate for the Senate who is not an eligible Senate candidate (as defined in section 325(a)).''.

TITLE V—MISCELLANEOUS

SEC. 501. CODIFICATION OF BECK DECISION.

Section 8 of the National Labor Relations Act (29 U.S.C. 158) is amended by adding at the end the following new subsection:

''(h) NONUNION MEMBER PAYMENTS TO LABOR ORGANIZATION.

''(1) IN GENERAL.—It shall be an unfair labor practice for any labor organization which receives a payment from an employee pursuant to an agreement that requires employees who are not members of the organization to make payments to such organization in lieu of organization dues or fees not to establish and implement the objection procedure described in paragraph (2).

''(2) OBJECTION PROCEDURE.—The objection procedure required under paragraph (1) shall meet the following requirements:

''(A) The labor organization shall annually provide to employees who are covered by such agreement but are not members of the organization—

''(i) reasonable personal notice of the objection procedure, the employees eligible to

invoke the procedure, and the time, place, and manner for filing an objection; and

''(ii) reasonable opportunity to file an objection to paying for organization expenditures supporting political activities unrelated to collective bargaining, including but not limited to the opportunity to file such objection by mail.

''(B) If an employee who is not a member of the labor organization files an objection under the procedure in subparagraph (A), such organization shall—

''(i) reduce the payments in lieu of organization dues or fees by such employee by an amount which reasonably reflects the ratio that the organization's expenditures supporting political activities unrelated to collective bargaining bears to such organization's total expenditures;

''(ii) provide such employee with a reasonable explanation of the organization's calculation of such reduction, including calculating the amount of organization expenditures supporting political activities unrelated to collective bargaining.

''(3) DEFINITION.—For purposes of this subsection, the term 'expenditures supporting political activities unrelated to collective bargaining' means expenditures in connection with a federal, state, or local election or in connection with efforts to influence legislation unrelated to collective bargaining.''.

SEC. 502. USE OF CONTRIBUTED AMOUNTS FOR CERTAIN PURPOSES.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by striking section 313 and inserting the following:

''SEC. 313. USE OF CONTRIBUTED AMOUNTS FOR CERTAIN PURPOSES.

''(a) PERMITTED USES.—A contribution accepted by a candidate, and any other amount received by an individual as support for activities of the individual as a holder of Federal office, may be used by the candidate or individual—

''(1) for expenditures in connection with the campaign for Federal office of the candidate or individual;

''(2) for ordinary and necessary expenses incurred in connection with duties of the individual as a holder of Federal office;

''(3) for contributions to an organization described in section 170(c) of the Internal Revenue Code of 1986; or

''(4) for transfers to a national, State, or local committee of a political party.

''(b) PROHIBITED USE.—

''(1) IN GENERAL.—A contribution or amount described in subsection (a) shall not be converted by any person to personal use.

''(2) CONVERSION.—For the purposes of paragraph (1), a contribution or amount shall be considered to be converted to personal use if the contribution or amount is used to fulfill any commitment, obligation, or expense of a person that would exist irrespective of the candidate's election campaign or individual's duties as a holder of Federal officeholder, including—

''(A) a home mortgage, rent, or utility payment;

''(B) a clothing purchase;

''(C) a noncampaign-related automobile expense;

''(D) a country club membership;

''(E) a vacation or other noncampaign-related trip;

''(F) a household food item;

''(G) a tuition payment;

''(H) admission to a sporting event, concert, theater, or other form of entertainment not associated with an election campaign; and

''(G) dues, fees, and other payments to a health club or recreational facility.''.

SEC. 503. LIMIT ON CONGRESSIONAL USE OF THE FRANKING PRIVILEGE.

Section 3210(a)(6) of title 39, United States Code, is amended by striking subparagraph (A) and inserting the following:

''(A) A Member of Congress shall not mail any mass mailing as franked mail during a year in which there will be an election for the seat held by the Member during the period between January 1 of that year and the date of the general election for that Office, unless the Member has made a public announcement that the Member will not be a candidate for reelection to that year or for election to any other Federal office.''.

SEC. 504. PROHIBITION OF FUNDRAISING ON FEDERAL PROPERTY.

Section 607 of title 18, United States Code, is amended by—

(a) striking subsection (a) and inserting the following:

''(a) PROHIBITION.—

''(1) IN GENERAL.—It shall be unlawful for any person to solitict or receive a donation of money or other thing of value for a political committee or a candidate for Federal, State or local office from a person who is located in a room or building occupied in the discharge of official duties by an officer or employee of the United States. An individual who is an officer or employee of the Federal Government, including the President, Vice President, and Members of Congress, shall not make solicit a donation of money or other thing of value for a political committee or candidate for Federal, State or local offices, while in any room or building occupied in the discharge of official duties by an officer or employee of the United States, from any person.

''(2) PENALTY.—A person who violates this section shall be fined not more than $5,000, imprisoned more than 3 years, or both.''.

(b) Inserting a subsection (b) after ''Congress'' ''or Executive Office of the President''.

SEC. 505. PENALTIES FOR KNOWING AND WILLFUL VIOLATIONS.

(a) INCREASED PENALTIES.—Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) is amended—

(1) in paragraphs (5)(A), (6)(A), and (6)(B), by striking ''$5,000'' and inserting ''$10,000''; and

(2) in paragraphs (5)(B) and (6)(C), by striking ''$10,000 or an amount equal to 200 percent'' and inserting ''$20,000 or an amount equal to 300 percent''.

(b) EQUITABLE REMEDIES.—Section 309(a)(5)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(5)) is amended by striking the period at the end and inserting '', and may include equitable remedies or penalties, including disgorgement of funds to the Treasury or community service requirements (including requirements to participate in public education programs).''.

(c) AUTOMATIC PENALTY FOR LATE FILING.—Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) is amended—

(1) by adding at the end the following:

''(13) PENALTY FOR LATE FILING.—

''(A) IN GENERAL.—

''(i) MONETARY PENALTIES.—The Commission shall establish a schedule of mandatory monetary penalties that shall be imposed by the Commission for failure to meet a time requirement for filing under section 304.

''(ii) REQUIRED FILING.—In addition to imposing a penalty, the Commission may require a report that has not been filed within the time requirements of section 304 to be filed by a specific date.

''(iii) PROCEDURE.—A penalty or filing requirement imposed under this paragraph shall not be subject to paragraph (1), (2), (3), (4), (5), or (12).

''(B) FILING AN EXCEPTION.—

''(i) TIME TO FILE.—A political committee shall have 30 days after the imposition of a penalty or filing requirement by the Commission under this paragraph in which to file an exception with the Commission.

''(ii) TIME FOR COMMISSION TO RULE.—Within 30 days after receiving an exception, the Commission shall make a determination that is a final agency action subject to exclusive review by the United States Court of Appeals for the District of Columbia Circuit under section 706 of title 5, United States Code, upon petition filed in that court by the political committee or treasurer that is the subject of the agency action, if the petition is filed within 30 days after the date of the Commission action for which review is sought.'';

(2) in paragraph (5)(D)—

(A) by inserting after the first sentence the following: ''In any case in which a penalty or filing requirement imposed on a political committee or treasurer under paragraph (13) has not been satisfied, the Commission may institute a civil action for enforcement under paragraph (6)(A).''; and

(B) by inserting before the period at the end of the last sentence the following: ''or has failed to pay a penalty or meet a filing requirement imposed under paragraph (13)''; and

(3) in paragraph (6)(A), by striking ''paragraph (4)(A)'' and inserting ''paragraph (4)(A) or (13)''.

SEC. 506. STRENGTHENING FOREIGN MONEY BAN.

Section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e) is amended—

(1) by striking the heading and inserting the following: ''CONTRIBUTIONS AND DONATIONS BY FOREIGN NATIONALS''; and

(2) by striking subsection (a) and inserting the following:

''(a) PROHIBITION.—It shall be unlawful for—

''(1) a foreign national, directly or indirectly, to make—

''(A) a donation of money or other thing of value, or to promise expressly or impliedly to make a donation, in connection with a Federal, State, or local election to a political committee or a candidate for Federal office; or

''(ii) a contribution or donation to a committee of a political party; or

''(B) for a person to solicit, accept, or receive such contribution or donation from a foreign national.''.

SEC. 507. PROHIBITION OF CONTRIBUTIONS BY MINORS.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) (as amended by section 401) is amended by adding at the end the following:

''SEC. 326. PROHIBITION OF CONTRIBUTIONS BY MINORS.

An individual who is 17 years old or younger shall not make a contribution to a candidate or a contribution or donation to a committee of a political party.''.

SEC. 508. EXPEDITED PROCEDURES.

(a) IN GENERAL.—Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) (as amended by section 505(c)) is amended by adding at the end the following:

''(14)(A) If the complaint in a proceeding was filed within 60 days preceding the date of a general election, the Commission may take action described in this subparagraph.

''(B) If the Commission determines, on the basis of facts alleged in the complaint and other facts available to the Commission, that there is clear and convincing evidence that a violation of this Act has occurred, is occurring, or is about to occur, the Commission may order expedited proceedings, shortening the time periods for proceedings under

paragraphs (1), (2), (3), and (4) as necessary to allow the matter to be resolved in sufficient time before the election to avoid harm or prejudice to the interests of the parties.

''(C) If the Commission determines, on the basis of facts alleged in the complaint and other facts available to the Commission, that the complaint is clearly without merit, the Commission may—

''(i) order expedited proceedings, shortening the time periods for proceedings under paragraphs (1), (2), (3), and (4) as necessary to allow the matter to be resolved in sufficient time before the election to avoid harm or prejudice to the interests of the parties; or

''(ii) if the Commission determines that there is insufficient time to conduct proceedings before the election, summarily dismiss the complaint.''.

(b) REFERRAL TO ATTORNEY GENERAL.—Section 309(a)(5) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(5)) is amended by striking subparagraph (C) and inserting the following:

''(C) The Commission may at any time, by an affirmative vote of at least 4 of its members, refer a possible violation of this Act or chapter 95 or 96 of title 26, United States Code, to the Attorney General of the United States, without regard to any limitation set forth in this section.''.

SEC. 509. INITIATION OF ENFORCEMENT PROCEEDING.

Section 309(a)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(2)) is amended by striking ''reason to believe that'' and inserting ''reason to investigate whether''.

TITLE VI—SEVERABILITY; CONSTITUTIONALITY; EFFECTIVE DATE; REGULATIONS

SEC. 601. SEVERABILITY.

If any provision of this Act or amendment made by this Act, or the application of a provision or amendment to any person or circumstance, is held to be unconstitutional, the remainder of this Act and amendments made by this Act, and the application of the provisions and amendment to any person or circumstance, shall not be affected by the holding.

SEC. 602. REVIEW OF CONSTITUTIONAL ISSUES.

An appeal may be taken directly to the Supreme Court of the United States from any final judgment, decree, or order issued by any court ruling on the constitutionality of any provision of this Act or amendment made by this Act.

SEC. 603. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act and the amendments made by this Act take effect on the date that is 60 days after the date of enactment of this Act or January 1, 1998, whichever occurs first.

SEC. 604. REGULATIONS.

The Federal Election Commission shall prescribe any regulations required to carry out this Act and the amendments made by this Act not later than 270 days after the effective date of this Act.

AMENDMENT NO. 1258

(Purpose: To guarantee that contributions to Federal political campaigns are voluntary)

Mr. LOTT. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] proposes an amendment numbered 1258.

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

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

The amendment is as follows:

Strike all of section 501, and insert the following:

SEC. 501. PAYCHECK PROTECTION ACT.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding the following new subsection:

''(c)(1) Except with the separate, prior, written, voluntary authorization of each individual, it shall be unlawful—

''(A) for any national bank or corporation described in this section to collect from or assess its stockholders or employees any dues, initiation fee, or other payment as a condition of employment if any part of such dues, fee, or payment will be used for political activities in which the national bank or corporation, as the case may be, is engaged; and

''(B) for any labor organization described in this section to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used for political activities.

''(2) An authorization described in paragraph (1) shall remain in effect until revoked and may be revoked at any time.

''(3) For purposes of this subsection, the term 'political activities' includes communications or other activities which involve carrying on propaganda, attempting to influence legislation, or participating or intervening in any political campaign or political party.''

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1259 TO AMENDMENT NO. 1258

(Purpose: To guarantee that contributions to Federal political campaigns are voluntary)

Mr. LOTT. Mr. President, I send an amendment to the desk to my amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] proposes an amendment numbered 1259 to amendment No. 1258.

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

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

The amendment is as follows:

In lieu of the matter proposed to be inserted insert the following:

SEC. 501. PAYCHECK PROTECTION ACT.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding the following new subsection:

''(c)(1) Except with the separate, prior, written, voluntary authorization of each individual, it shall be unlawful—

''(A) for any national bank or corporation described in this section to collect from or assess its stockholders or employees any dues, initiation fee, or other payment as a condition of employment if any part of such dues, fee, or payment will be used for political activities in which the national bank or corporation, as the case may be, is engaged; and

''(B) for any labor organization described in this section to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used for political activities.

''(2) An authorization described in paragraph (1) shall remain in effect until revoked and may be revoked at any time.

''(3) For purposes of this subsection, the term 'political activities' includes communications or other activities which involve carrying on propaganda, attempting to influence legislation, or participating or intervening in any political campaign or political party.''

(b) EFFECTIVE DATE.—This section shall take effect one day after enactment of this Act.

Mr. LOTT. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1260 TO AMENDMENT NO. 1258

(Purpose: To guarantee that contributions to Federal political campaigns are voluntary)

Mr. LOTT. I send a perfecting amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] proposes an amendment numbered 1260 to amendment No. 1258.

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

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

The amendment is as follows:

Strike all after the word ''**SEC**.'' in the pending amendment and insert the following:

501. PAYCHECK PROTECTION ACT.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding the following new subsection:

''(c)(1) Except with the separate, prior, written, voluntary authorization of each individual, it shall be unlawful—

''(A) for any national bank or corporation described in this section to collect from or assess its stockholders or employees any dues, initiation fee, or other payment as a condition of employment if any part of such dues, fee, or payment will be used for political activities in which the national bank or corporation, as the case may be, is engaged; and

''(B) for any labor organization described in this section to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used for political activities.

''(2) An authorization described in paragraph (1) shall remain in effect until revoked and may be revoked at any time.

''(3) For purposes of this subsection, the term 'political activities' includes communications or other activities which involve carrying on propaganda, attempting to influence legislation, or participating or intervening in any political campaign or political party.''

(b) EFFECTIVE DATE.—This section shall take effect two days after enactment of this Act.

AMENDMENT NO. 1261

(Purpose: To guarantee that contributions to Federal political campaigns are voluntary)

Mr. LOTT. I now send an amendment to the desk to the language proposed to be stricken.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] proposes an amendment No. 1261.

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

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

The amendment is as follows:

On page 42, in the language proposed to be stricken, strike all after ''**SEC. 501**'' through the end of the page and insert the following:

PAYCHEK PROTECTION ACT.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding the following new subsection:

''(c)(1) Except with the separate, prior, written, voluntary authorization of each individual, it shall be unlawful—

''(A) for any national bank or corporation described in this section to collect from or assess its stockholders or employees any dues, initiation fee, or other payment as a condition of employment if any part of such dues, fee, or payment will be used for political activities in which the national bank or corporation, as the case may be, is engaged; and

''(B) for any labor organization described in this section to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used for political activities.

''(2) An authorization described in paragraph (1) shall remain in effect until revoked and may be revoked at any time.

''(3) For purposes of this subsection, the term 'political activities' includes communications or other activities which involve carrying on propaganda, attempting to influence legislation, or participating or intervening in any political campaign or political party.''

(b) EFFECTIVE DATE.—This section shall take effect three days after enactment of this Act.

Mr. LOTT. I now ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1262 TO AMENDMENT NO. 1261

(Purpose: To guarantee that contributions to Federal political campaigns are voluntary)

Mr. LOTT. Mr. President, I send an amendment to the desk to my amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] proposes an amendment numbered 1262 to amendment No. 1261.

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

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

The amendment is as follows:

Strike all after the first word in the pending amendment and insert the following:

PROTECTION ACT.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding the following new subsection:

''(c)(1) Except with the separate, prior, written, voluntary authorization of each individual, it shall be unlawful—

''(A) for any national bank or corporation described in this section to collect from or assess to its stockholders or employees any dues, initiation fee, or other payment as a condition of employment it any part of such dues, fee, or payment will be used for political activities in which the national bank or corporation, as the case may be, is engaged; and

''(B) for any labor organization described in this section to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used for political activities.

''(2) An authorization described in paragraph (1) shall remain in effect until revoked and may be revoked at any time.

''(3) For purposes of this subsection, the term 'political activities' includes communications or other activities which involve carrying on propaganda, attempting to influence legislation, or participating or intervening in any political campaign or political party.''

(b) EFFECTIVE DATE.—This section shall take effect four days after enactment of this Act.

MOTION TO RECOMMIT

AMENDMENT NO. 1263 TO INSTRUCTIONS TO THE MOTION TO RECOMMIT

(Purpose: To guarantee that contributions to Federal political campaigns are voluntary)

Mr. LOTT. Mr. President, I now move that the Senate recommit S. 25 to the Committee on Rules and Administration with instructions to report back forthwith, and I send an amendment to the instructions to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] proposes an amendment numbered 1263 to instructions to the motion to recommit.

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

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

The amendment is as follows:

At the end of the instructions add the following:

''with an amendment as follows:

Strike all of section 501 and insert the following:

SEC. . PAYCHECK PROTECTION ACT.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding the following new subsection:

''(c)(1) Except with the separate, prior, written, voluntary authorization of each individual, it shall be unlawful—

''(A) for any national bank or corporation described in this section to collect from or assess its stockholders or employees any dues, initiation fee, or other payment as a condition of employment if any part of such dues, fee, or payment will be used for political activities in which the national bank or corporation, as the case may be, is engaged; and

''(B) for any labor organization described in this section to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used for political activities.

''(2) An authorization described in paragraph (1) shall remain in effect until revoked and may be revoked at any time.

''(3) For purposes of this subsection, the term 'political activities' includes communications or other activities which involve carrying on propaganda, attempting to influence legislation, or participating or intervening in any political campaign or political party.''

Mr. LOTT. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1264 TO AMENDMENT NO. 1263

(Purpose: To guarantee that contributions to Federal political campaigns are voluntary)

Mr. LOTT. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] proposes an amendment numbered 1264 to amendment No. 1263.

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

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. MCCAIN. I object to suspension of the reading. I would like to know what the amendment is.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

In lieu of the matter proposed to be inserted insert the following:

SEC. . PAYCHECK PROTECTION ACT.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding the following new subsection:

''(c)(1) Except with the separate, prior, written, voluntary authorization of each individual, it shall be unlawful—

''(A) for any national bank or corporation described in this section to collect from or assess its stockholders or employees any dues, initiation fee, or other payment as a condition of employment if any part of such dues, fee, or payment will be used for political activities in which the national bank or corporation, as the case may be, is engaged; and

''(B) for any labor organization described in this section to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used for political activities.

''(2) An authorization described in paragraph (1) shall remain in effect until revoked and may be revoked at any time.

''(3) For purposes of this subsection, the term 'political activities' includes communications or other activities which involve carrying on propaganda, attempting to influence legislation, or participating or intervening in any political campaign or political party.''

EFFECTIVE DATE.—This section shall take effect one day after enactment of this Act.

The PRESIDING OFFICER. Is there a sufficient second to the request for the yeas and nays?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1265 TO AMENDMENT NO. 1264

(Purpose: To guarantee that contributions to Federal political campaigns are voluntary)

Mr. LOTT. I send a final amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] proposes an amendment numbered 1265 to amendment No. 1264.

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

Mr. McCAIN. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will report.

The legislative clerk read as follows:

Strike all after the word ''section'' in the first degree amendment and insert the following:

. PAYCHECK PROTECTION ACT.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding the following new subsection:

''(c)(1) Except with the separate, prior, written, voluntary authorization of each individual, it shall be unlawful—

Mr. McCAIN. Mr. President, I ask unanimous consent that the remaining part of the reading of the amendment be dispensed with since it is the same as the other amendment.

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

The remainder of the amendment is as follows:

''(A) for any national bank or corporation described in this section to collect from or assess its stockholders or employees any dues, initiation fee, or other payment as a condition of employment if any part of such dues, fee, or payment will be used for political activities in which the national bank or corporation, as the case may be, is engaged; and

''(B) for any labor organization described in this section to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used for political activities.

''(2) An authorized described in paragraph (1) shall remain in effect until revoked and may be revoked at any time.

''(3) For purposes of this subsection, the term 'political activities' includes communications or other activities which involve carrying on propaganda, attempting to influence legislation, or participating or intervening in any political campaign or political party.''

(b) EFFECTIVE DATE—This section shall take effect two days after enactment of this Act.

Mr. LOTT. Mr. President, I would like to explain what just transpired.

Mr. President, Senate procedure can be sometimes confusing. So let me take a moment to go over what are the amendments that were offered and what is pending.

Under the unanimous-consent agreement reached last week, Senator McCAIN modified his original McCain-Feingold bill. I was then recognized to offer an amendment.

The amendment I offered—the Paycheck Protection Act—will not wipe out the underlying McCain bill, if it is adopted. On the contrary, if adopted, this amendment would become part of the bill.

The other amendments I just offered were part of the process which is informally known as ''filling up the amendment tree.'' This is a fairly standard procedure to ensure opponents of an amendment cannot gut it by offering yet another amendment.

I ask unanimous consent that five recent examples be printed in the RECORD.

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

1977—Jimmy Carter's Energy Deregulation Bill—Byrd filled up amendment tree.

1984—Grove City—Byrd (in minority) filled up the tree.

1985—Budget Resolution—Dole filled up the tree.

1988—Campaign Finance—Byrd filled up the tree (eight cloture votes).

1993—Emergency Supplemental Approps (Stimulus Bill)—Byrd filled up the tree.

Mr. LOTT. Mr. President, also, I note that this is done two or three times a year and certainly is not unprecedented.

I hope no one will characterize this amendment as a ''poison pill'' for campaign finance reform. It is so fundamental to fairness in the campaign process. Shouldn't workers in America be able to have some say about how their fees, assessments, or dues are used in political campaigns? I think the answer truly should be yes.

Some of our colleagues may not want to expose, much less vote on, one of the worst campaign abuses that exists—compulsory business or union dues—but that is no reason for them to suddenly change their position on campaign finance reform as a whole.

Most Americans would be shocked to learn that some workers in our Nation are forced to contribute to a candidate or campaign they don't support or do not know anything about. They have no way of directing where those funds go.

Because of that abuse, this amendment, the Paycheck Protection Act, is an essential element to genuine campaign reform. It requires that all political contributions be voluntary.

The McCain-Feingold bill places restrictions on political parties, bans soft money, and curbs the activities of grassroots organizations. But it contains a giant loophole: It allows corporations and unions to confiscate money, for political purposes, from their employees' and members' paychecks without getting their permission. This loophole must be closed.

Senator McCAIN himself stated that he ''personally supports much stronger [Beck] language.'' He said he ''believes that no individual—a union member or not—should be required to contribute to political activities.'' This was on a floor statement of September 26, 1997.

The McCain-Feingold bill limits what people can voluntary contribute for political purposes, but it does not protect people from being forced to contribute involuntarily to political campaigns.

We must require unions and corporations to get a worker's permission before taking money out of his or her paycheck for political purposes.

As I have said before, my own father was a union member. This amendment is not targeted at unions. It is, as a matter of fact, directed at affecting both unions and corporations as well.

No worker—whether union or corporate business, large or small—should be forced to contribute against his or her will, as a condition of their employment.

Many workers don't want to pay and be involved in campaigns or in politics, and many of those don't want to be told what they have to do and don't want to have their funds taken from them without their permission.

A recent poll of union members revealed that 78 percent did not know they had the right to stop paying for politics.

A 1996 poll of union members found that 62 percent opposed the AFL–CIO's expenditure of over $35 million—and probably much more—of their money in a campaign to control Congress.

No worker should be forced to pay for politics that they do not support. As such, I hope Senators will support my amendment.

There will be plenty of time to debate this amendment and other amendments, and then we will design a process to have some votes to see where the Senate stands on this and other issues.

I yield the floor.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I ask the distinguished leader if I may be designated as a cosponsor of his amendment.

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

Mr. WARNER. Mr. President, I commend the leader because there is no more essential thing in America than our freedom. It is written into every important document. It is the very foundation upon which our Republic was formed, yet we have turned aside and winked at this process whereby the American worker is penalized in that he or she cannot exercise his or her own free will in making the most fundamental of decisions: Whether or not to have his or her paycheck involuntarily docked for a sum of money for which in most instances they have no idea to what uses it will be put by people who make decisions for them.

Then that same worker will exercise his or her right of freedom to go to a polling place and write in a check or pull a lever or whatever the procedure may be by which he or she will exercise his or her freedom to select that individual, Democrat or Republican, independent, whether it is for chairman of the board of supervisors in the hometown, President of the United States, or whatever the case may be. To me it is a total anachronism to say that you cannot make a decision with regard to your paycheck, yet you are free to go into the polling booth and make that decision.

This amendment is referred to as a poison pill.

Mr. President, I ask unanimous consent to have printed in the RECORD a sample of the type of thing that is being used today in certain States by which that worker signs and sends into his or her respective employer his or her written consent to do just what this amendment asks.

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

POLITICAL CONTRIBUTION WITHHOLDING AUTHORIZATION

No employer or other person may withhold a portion of a Washington State resident's earnings (or that of a non-resident whose primary place of work is in Washington) in order to make contributions to a political committee that must report to the Public Disclosure Commission or to a candidate for state or local office without annual, written permission from that individual. Completion of this form entitles the entity specified to make such a withholding for no more than 12 consecutive months.

I, (First Name, Middle Initial, Last Name) authorize (Name of Employer or Other Person) to withhold ($ Amount per/pay period/week/month/year/ from my earnings in order to make political contributions to (Name, City and State of political committee(s) and/or candidate(s) to receive deductions).

If more than one recipient is indicated, each is to receive the following portion of the deduction made: _____. This authorization is valid for no more than twelve consecutive months. It is effective on (Month/Day/Year) and expires on (Month/Day/Year).

Signature:

Date:

According to state law, no employer or labor organization may discriminate against an officer or employee in the terms or conditions of employment for (a) the failure to contribute to, (b) the failure in any way to support or oppose, or (c) in any way supporting or opposing a candidate, ballot proposition, political party, or political committee.

TIMING OF CONTRIBUTIONS

Primary and General Contributions: With the exception of contributions from a bona fide political party organization or a legislative caucus committee, no primary election contribution may be made after the date of the primary.

No general election contribution is permitted after November 30 of the election year from any contributor—except the candidate using personal funds for his own campaign.

Mr. WARNER. Mr. President, I remember a famous poem written years and years ago, and I will insert in the RECORD portions of it. But it related to military people around the turn of the century. It says: ''Yours is not to reason why; yours is but to do or die.''

Mr. President, I ask unanimous consent that an excerpt of ''The Charge of the Light Brigade'' be printed in the RECORD.

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

THE CHARGE OF THE LIGHT BRIGADE

II.

''Forward, the Light Brigade!''
Was there a man dismay'd?
Not tho' the soldier knew
Some one had blunder'd:
Theirs not to make reply,
Theirs not to reason why,
Theirs but to do and die:
Into the valley of Death
Rode the six hundred.

Mr. WARNER. That is the philosophy behind this automatic deduction—yours is not to reason why; you just do as we tell you. That is antithetical. It is not a poison pill to correct that and have maybe six simple words which say, I hereby consent to have my paycheck deducted in a certain amount. How can anyone in good conscience call that simple one sentence a poison pill? It is the exercise of the very essence of democracy in this country and no longer adheres to the refrain ''yours is not to reason why.''

The American worker is quite different in profile today than when this statute, which they predicate the automatic deduction, was put in. Given a few gray hairs and a few years, I bridge back to those thirties when so much of the labor legislation was enacted. That laboring person was drawn from a segment of society that was struggling for its very existence, would take any job, would follow any order, would accept any working condition just to have enough of an opportunity to provide for his or her family.

Fortunately, this country has progressed today to where that is gone, and today that working person is of an entirely different profile. They have had the opportunity to get education, and many are still seeking to augment their education. They have the opportunity to think for themselves. We are in a society today dominated by all sorts of opportunities, be it on television or in schools or otherwise, to enhance one's level of education and to develop, Mr. President, a thought process by which the American worker can make many, many more decisions for himself or for herself than at the time of the origin of these very oppressive statutes that we still struggle with today.

So I commend the distinguished majority leader. It seems to me anyone who wants to call this a poison pill should hold up that simple form, point to it and say that the exercise of the right to simply say that I consent is a poison pill. I call it, Mr. President, a ''freedom'' pill, if you want to use that phraseology. This is a ''freedom'' pill for the ability of the American worker to begin to think and exercise his or her own judgment. I commend those who support this measure. I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, very briefly, reluctantly, I must oppose the amendment before the Senate. I do so not because I disagree with its intent. In fact, I strongly support what it seeks to do. But, as with all difficult choices, a decision must be made. In this case, I must decide that passage of overall campaign finance reform must be the Senate's first goal. The cosponsors of the modified bill recognized that something must be done about enforcing the Beck decision.

S. 25, our original bill, was silent on this point. We chose in the modification to take the important step to codify Beck. This step was not taken lightly, and it should not be discounted by those who want more. The fight with my friends on the other side of the aisle over this issue loomed large for some time. To be frank, this was certainly one of the most contentious issues we faced. In fact, inclusion of Beck language in the bill nearly fractured our bipartisan coalition. However, in the end, all involved came to the same conclusion that I have today. We must put the goal of overall campaign finance reform first. By this I do not mean to say that workers' rights issues are second to any other subject. They are extremely important and are long overdue in being addressed, but now is the time to debate campaign finance reform. We can turn to other subjects in due time.

Mr. President, in the modified bill, we seek to codify the landmark 1988 Supreme Court Beck decision. President Bush did this by Executive order in 1992 to the applause of the right and a condemnation of the left and the unions. It was the right thing to do then, and it is the right first step now.

Unfortunately, as we all know, elections have consequences, and after winning the White House, President Clinton soon reversed course and repealed President Bush's Executive order. This bill would effectively reverse the actions of President Clinton. The bill would require that all labor unions give notice to nonunion individuals who are forced to pay agency fees annual notice of their Beck rights. Such notice would occur by mail and must inform the worker how much money he or she could receive. Again, this notification must occur each and every year.

If an employee chooses to utilize his or her rights, an employee would be able to notify the union of such action by mail and have his or her fees reduced accordingly. The Beck decision does not affect labor's contributions to candidates from its PAC. The law already restricts dues and fees from being used for any PAC activity. The codification of Beck contained in the modified bill is not inconsequential. An estimated 3 million of 19 million individuals working under labor contracts are in union or agency shops where they must pay union fees even though they are not members. If nonunion employees chose to invoke their rights, unions would have to return up to $2.4 million a year.

On April 14, 1992, after President Bush issued his Executive order, the Cleveland Plain Dealer reported:

''Unions in truth have not been complying with Beck,'' said Robert Duvin, a Cleveland lawyer who represents management on labor issues. ''It's a joke. I am not saying workers don't get their money back. Unions are not keeping the kind of accounting they should.''

The language in the modified bill will go far to stop this ''joke.'' It will make clear that Beck is the law of the land, that it must be complied with, and that the status quo is no longer acceptable.

As I noted, in 1992, when President Bush took this action, it was widely applauded by Republicans as a good first step, and I admit it is exactly that, a good first step, not comprehensive action. Just as the bill before the Senate is not all that I would want, it, too, is only a good first step. In both cases we must not let perfect be the enemy of the good. I hope that we can quickly resolve this issue. Now is not the time for a debate on labor policy. This amendment should be offered on other legislation. I would strongly support debate on a freestanding bill. Perhaps all my colleagues could agree to move to Senator NICKLES' Paycheck Protection Act immediately after debate on campaign finance reform. I challenge my Democratic colleagues to come to the floor and pledge to allow the majority leader to bring the Nickles' Paycheck Protection Act to the floor and to allow for full debate in the regular order. Just as we are debating campaign finance reform, we could have a healthy debate on labor law, and that is the best way to deal with this issue.

Again, I urge my colleagues to work out a solution to this matter that does not jeopardize passage of campaign finance reform. Both sides of the aisle must come to an agreement to deal with this subject without engaging in a filibuster. A filibuster at this time will doom campaign finance reform. There will be plenty of blame to go around if such action occurs. I hope the public will understand that any prolonged debate at this time is designed solely to kill campaign finance reform. If we can't come to some agreement to bring this matter up freestanding, then I hope my colleagues will allow us to vote on the matter. Let the will of the majority of the Senate prevail. Then we can and must continue under the regular order and proceed with other amendments. We should not let the prospects for passage of campaign finance reform come crashing down based on the first amendment offered.

Let me point out again, Mr. President, I think we ought to go ahead and vote on this amendment, dispose of it and move forward. I hope that we can do that soon, since it is an issue that is fairly well known to most of my colleagues.

Mr. President, on Friday, we began a historic debate on the issue of campaign finance reform. The Senate heard from many Members who feel very passionately on this subject. The Washington Post characterized the debate as having ''rare passion and eloquence,'' and that goes on both sides of this issue. I think it is a tribute to the nature of this body that such a debate is now occurring. We must not allow this opportunity to be lost. I urge the Senate to move forward with debate on campaign finance reform and resolve this unrelated labor debate as soon as possible.

Mr. President, I yield the floor.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, is the Senator from Arizona going to stay in the Chamber? I would like to enter into a colloquy with him if he is available for that.

If I could, I would ask my friend from Arizona, last Friday when the debate began, the substitute which the Senator from Arizona laid down today was not ready until today. Is the Senator from Kentucky correct about that?

Mr. MCCAIN. Of course.

Mr. MCCONNELL. And the letter from the Brennan Center in New York, which the Senator from Arizona and the Senator from Wisconsin received, was dated last Monday, September 22. So would the Senator from Kentucky be correct in saying that the 126 signatories to that letter probably had not seen the substitute which the Senator from Arizona laid down today?

Mr. MCCAIN. Of course, the Senator from Kentucky knows that the core of the bill basically remains the same. What we did was, as I mentioned in both my statement on Friday and again this morning, we did away with a number of the provisions in the bill which would have guaranteed its failure, not that we had in any way abandoned the fundamental belief in those provisions of the bill, but we were not going to let the perfect be the enemy of the good. We are in contact with the Brennan Center, and they will update their views on this within a very short period of time. So if the Senator from Kentucky has some concerns about their being up to date with the latest changes, let me calm his fears at this time to tell him that we will be receiving very soon another letter that approves of the modified version.

Mr. MCCONNELL. Well, the original letter to the Senator from Arizona, which I have read, talks about party soft money and spending limits on campaigns. The spending limits on campaigns portion, I understand, is not in the revision that the Senator from Arizona has sent to the desk.

According to my reading of the letter, there is no mention of either independent expenditures or issue advocacy provisions, which I assume are the same in the substitute as were in the original bill. Am I missing something, or is the Senator from Arizona——

Mr. MCCAIN. The Senator from Kentucky did miss something. I am sorry he wasn't able to attend our press conference that we held last week with Burt Neuborne, if you will look the final signature for Burt Neuborne, John Norton Pomeroy Professor of Law, legal director, Brennan Center for Justice, New York University School of Law. He was queried on exactly that point and stated that he firmly believed in its constitutionality and, as I say, that letter will be updated very soon to include that.

Mr. MCCONNELL. I would say to my friend from Arizona I am reading from the letter of September 22. It says, ''We do not all agree on the constitutionality of various provisions of the McCain-Feingold bill itself, nor are we endorsing every aspect of the bill's soft money and voluntary spending limits provision.''

Is the Senator from Arizona then suggesting that all 126 signatories to the letter endorse the independent expenditure and issue advocacy provisions of the modification?

Mr. MCCAIN. I am telling the Senator from Kentucky that I am totally confident that all or the overwhelming majority of the 126 who signed this letter will also sign and approve of the changes that we have made. Again, fundamentally because there have been reductions in the bill instead of an expansion of it.

Again, Mr. Neuborne, who was the one who was the progenitor of this entire letter and contacted all 126 people, expressed his confidence that that would also be the case.

Mr. FEINGOLD. Will the Senator from Kentucky yield for a question?

Mr. MCCONNELL. Let me just say there have been a whole series of cases——

Mr. FEINGOLD. Will the Senator from Kentucky yield for a question?

Mr. MCCONNELL. Not at this time.

There have been a whole series of cases on issue advocacy. It is not in a gray area. In fact, the FEC's enforcement actions and regulatory efforts to suppress issue advocacy have been going on for a number of years.

They have been involved in a number of cases. I am looking at a whole list here, FEC versus AFSCME, in 1979; FEC versus CLITRIM, in 1980; FEC versus Machinists, in 1981; FEC versus Massachusetts Citizens for Life, in 1986; FEC versus——

Mr. MCCAIN. May I ask the Senator from Kentucky, is our colloquy over or is it going to continue?

Mr. MCCONNELL. I apologize to my friend from Arizona. I am now making some observations about issue advocacy.

Mr. FEINGOLD. Will the Senator yield for a question?

Mr. MCCONNELL. FEC versus Phillips Publishing, in 1981; FEC versus National Organization for Women; FEC versus Survival Education Fund, in 1995; FEC versus Christian Action Network, in 1996; FEC versus GOPAC, in 1994; FEC versus Colorado Republican Federal Campaign Committee, in 1996.

Now, in all of those cases the Federal Election Commission was trying to snuff out issue advocacy. It was rebuffed in all of those cases and, in the case of FEC versus the Christian Action Network, in the fourth circuit, the court was so angry at the FEC for continuing to pursue these citizens

groups that it ordered the FEC to pay the legal fees of the citizen group which had been harassed by the FEC.

Mr. President, there may be some things that are in a gray area in this debate, but issue advocacy is not. The court has been very, very clear, since Buckley, that it is impermissible for the Congress to shut these people up when they seek to criticize us. An effort to say that in proximity to the election they can't criticize us would be an exercise in futility. I mean, these citizens have a right to band together. We don't like it. I stipulate that I have been subjected, shall I say, to these issue advocacy campaigns myself. I don't like it. I would rather not be criticized. But, as a practical matter, the courts are not going to allow us to shut these people up just because we find what they say about us offensive.

The enforcement actions that I mentioned are just the tip of the iceberg, since many enforcement actions never progress beyond the administrative levels. But these administrative investigations can be equally chilling on free speech.

The FEC has attempted to buttress its position regulating issue advocacy by extensive regulatory proceedings resulting in the adoption of the following regulations, which have been invalidated by the courts.

The FEC has been on this mission to shut these people up for a long time. So they issued a variety of different regulations, 11 CFR 114.4(b)(5), which was invalidated in Faucher versus FEC, in 1991; 11 CFR 114.1(e)(2), invalidated in Chamber of Commerce versus FEC, in 1995; 11 CFR 100.22, invalidated in Maine Right to Life Committee versus FEC in 1996; 11 CFR 114.10, invalidated in Minnesota Citizens Concerned for Life versus FEC, in 1995; 11 CFR 114.4(c)(4) and (5) invalidated in Clifton versus Federal Election Commission, in 1996.

I don't know who these constitutional scholars are. I am not prepared to argue with the Senator from Arizona or the Senator from Wisconsin that they all went to law school. But this business of seeking to regulate the expressions of citizens against our voting records doesn't have any chance at all of being upheld in the courts. I would hope the Senate would not waste its time engaging in some ill-conceived idea here to try to keep people from criticizing our records. It is a clear violation of the first amendment.

So, it seems to this Senator that that is something we ought not to be engaging in. As the Senator from Arizona pointed out, that provision of McCain-Feingold remains largely the same as it was in the original version.

I see my friend from Wisconsin is on his feet and would like to engage in a colloquy. I had in mind asking him a few questions as well, so I will be happy to yield to him for a question.

Mr. FEINGOLD. Mr. President, I thank the Senator from Kentucky. I just want to go over a couple of points relating to the Brennan Center for Justice letter of September 22.

First of all, the Senator from Kentucky made a statement a few days prior to the release of that letter on national television. He said something to the effect as follows: RUSS does not have one single constitutional scholar who supports his position. So I can understand the Senator from Kentucky being a little tender about a letter signed by 126 constitutional scholars that says exactly what it says.

I would first like to ask the Senator from Kentucky if he ever heard any of us, either at the news conference or otherwise, purport that that letter included references to the issue of issue advocacy versus express advocacy?

Mr. MCCONNELL. I did not. I want to commend the Senator from Wisconsin for bringing that up, because it proves precisely my point, that the constitutional scholars are not certifying to the constitutionality of the issue advocacy or independent expenditure provisions of the bill. I think the Senator from Wisconsin has made an appropriate correction.

Mr. FEINGOLD. That is right, Mr. President, because this is nothing but a red herring. The Senator from Kentucky does not like what the letter says, so he is trying to pretend that we actually said it said something else, and then get me to say it did not say that.

Let me ask the Senator from Kentucky whether he, in reviewing the letter, recognizes that there are two main points to the letter, one is the view of these 126 scholars that a ban on soft money is constitutional; and, second, that a system that would provide voluntary incentives to candidates who agree to some limits on their spending would also be constitutional?

Mr. MCCONNELL. I would say to my friend from Wisconsin, that is precisely what I was saying. That is what the constitutional scholars, in the letter released by the Senator from Arizona and the Senator from Wisconsin, were talking about. It's their view of what a court would likely rule in the case of soft money and in the spending limits proposals, since dropped, that would apply to individual campaigns. That was precisely the point the Senator from Kentucky was trying to make, that the constitutional scholars are not certifying that they believe that provisions of the bill related to issue advocacy or independent expenditure are constitutional.

Mr. FEINGOLD. Of course the Senator from Kentucky is correct. The very reason we would have asked for such a letter to be signed by 126 constitutional scholars is that for years the Senator from Kentucky has said that it is unconstitutional to ban soft money, even though the Senator from Kentucky proposed a bill in the 103d Congress that would ban soft money himself. He has stood on the floor of the Senate repeatedly, year after year, and said that a system that would provide an incentive to a candidate to limit his or her spending is unconstitutional because, in his words, ''It would put a gun to the head of a candidate, in effect forcing him or her to do so.''

So watch the shifting constitutional argument. First, the Senator from Kentucky focused his debate last year against our bill on the PAC ban, which is no longer in the bill. Then he focused on the soft money ban. Then he focused on the issue of whether or not voluntary incentives could be given. In each case, the Senator from Kentucky concluded emphatically, on the floor and off the floor, that it is plainly unconstitutional. He does not have a leg to stand on anymore; 126 constitutional scholars have said to him: Wrong, wrong, and wrong.

So now he is moving to another discussion. Now he is going to put up another figleaf in front of this obvious attempt to keep the current system in the form of a——

Mr. MCCONNELL. Mr. President, I would caution the Senator from Wisconsin that this is supposed to be a civil debate. I don't know whether he is violating rule XIX or not, but I have the floor.

The PRESIDING OFFICER. The Senator from Kentucky has the floor.

Mr. MCCONNELL. I have yielded temporarily to the Senator from Wisconsin. I would like to have a debate about this constitutional principle.

Mr. FEINGOLD. Mr. President, I recognize the comments of the Senator from Kentucky. Let me just go back to a question, in fairness. The fact is that the provisions that we have placed in the bill, the modified bill, with regard to the issue of candidate advocacy versus issue advocacy are not identical——

Mr. MCCONNELL. Is the Senator asking a question?

Mr. FEINGOLD. I am about to ask a question—are not identical to those in the bill last year. In fact, I would ask the Senator from Kentucky if he is aware that the provisions we have just put in the modification are different than any that we have introduced before?

Mr. MCCONNELL. I would say, Mr. President, that I am aware the bill has been evolving. I am aware issue advocacy is different now, in the revised bill, than it was originally.

Mr. FEINGOLD. Will the Senator from Kentucky acknowledge that the notion of a bright-line test with regard to issue advocacy is not the same as some of the other approaches?

Mr. MCCONNELL. Mr. President, regaining the floor, let me suggest to the Senator from Wisconsin that the bright-line test probably makes it even more unconstitutional. I think it is inconceivable that the courts would say that you can criticize a Member of Congress anytime you want to, except right before an election.

Let me say with regard to this ongoing discussion of constitutional scholars that I don't know how many of the constitutional scholars in the letter

presented by the Senator from Arizona and the Senator from Wisconsin have actually practiced these cases in court. I don't know the answer to that. It could be that many of them have. But the American Civil Liberties Union, which was cocounsel to Senator Buckley in the 1996 case and has handled a lot of this litigation over the years, believes that the provisions of the McCain-Feingold substitute with regard to issue advocacy is unconstitutional.

The American Civil Liberties Union is America's expert on the first amendment. It is true that the Senator from Wisconsin has diligently searched for years and managed to come up with some folks who will sign a letter saying this is constitutional. I said last week I could probably find 126 people who say the Earth is flat. But, the experts on the first amendment, the American Civil Liberties Union, believe that these provisions are not constitutional.

Let me just read from a letter earlier this year, to me from the ACLU, regarding independent expenditure provisions in McCain-Feingold at that time.

> The new restrictions on independent expenditures improperly intrude upon that core area of electoral speech, and impermissibly invade the absolutely protected area of issue advocacy.

Mr. President, the ACLU went on:

> Two basic truths have emerged with crystal clarity after 20 years of campaign finance decisions—[20 years]. First, independent expenditures for express electoral advocacy by citizens groups about political candidates lie at the very core of the meaning and purpose of the first amendment. Second, issue advocacy by citizen groups lies totally outside the permissible area of Government regulation.

This bill assaults both principles.

So, Mr. President, I am not disputing for a moment that the Senators who are the principal sponsors of this bill have found some folks who went to law school who were certifying that they believe this bill is constitutional. But I am suggesting that the people who litigated in this area, the lawyers, the distinguished lawyers who have litigated in this area for the last 20 years, who were involved in the original case, the Buckley case, that went to the Supreme Court, believe that these provisions on independent expenditures and issue advocacy are fatally flawed.

I rest my case. I guess we can all sort of pick our own expert and decide who we want to rely on, depending upon the outcome that we want to achieve. But I think most people would believe that the first amendment lawyers at the American Civil Liberties Union know a little bit about this area of litigation.

I want to take a few moments to pose a few questions to my friend from Wisconsin, if I may.

(Mr. DEWINE assumed the chair.)

Mr. FEINGOLD. Mr. President, if I may, I have a couple of questions relating to the letter itself I would like to ask, and then I will be happy to yield for those questions, if I could, just with regard to the comments the Senator was just making.

If the Senator will yield for a question, does the Senator realize that the person who put the letter together, Mr. Burt Neuborne, New York University Law School, was the former executive director of the ACLU?

Mr. MCCONNELL. Right. Also Professor Neuborne believes that the Buckley case was a mistake. He has been very candid about that. He believes that Thurgood Marshall was wrong when he said spending is speech. So Professor Neuborne, I would say, has been very candid about his views. He has a view that is contrary to the state of the law.

Mr. FEINGOLD. Doesn't the ACLU also take the position that the Buckley case was wrong?

Mr. MCCONNELL. The ACLU didn't like every aspect of it. They didn't like the fact that the Court decided it was permissible to put a limit on contributions. The ACLU felt that even the contribution limit, Mr. President, was a violation of free speech. They didn't win that one, but they won the rest of the case.

Thurgood Marshall said spending is speech, and all nine Supreme Court Justices said spending is speech. I heard the Democratic leader out here Friday talking about a 5-to-4 case. It wasn't a 5-to-4 case. It was 9 to 0 that spending is speech. My friend from Wisconsin wanted to ask a question or observe——

Mr. FEINGOLD. Mr. President, does the Senator from Kentucky consider Lawrence W. Knowles, University of Louisville School of Law, qualified to discuss these issues?

Mr. MCCONNELL. I don't know Larry Knowles, but a professor of mine at the University of Kentucky Law School I noticed was a signatory to your letter, I say to my friend from Wisconsin.

Mr. FEINGOLD. Thank you, Mr. President.

Mr. MCCONNELL. One of my former professors is a signatory of your letter. I think we haven't persuaded him——

Mr. FEINGOLD. Can we safely assume the two signatories with a good Kentucky background know what they are talking about?

Mr. MCCONNELL. I don't know what they know about this kind of litigation and the first amendment, but I won't dispute the fact that 126 people signed this letter. I hope the Senator from Wisconsin won't dispute that Professor Neuborne disagreed with the Buckley decision, thinks it was wrong and for 24 years has been trying to argue that somehow the Court ought to reconsider this and change its mind even while the Court has been going more and more in the direction of permissible political speech.

So, Mr. President, I still have the floor, I believe, and if the Senator from Wisconsin is up for a few more questions, I would like to ask him a few.

I gather that the Senator from Wisconsin said last Friday—I know the Senator from Arizona did, too—that they hoped to offer an amendment to restore the individual spending limits on campaigns, if they were given such an opportunity. Is that correct?

Mr. FEINGOLD. Let me respond to that in a slightly different way. Another point I wanted to clear up in response to that question, the Senator from Kentucky is suggesting that there are no spending limits in our base bill. That is incorrect. Our bill, the modification that was just offered, does provide that a candidate who wants to get the coordinated party expenditure benefit from their party has to limit their personal wealth contribution to no more than $50,000.

So the fact is that provision, which these 126 constitutional scholars have suggested is perfectly constitutional, is in our base bill. The Senator is, of course, correct, that we do intend to add—in fairness to his comment—we do intend to add an amendment that would go further, that would, in fact, bring back some of the other proposed voluntary limits that would then be coupled with what we hope would be an incentive for reduced cost for television time. We hope to add that to the bill, but the concept is already in the base bill.

Mr. MCCONNELL. I stand corrected, Mr. President. There is a partial spending limit in the remaining bill. In any event, I am sure I haven't mischaracterized the position of the Senator from Wisconsin. He likes spending limits. He thinks that too much money is being spent in American campaigns; is that correct?

Mr. FEINGOLD. It is not correct that I like mandatory spending limits, Mr. President. I believe that under the Buckley versus Valeo decision—which the Senator knows I accept because I oppose a constitutional amendment that would require mandatory spending limits—I believe that under that decision, it is permissible and appropriate to offer voluntary spending limits, and that is the kind of spending limit that I would support. I would not support a constitutional amendment, for example, to require mandatory spending limits.

Mr. MCCONNELL. Well, Mr. President, the original McCain-Feingold bill seeks to, shall I say, entice people into limiting their spending, and the Senator has often said he thinks there is too much money in politics and we should be able to entice people into limiting their spending. So I would just like to ask the Senator how much is too much? How much spending is too much?

Mr. FEINGOLD. Mr. President, I don't believe it is my language that there is such a thing as too much money. It is all in context, and the context is this: If somebody chooses, as they may under their constitutional right, to spend as much as they want, I believe we should establish a system whereby a person who is challenging that person has a chance to at least get their message out.

So I don't have any theoretical limit that I believe in. If Michael Huffington wants to spend $30 million in California, that's his right, but it is my belief that we ought to provide some kind of incentive to those who would voluntarily limit their spending so they could have a fair chance to get their message out.

I don't accept the premise of the Senator's question, that I believe there is some sort of a magical number. What I want is some kind of fairness in the system, some kind of leveling the playing field so not just multimillionaires would get to participate.

Mr. MCCONNELL. In the McCain-Feingold bill, there is a State-by-State formula for how much one would be permitted to spend if he ''voluntarily'' accepted the spending limit. Now, what would that add up to in the 1998 elections? Do you have a calculator there, or does your staff have a calculator to give us a sense—

Mr. FEINGOLD. You are asking about the total amounts for all the States put together?

Mr. MCCONNELL. There is a formula in the McCain-Feingold bill, as I understand it, that specifies how much spending would be allowed in various States. Do you know what that would add up to in the 1998 election?

Mr. FEINGOLD. Of course, Mr. President, that is an inaccurate statement of what the bill does. It does not provide limits. It says only that if a person agrees to a stable or certain figure, depending on the size of the State, that those individuals would get the benefits provided by the bill. There is no automatic limit. Anyone can go over the limit if they want to, if they are willing to forfeit the benefits.

Mr. BENNETT. Mr. President, will the Senator yield for an additional question?

Mr. MCCONNELL. I yield to the Senator from Utah for a question?

Mr. BENNETT. I recall in Friday's debate when the Senator from Arizona laid down the three fundamental purposes of McCain-Feingold, and the second of those three was to lessen the amount of money in politics. So I think the question of the Senator from Kentucky is a legitimate one: How much do the sponsors of McCain-Feingold want to lessen the amount of money in politics?

According to the Senator from Arizona, that is one of the three fundamental pillars of this, and I hope the two Senators will continue the colloquy until we get an answer to that question: How much do the sponsors of McCain-Feingold want to lessen the amount of money in politics?

Mr. MCCONNELL. I thank my friend from Utah. Let me just read the formula that is in the McCain-Feingold bill. I say to my friend from Utah, that might be helpful in giving my colleague from Wisconsin an opportunity to answer the question, How much is too much?

The formula, as I understand it, in the original bill is $400,000 plus 30 cents times voting age population less than or equal to 4 million plus 25 cents times the voting age population greater than 4 million.

So in the case, I say to my friends from Utah and Wisconsin—but there is one State that is different. In the case of New Jersey, where they have only one VHF station, the formula is different. It is 80 cents and 70 cents instead of 30 cents and 25 cents. Moreover, the minimum general election limit is $950,000, maximum being $5,500,000. That is for any State, no matter how big. And then the primary is 67 percent of the general limit, and the runoff limit is 20 percent of the general.

I am a little confused here. I gather that means that you can spend more per voter in New Jersey than you can in Utah; is that right?

Mr. FEINGOLD. Is the question being posed to me?

Mr. MCCONNELL. Yes, it is your bill. I want to ask you about it.

Mr. FEINGOLD. I will be happy to respond to that question. First of all, of course, this provision is not what is before us at this point. Nevertheless, I do believe in the system of overall voluntary spending limits, and the real driving force behind that is a concern about television costs. Any modifications or changes in the formula that had to do with a State-by-State difference without a doubt had something to do with the question of what does it cost to run a television campaign in a U.S. Senate race.

I find it slightly amusing that the Senators question me about language that my colleague from Arizona used about limiting spending in campaigns, when the Senator from Kentucky, in S. 7, 103d Congress, had a bill entitled ''To amend the Federal Election Campaign Act of 1971 to reduce special interest influence on elections, to increase competition in politics, to reduce campaign costs, and for other purposes.''

The point is, actually all three of us agree that you should not mandatorily limit campaign spending.

Mr. MCCONNELL. But it is the hope of the Senator from Wisconsin that somebody would accept these ''voluntary'' spending limits.

Mr. FEINGOLD. Of course, it is my hope they would accept them, but only voluntarily, so that not a single person in this country is forced to give up their free speech rights. That is not a part of our bill. The whole premise of reducing the amount of money in politics is not to deny anyone their rights, but, in appropriate cases, to encourage people to limit their spending so we can have fair races, so we don't have a scenario like the one that we have now where a Senate race, on average, costs $4.5 million or $10 million or $15 million.

I would be curious if either the Senator from Utah or the Senator from Kentucky believe there is any amount of money that is inappropriate in terms of a U.S. Senate race?

Mr. MCCONNELL. If I may regain my time, the answer is I don't think the Government should be determining how much speech there is in any Senate race, I don't care what the size of the State is.

I see my friend from Utah standing up again. Here is an explanation that I think will help the Senator from Wisconsin. Obviously, he hopes that people will accept their spending limits and the provision in their measure that would make it pretty hard not to, because if you don't accept the spending limits, you have to pay way more for television than somebody who doesn't.

It is my view the courts would strike that down as unconstitutional because they are punishing you if you choose to express yourself too much. You get punished because you have to pay more for your broadcast time.

Clearly, the Senator from Wisconsin wants people to accept the spending limit, and I would argue the spending limit in the original McCain-Feingold is not voluntary at all because the Government basically has a gun to your head.

If you do not accept it, it costs you a heck of a lot of money. It gets back to this formula we were just discussing. The measure's spending limits are based on a formula that takes each State's voting age population into account. The basic general election spending limit is $400,000, plus 30 percent per voter up to 4 million of the voting age population and 25 percent per voter in excess of 4 million of the voting age population.

I say to my friend from Utah, it appears as if the voters in excess of 4 million do not get as much spent on them as the voters below 4 million. So presumably you do not speak as much to the people over 4 million as you do to the people under 4 million. But then the general election spending limit can be no lower than $950,000. So presumably if you are in a little State, it cannot go below $950,000 or more than $5.5 million in any State. That presumably would limit California to $5.5 million. Then the basic primary election spending is two-thirds of the general election spending limit, but not more than $2.75 million in any State.

If I could read on just a minute before taking the question of the Senator from Utah.

The proposed legislation creates some incredible anomalies that have been omitted from the public debate. Incredible? How else to describe a law, when figured on a per-voter basis, that would allow a Senatorial candidate in Wyoming to spend almost 11.5 times the amount that could be spent by a candidate in California?

With a 22.8 million voting age population, the biggest of any State, California, under the McCain-Feingold scheme, gets the biggest spending limit. If figured on the same basis as other States, California spending would be $10.5 million; but, in fact, it is capped at $5.5 million. But California is

the only State where maximum spending limits, $5.5 million per general and $2.75 million for a primary election would be applied; thus, California's total campaign spending is $8.25 million for the general election, which works out, Mr. President, to about 24.1 cents per voter.

Not too far away from California, in Wyoming, the State with the least population where there are only 344,000 people of voting age, the spending limit would be $503,200 if it were not for the laws of minimum limit of $1.586 million, general election and primary election, $636,000. The general election spending limit works out to $2.74 per voter.

Mr. President, over in California under the spending limits regime in the McCain-Feingold bill, which is not in the substitute but will be offered as an amendment if given the opportunity, a voter in California is treated to 24.1 cents in campaigns while Wyoming is $2.76 per voter.

Putting this in a different perspective, the McCain-Feingold legislation allows senatorial candidates in California to engage in first amendment protective activity at a level of financial activity that is barely one-tenth of the amount that a candidate could spend in Wyoming. To achieve parity so that the voters in the two States receive the same level of general election campaigning from their U.S. Senate candidates would require California candidates to spend an amount that is 11.5 times greater than allowed in the McCain-Feingold bill, a whooping $63.25 million; or you could reduce the amount that could be spent in Wyoming to $82,600.

Now, why do I bother to mention this Mr. President? This is truly a Rube Goldberg scheme. ''We are here from the Government to help you,'' and we have concocted this spending limit regime up here in the Government so that the voters in these various States will not be tainted by too much expression being directed at them in the course of their campaigns. But as often is the case when the Federal Government tries to micromanage something, particularly something so difficult as micromanaging political expression, you end up with a sort of absurd result.

Mr. President, the reason I talk about these spending limits is that they are in the original McCain-Feingold bill. Senator MCCAIN, Senator FEINGOLD do intend—if they have the opportunity—to offer that amendment to give the Senate an opportunity to go on record as saying that California voters only get 24.1 cents spent on them while Wyoming voters get $2.76. This scheme is something that they want us to sanction.

Mr. President, this is an extraordinarily difficult concept for people of average intelligence to understand. Besides the constitutionality problem, they are also saying that in order to speak more you have to pay more—and you do not get the broadcast discount—or if you decide to speak too much, you pay more for your speech. It is just one of the many problems with the spending limits regime with which the Senate has been confronted not just in this debate, but at various times over the last decade.

And I ask my friend from Utah, is a voter in Wyoming entitled to more of a campaign than a voter in California?

Mr. BENNETT. Mr. President, if I may respond to my friend from Kentucky, I know a little bit about campaigns in Wyoming because a large portion of the Wyoming electorate is served out of the television market headquartered in Salt Lake City, UT. As a consequence, voters in Utah were treated to attack ads telling us how terrible Mr. ENZI was in the last campaign. We had no idea who he was. I did not meet him until he was sworn in here. But I had seen all of the attack ads that were put on through the Salt Lake City television stations attacking the senatorial candidate in Wyoming.

By contrast, if I may, our friend from Delaware, Senator BIDEN, has told us that Delaware has no television outlets at all in the State. As a consequence, if he is going to run a television campaign in Delaware, he has to do all of his buying in Philadelphia, so that the voters of Pennsylvania get to hear all of the glories and beauties of JOE BIDEN, none of whom can vote for him because he cannot buy television time in Delaware.

What the Senator from Kentucky has demonstrated is how incredibly difficult it is to craft legislation that approaches the ideal sought by the Senators from Arizona and Wisconsin in a market-by-market, State-by-State, election-by-election circumstance. It is virtually impossible to do that. We ought to recognize that and defeat the whole thing out of hand.

Mr. MCCONNELL. Would it not be appropriate to say, I say to my friend from Utah, that the Government has no business doing that anyway?

Mr. BENNETT. Of course the Government has no business doing that. That is the point we made on Friday when we were having the debate. Even if we grant the argument raised by the Senator from Wisconsin and his 126 experts that it can be done in a way that is constitutional, we recognize that it cannot be done in a way that makes sense.

It is possible to craft a system that meets the narrow requirements of the Constitution in terms of protecting free speech, but it is not possible to do one in a way that makes any logical sense at all.

I had risen to ask my colleague this question about the example we have before us. We are being told this is constitutional because it is voluntary. And I suppose that is the reason these 126 scholars have signed the letter. As long as you agree in advance to give up your constitutional rights, then the Constitution will not defend you.

The Senator from Kentucky has said it isn't really voluntary. There is a huge incentive which the Senator from Kentucky describes as a gun pointed at your head to see to it that you are voluntary. So it is not voluntary. This is the question I had in mind.

We have an example before us of people giving up their constitutional rights in return for Federal dollars. There are some who are so unkind to call that a bribe. But in the Presidential system now, virtually every candidate for President accepts the bribe; that is, he or she accepts the Federal dollars in return for agreeing to limit their speech. The Senator from Wisconsin says, no, every American has a constitutional right not to accept that money and to go ahead on their own.

Isn't it true that the only two candidates who have been able to run for President without accepting the Federal money and mount anything approaching a worthwhile campaign are Ross Perot and Steve Forbes, both of whom approach billionaire status? Is that a correct summary of what the Presidential system that is constitutional has brought us to?

Mr. MCCONNELL. The Senator from Utah is entirely correct. Even people like Ronald Reagan, who opposed the Federal Election Campaign Act of 1974, always checked no on his tax return as a protest against using tax dollars for the Presidential campaign. He had no choice because the contribution limit on candidates for President was only $1,000. You simply could not raise enough to compete for President unless you accepted the bribe that the Government offered you to give you so much money to limit your speech. There was simply no choice. And that kind of choice, it seems to me, is similar to what we have here and is really quite unfortunate for candidates because it restricts their options.

If I may just for a moment go back to the spending limit analogy while my friend from Utah is still up, another example would be to compare New Jersey to New York, two States right next to each other. In New Jersey they are able to spend more money on a candidate than in New York, even though New York has more than twice as many voting age residents as New Jersey. Two States right next to each other, people commuting back and forth to work all the time, and yet somebody in the Government determines that the voters of New Jersey are entitled to more communication than the voters in New York under the formula in the original McCain-Feingold bill.

Does that strike the Senator from Utah as really very difficult to understand?

Mr. BENNETT. As I said at the outset, it demonstrates just how ridiculous it is for the Federal Government to get into the business of determining who can spend what and for how much in a constitutional way. You end up so contorted and distorted in your attempt to get around the obvious constitutional ban on this kind of nonsense that you create a circumstance

that virtually no one can defend on practical grounds: More money going for a candidate in New Jersey than for a candidate in New York, different rules applying to a candidate in Delaware than apply to a candidate in Wyoming.

All of this is voluntary, but it becomes voluntary because there is a huge bribe out there waiting for you if you agree to give up your constitutional rights. I think it is absurd.

I was delighted over the weekend to read the comments of George Will, who said that this debate is one of the most fundamental we have had since the founding of the Republic. I had not thought to put McCain-Feingold in the same fashion that George Will does, but he describes it as similar to the speech codes adopted in many of our campuses, the excesses of the 1950's in the days of Joseph McCarthy, the 1920's speech activity, the Alien and Sedition Acts, but he says all of those are less significant in their threat to a fundamental liberty than this one because they came and went in the frenzy of the day. This one would leave behind a huge Federal bureaucracy aimed at producing exactly the kind of results the Senator from Kentucky is talking about, laying out that this candidate in this State can spend this much, and as soon as he steps across the State line, if he decided to run in another State, then the rules would change, the limits would change, the circumstances would change.

That kind of Federal bureaucracy intruding itself into the campaign even if it were through some tortuous method of gaining consent on the part of those involved, constitutionally it remains clearly violative of the spirit of the first amendment, if not the specific letter. I believe the courts would strike it down.

Mr. MCCONNELL. Mr. President, I see the Senator from Virginia is on his feet. I just want to make one wrapup observation about what the Senator from Utah was just talking about.

The George Will column to which he referred was in the Washington Post yesterday. And just to pick out some excerpts, Mr. Will said, ''Nothing in American history * * * matches the menace to the First Amendment posed by campaign 'reforms' * * *''

Further, Mr. Will said, ''Thus is the First Amendment nibbled away, like an artichoke devoured leaf by leaf,'' which is what the Senator from Utah was talking about.

And toward the end of the article he called this ''the most important [debate] in American history'' because really what we are talking about here is core political discussion in this country, as the Senator from Utah has pointed out.

Mr. President, I ask unanimous consent that George Will's column, the headline of which says ''Here Come the Speech Police,'' be printed in the RECORD.

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

[From the Washington Post, Sept. 28, 1997]

HERE COME THE SPEECH POLICE

(By George F. Will)

Almost nothing that preoccupies Washington is as important as Washington thinks almost all its preoccupations are. But now Congress is considering some version of the McCain-Feingold bill, which raises ''regime-level'' questions. It would continue the change for the worse of American governance. And Washington's political class hopes the bill's real importance will be underestimated.

With a moralism disproportionate to the merits of their cause, members of that class—including the exhorting, collaborative media—are mounting an unprecedentedly sweeping attack on freedom of expression. Nothing in American history—not the left's recent campus ''speech codes,'' not the right's depredations during 1950s McCarthyism or the 1920s ''red scare,'' not the Alien and Sedition Acts of the 1790s—matches the menance to the First Amendment posed by campaign ''reforms'' advancing under the protective coloration of political hygiene.

Such earlier fevers were evanescent, leaving no institutional embodiments when particular passions abated. And they targeted speech of particular political content. What today's campaign reformers desire is a steadily thickening clot of laws and an enforcing bureaucracy to control both the quantity and the content of all discourse pertinent to politics. By the logic of their aims, reformers cannot stop short of that. This is so, regardless of the supposed modesty of the measure Congress is debating.

Reformers first empowered government to regulate ''hard'' money—that given to particular candidates. But there remains the ''problem'' of ''soft'' money—that given to parties for general political organizing and advocacy. Reformers call this a ''loophole.'' Reformers use that word to stigmatize any silence of the law that allows unregulated political expression. So now reformers want to ban ''soft'' money. But the political class will not stop there.

Its patience is sorely tried by the insufferable public, which persists in exercising its First Amendment right of association to organize in groups as different as the Sierra Club and the National Rifle Association. One reason people so organize is to collectively exercise their First Amendment right of free speech pertinent to politics. Therefore reformers want to arm the speech police with additional powers to ration the permissible amount of ''express advocacy,'' meaning speech by independent groups that advocates the election or defeat of an identifiable candidate.

But the political class will not stop there. Consider mere issue advocacy—say, a television commercial endorsing abortion rights, mentioning no candidate and not mentioning voting but broadcast in the context of a campaign in which two candidates differ about abortion rights. Such communications can influence the thinking of voters. Can't have that, other than on a short leash held by the government's speech police. So restriction of hard money begets restriction of soft, which begets regulation of issue advocacy—effectively, of all civic discourse.

The political class is not sliding reluctantly down a slippery slope, it is eagerly skiiing down it, extending its regulation of political speech in order to make its life less stressful and more secure. Thus is the First Amendment nibbled away, like an artichoke devoured leaf by leaf.

This is an example of what has been called ''the Latin Americanization'' of American law—the proliferation of increasingly rococo laws in attempts to enforce fundamentally flawed laws. Reformers produce such laws from the bleak, paternalistic premise that unfettered participation in politics by means of financial support of political speech is a ''problem'' that must be ''solved.''

One reason the media are complacent about such restrictions on (others') political speech is that restrictions enhance the power of the media as the filters of political speech, and as unregulated participants in a shrunken national conversation. Has the newspaper in which this column is appearing ever editorialized to the effect that restrictions on political money—restrictions on the ability to buy broadcast time and print space and other things the Supreme Court calls ''the indispensable conditions for meaningful communications''—do not restrict speech? If this newspaper ever does, ask the editors if they would accept revising the First Amendment to read:

''Congress shall make no law abridging the freedom of the press, but Congress can restrict the amount a newspaper may spend on editorial writers, reporters and newsprint.''

As Sen. Mitch McConnell, the Kentucky Republican, and others filibuster to block enlargement of the federal speech-rationing machinery, theirs is arguably the most important filibuster in American history. Its importance will be attested by the obloquies they will receive from the herd of independent minds eager to empower the political class to extend controls over speech about itself.

Mr. MCCONNELL. Mr. President, I yield for a question to the Senator from Virginia.

Mr. WARNER. Mr. President, I wonder at this point in time if I just might make some follow-on comments to my earlier observation. Would the Senator be agreeable?

Mr. MCCONNELL. I will.

Mr. WARNER. Mr. President, earlier I talked in support, the strongest support, of the distinguished majority leader's amendment. Mr. President, I rise today to address the issue of campaign finance reform. As chairman of the Committee on Rules and Administration, I have spent a great deal of time with these issues over the past 2 years. I appreciate the effort by the majority leader to bring campaign finance reform to the floor for debate, and I welcome the opportunity to join in this important debate.

The Rules Committee has held 10 hearings in 1996 and 1997 concerning campaign finance reform issues. Many of these hearings dealt with the specific issues contained in the legislation commonly known as McCain-Feingold, such as soft money, free television time, regulation of issue advocacy, and spending caps. The committee has compiled a detailed record on these issues for the Senate. During these hearings, we have heard from many noted experts in this field, including many of the same witnesses who appeared before the Committee on Governmental Affairs last week.

My view of how the campaign finance debate will evolve is as follows. Democrats argue that the Republicans must rely even more on contributions from

individuals—hard money—and less on large soft money contributions. Republicans argue that the Democrats, who have relied heavily on the involuntary confiscation of the dues of union members, must agree that union members must give their advance, written consent before a part of their paycheck should go to partisan political activities.

I received a letter from President Clinton last Tuesday in support of McCain-Feingold. He added that ''any attempts to attach amendments that would make it unpalatable to one party or another are nothing less than attempts to defeat campaign finance reform.'' I understand that latest version of McCain-Feingold does not include a requirement that union members give prior, written consent before their dues could be used for partisan purposes. This Senator will support an amendment to add this requirement, and I say that if the Democrats decide to filibuster campaign finance legislation because it includes this provision, then it is they who are blocking true bipartisan reform, not the Republicans.

In the Rules Committee we have held a series of hearings on these issues that are being discussed here today. I want to focus on one particular hearing where we allowed both sides to come in and discuss compulsory deduction by unions. And we held this hearing. We had as a witness David Stewart, a member of the Transport Workers Union of America, local 514, located in Tulsa, OK.

I remember him very well. He was proudly in the hearing room in his basic working uniform. He testified, and I have extracted some of that testimony to read in this debate today, this very important debate. This is what this American worker said:

> * * * I really do not agree with some of the Agendas and the Candidates that the union endorses. Yet, we are all required to fund these agendas and campaigns just by virtue of our membership in the Union.

This is a union man, Mr. President.

> As I searched for relief from this unjust requirement, I found out about the ''Beck Supreme Court Decision,'' which in effect gives a Union Member the right to a refund of the Non-Bargaining expenditures of the Union. The problem is, I must relinquish my Union Membership and the rights associated with that Membership to seek this refund. It is absurd to require me to fund the Contract Bargaining, Contract Enforcement and Administration of the Local, yet require me to forfeit my rights to a voice in these affairs, only because I oppose the Political Expenditures of the Union. I am not opposed to my requirement to belong to the Union. I still attend the Union meetings and enjoy having a voice in the affairs of the Union and my career, I am not willing to give up this activity to receive the refund afforded me by the ''Beck Decision.''

We also heard from Cindy Omlin, a former teacher from Washington State. She described the schemes by which her union illegally used her dues—that mandatory deduction—for political contribution. The unions got caught, but nonetheless they upped the amount of dues teachers were required to contribute for partisan activities. Our committee listened to these workers and they came forward at some risk to themselves to give this important testimony.

At the appropriate time I hope to ask the sponsors of this legislation whether or not they have taken it upon themselves to go out and talk to the workers and find out exactly how they feel about this onerous requirement of mandatory deduction. I will await the opportunity to talk to one or more of the sponsors or both on this point when they have that availability.

Now I have read that the new version of McCain-Feingold may include a provision to enforce the Beck decision and require posting of notices that employees can receive refunds. This idea, although certainly better than the status quo, is not nearly good enough.

Effective enforcement of Beck is difficult at best. The posting of a small sign or a small note in a union magazine will not do. Many employees will never learn of their Beck rights, and unions will no doubt continue to set up substantial obstacles to exercising these rights. In our hearing, we heard how unions make the window for objecting very brief and it changes every year, with the notice often buried deep within lengthy union magazines.

Moreover, single employees are very poorly equipped to challenge accountings provided by union officials as to the breakdown of chargeable and nonchargeable activities. Also, an employee wishing to appeal this determination would need to hire his or her own attorneys and accountants for an arbitration run under rules established by the union. The financial disclosure forms filed by unions with the Labor Department, the LM–2, are notoriously useless in actually assisting employees to determine what percentage of their dues go to political activities.

All of these procedural hurdles are in addition to the stigmatization of objectors, officially called agency-fee payers. Often lists of objectors are published in union literature and cases of threatened violence are common.

I believe the only solution, and one that is not contained in the McCain-Feingold legislation, is to require prior, written consent before dues are confiscated. I am a cosponsor of Senator NICKLES' bill, the Paycheck Protection Act, which would rectify this egregious situation. Without this provision, we will not have fair campaign finance reform.

Mr. MCCONNELL. I want to thank the Senator from Virginia not only for the remarks he has made today but the way he has listened to all of those who have come forward at the Rules Committee over the period of his chairmanship. He and I, many times, were the only two there. He has been wonderful in giving an opportunity to a number of groups who, frankly, have had a difficult time giving testimony in the past, who typically have not been listened to. I think he has made a major contribution in providing some balance to this important constitutional debate.

Mr. WARNER. Mr. President, I thank my distinguished colleague. Indeed, we have not fully agreed on all provisions that are options throughout this whole realm of campaign finance, but fundamentally we certainly agree on the question of the mandatory deduction.

We went to the difficulty of finding witnesses and brought them to the hearing room and listened to their testimony.

It is ever so clear to this Senator, and I am sure the other members of the committee, that throughout America the workers want to be recognized for their ability to think for themselves and their ability to make decisions for themselves. This whole idea of mandatory deduction is against free will—I think, indeed, against the very essence of what freedom is all about.

I commend my distinguished colleague from Kentucky. Let us fight on in the cause of freedom.

Mr. MCCONNELL. Mr. President, I am happy to yield the floor. I see the Senator from Illinois is here desiring to speak.

Mr. DURBIN. I thank my colleague, the Senator from Kentucky for yielding. I only have a short period of time here, I say for the information of my colleague from Maine, and I appreciate this chance to rise and speak on this issue.

It has been said in debate that the columnist, George Will, has pronounced this as the most important debate in American history. I didn't want to miss it and that is why I came to the floor today. I will not question Mr. Will because he was reared and his early education took place in the State of Illinois, and somewhere or another he got off the course shortly afterwards, but at least we attribute his early training to Illinois' educational standards.

Is this the most important debate in American history? It may be, because what is at stake in this debate is not the amount of money that is being spent in a campaign, it is really not about the conduct of campaigns, it really doesn't have much to do with political action committees or labor unions or corporations or associations. What is at stake in this debate is the future of this democracy.

If that sounds hyperbolic, let me tell you why I say it. I am honestly, genuinely, personally concerned as a Member of this great institution, about the fact that the American people are losing interest in their Government. The clearest indication of that loss of interest is their participation in elections.

Now, why is it at this moment in time when the United States of America is obviously one of the most attractive places in the world to live, where we have to almost construct a fence and a wall around our borders to keep people from other nations from coming

to the United States, why is it that at a time when our economy is booming, at a time when we are so proud of what we have achieved not only in this Nation but around the world, that the people we serve, the American voters, have decided they are not interested? And they have demonstrated that, unfortunately, in that quadrennial forum where we asked people to come forward and name the leader of this Nation.

Let me show you what I am talking about. I think it is interesting in this debate about campaigns and money and voters to take a look at what has happened in the United States of America in the last 36 years. This bar graph shows the amount of money that has been spent on campaigns at all levels, Federal through local. If you look it was a rather meager sum, $175 million, in the earliest years, and then skyrocketed up to $4 billion here in 1996.

So to entice people to vote, to interest them in candidates and interest them in campaigns, we have raised money in record sums and spent it on television, radio, direct mail, bumper stickers, emery boards, pocket combs and everything we can dream of, to say to the voters, ''Look at me. Get interested. I'm running. I need your vote.'' Is it working? As we plow more money into this system, is it working? Well, the sad truth is, it is not.

Look at this percentage of those who vote in Presidential elections: Starting in 1960, 63.1 percent of the American people said the Kennedy–Nixon election is one that we consider critically important, our family is going to vote. Look what happened in this last election in November: 49.1 percent of the American people turned out to vote. We spent record numbers, dramatically increasing the amount of money on political campaigns, and the voters voted with their feet and stayed home. Isn't it curious that the more money we plow into our campaign system the fewer voters turn out?

Now let me just suggest something. If you happen to own a company selling a widget and say to your marketing department, ''We are going to double our advertising. Next quarter we want to see what happens to sales,'' and you gave them twice as much money for advertising your widget, and they came back after the quarter was finished and said, ''We have the report.'' You said, ''What is it?'' ''Advertising went up 100 percent.'' ''How about sales?'' ''Sales went down.'' What? Advertising went up and sales went down? Well, you could draw some conclusions. There was something wrong with the advertising or there may have been something wrong with the product. That is what this debate is about.

There is not only something wrong with the advertising, it has become so negative, so nasty, so dirty, that people are disgusted with it. There is something wrong with the products. Candidates for the House and Senate are losing their reputation or seeing their integrity maligned because we spend so much time grubbing for money. People believe that we are captives of special interest groups. And because they are sick of the style of campaign and because they have little or no confidence in those of us who wage the campaigns, they stay home.

The turnout for the Presidential election last November was the lowest percentage turnout in America for a Presidential election in 72 years. Now if Jay Leno and David Letterman pronounced this election over in July, as they probably did, I don't think that explains it. I think there was something else at work here. The American voters are at best indifferent, and at worst, downright cynical about the system we use to elect people in the United States.

Let me also show you something that makes the case even more. I guess some people would argue, well, back in 1960 there must have been a higher percentage of people who were registered to vote. Well, that was not the case. Our figures start on this chart in 1964, and there were 64.6 percent of Americans were registered to vote; if you remember, 63.1 percent of those turned out to vote.

Now, we have increased the franchise by making it easier to register to vote. You can register when you go to get a new license for your car or driver's license renewal, that sort of thing. So, more and more Americans are getting registered to vote. There is more participation. I think that is a healthy thing. I backed motor-voter. We are now up to 74.4 percent of eligible voters registered in America in the 1996 election. You can be proud of that.

People have said, ''Yes, I will sign the form. I'm willing to go out and put my name on the voter rolls'' knowing they may be called for jury duty or something else. They did it anyway. Then look what happened. Despite this dramatic increase in the people who are registering to vote, remember November 1996? Fewer than 50 percent of the American people then exercised their right to vote.

I think that is a telling commentary on this debate. If you listen to the arguments of my colleague from Kentucky, Senator MCCONNELL, and Senator BENNETT from Utah, who was on the floor the other day, and Speaker NEWT GINGRICH and others, they have analyzed the situation and said, clearly, the major problem with the American political system is, in their words, ''We're just not spending enough money. We have to put more money in these campaigns. We have to get on television more and radio more, and mail more things to the American people. Then they will know we are out here.''

Well, they know we are out here. They just aren't buying what we are selling. They are staying home. Those who argue that the best way to reform the system is to plow more money into the system have missed the point completely. Nine out of ten Americans—90 percent of them—believe that we spend too much in political campaigns, not too little.

Isn't it an oddity that we are at this point in our history where we are actually engaging in an argument as to whether or not a person's wealth should determine their ability to participate in a democracy? This is not a new debate. We have been through this one before. In the 19th century, the debate was cast in a different tone. If you wanted to vote, would you have to be a property owner? That is an evidence of wealth and stability, and some of our Founding Fathers said, well, that is a good indicator, and we should not let people vote unless they own property, and the States can determine the qualifications of electors. Let them put that in as a qualification.

We rejected that over 100 years ago and said that isn't what America is all about. Your participation with a vote should not have anything to do with whether you are wealthy or poor. If you are an American citizen, you are entitled to vote. Since the early part of this century, whether you are a man, a woman, black, white, or brown, whatever your ethnic heritage, whether you are poor as a church mouse or as rich as Donald Trump, you get the same one vote when you come to the polls.

Listen to this debate today. The debate today says, let's change this system and say that if you are wealthy in America—let's say you are a middle-aged, crazy millionaire who decided he wants to be in the House or Senate or a Governor, then you go out and spend your money, exercise your constitutional right, show your freedom of speech to go forward and ask for votes. If you happen to have more money than the next guy, your likelihood of winning is that much better. What I just said is not breakthrough; this is established fact. Candidates with more money and political campaigns usually win. That is a fact of life.

So my Republican friends who say, ''All this system needs is more money,'' are basically saying, ''If we can just get wealthier people interested in running for office or people who are drawing money in from wealthy interests, special interests, that is good for America, that is endorsement of our Bill of Rights, and that speaks well of our freedom of speech.''

I don't buy that. I don't think the American people buy that.

As amendments are produced on the floor during the course of this debate which try to enshrine wealth as the keystone for American citizenship, I will oppose them. I hope Members on both sides will join me. It is a sad state of affairs in America if we have reached the point where, in fact, a person's wealth is a determinant as to whether they can be a successful candidate or be directly involved in our political process. That is what this debate is all about. That is why it could be historic in nature.

Let me address one particular example used in the debate Friday about a good friend of mine who passed away a little over a year ago. His name was

Mike Synar. Mike was a Congressman from Oklahoma. He was proud to characterize himself as an ''Okie from Muskogee.'' You have never met a political renegade like Mike Synar. I loved him. I loved his politics. He used to drive people crazy. He would vote on issues and know that, if he went home, people would be angry with him. He would get involved in issues that made everybody squirm and uneasy in their seats. That is just the way he was. He also decided to stack the deck against himself because he announced when he came to the House of Representatives, representing Muskogee, he wasn't going to take PAC money. Mike said, ''I am going to take money from individuals, and I will rise or fall based on my friends supporting me, and so be it.'' He managed to survive for a number of years.

Then came 1994. All of the special interest groups that had been opposing him in the Halls of Congress decided to team up against him back home. In 1992, they had spent $750,000 to defeat Mike Synar. Who were these people? The National Rifle Association, the tobacco lobby, the western grazing interests. They came in, and did they debate Mike Synar on gun control in his district? No. Did they debate him on tobacco regulation? No. Did they debate him on whether or not we are too generous in the subsidies to western grazing? No. They came in and literally plowed hundreds of thousands of dollars into the campaign against him with negative ads on a variety of other subjects—and it was perfectly legal. Mike escaped it in 1992, but not in 1994.

The illustration on the floor made by one of my colleagues last Friday that somehow or other ''Mike Synar, with $325,000, could not defeat an opponent who only had $10,000 and, therefore, money is not the determinate in an election,'' really overlooked the obvious. Mike Synar's money alone wasn't at risk. It was the money of a lot of special interest groups. He was defeated. He worked very hard for campaign finance reform and a lot of other issues that I have the highest respect for.

Let me just also say that I have heard a lot of argument from my colleagues on the Republican side that this debate is really about labor unions, and we have to get our hand on the fact that labor unions in the last election were so vocal and involved and spent so much money. Some estimate $35 million. That is an interesting premise for this debate because, if you look at the totals that were spent by labor and business, the business community dramatically outspent labor organizations in that campaign. Yet, many of the amendments which we will be considering have nothing to do with the business community being restricted, only labor unions.

I think some of my colleagues should take care to watch out for what is characterized as poison pills, or those amendments that will be put in the bill in the hope of killing the bill. It is an old legislative ploy. Take an amendment adopted on the floor, which you are certain could never be part of the final legislation, show your heartfelt concern about campaign finance reform, knowing in your heart of hearts that it will go nowhere with a poison pill amendment. We are going to see a lot of these, I am afraid, during the course of this debate.

Let me address an issue that I think is critically important—television time. In the McCain-Feingold, as originally introduced, which I and 44 other Democratic Senators endorsed, which three of my Republican colleagues have joined in endorsing, including my colleague, the Senator from Maine, Senator COLLINS. I think the number may be up to four now, we have, in that original bill, provisions that would say to a candidate that we know what is costing money in campaigns. We know where you are putting your money.

When I ran for the Senate in Illinois and raised literally millions of dollars sitting on a telephone day after day calling strangers and begging them to contribute, the money that was coming in was going right out the front door for television. That is where I spent my money. Most major State candidates do the same. My colleague, Bob TORRICELLI of New Jersey, spent 84 percent of all the money he raised on television. Think about that. Try to buy a 30-second TV ad in New York City that costs $100,000, and you will understand very quickly how that could happen. In Illinois, over 80 percent of our money went into raising money and spending it on television.

I think it is a good illustration that if we don't address the reason campaigns are so expensive, we are not going to see any real reform. Now, the people who represent the television industry say you can't do that; you can't take away time that this station can sell to a private advertiser and give to it a political candidate. But they forgot something very basic. The people who own television stations and make a very handsome profit do it because they are using our airwaves—not the Senate's airwaves; the American people's airwaves. We own these airwaves. We license these companies, at no charge, to use our airwaves and make a profit. It is not unreasonable for us as a people to go back to these television stations and say we want to take a slight and tiny percentage of those airwaves and dedicate them to cleaning up the American election process, to make sure that the time is available for incumbents and challengers alike on a reduced level—or even free in some circumstances—so the voters can hear legitimate messages and we will clean up the message in the process. It won't be the drive-by shooting ads you see in campaigns. It will be informative. People will know where DURBIN stands on Social Security and where his opponent stands on Social Security. Things like that. That is not unreasonable. For the stations to say, ''don't even touch it; we own the airwaves, not the American people,'' I think they need a reminder as to how this got started. They are licensed by this Government, representing the American people, to make their profits. Now the argument that we are going to take away reduced costs of TV time is troubling to me. If you don't reduce the cost of television, you will in fact continue to have political campaign costs skyrocketing. You will have men and women running for election and reelection to seats, spending the majority of their time raising money to pay for television.

So I think the original McCain-Feingold provision is absolutely essential. I think we should continue on not only to eliminate soft money, not only to reduce the cost of television, but also to go after issue ads that are actually candidate ads. Political candidates and those who work around us watch television more closely than anybody, because we search that screen during a campaign cycle to find the tiniest of print on the bottom of the TV commercials, which identifies who paid for it.

On the Saturday night before the election last November, bone weary, I pulled into my apartment in Chicago, and I was going to relax a little bit. It was in the closing days of the campaign. So I slumped down in a chair, grabbed the remote control to listen to Saturday Night Live. Somewhere between the news and Saturday Night Live, up pops four television commercials, one after the other, and every one of them blasting me. What a treat that was to sit in the chair and get pummeled by four different commercials.

The most unique thing was that not a single one was paid for by my opponent, the Republican Party in Illinois, or the National Republican Party. They were paid for by committees and organizations that most people never heard of. These are organizations which mushroom up during campaigns, take some high-sounding name, collect millions of dollars, undisclosed and unreported, and run ads, the most negative ads on television, against politicians. That is an outrage. It is an outrage that I have to account for every dollar I raise and spend and I have to identify the television commercials that I put on, either comparing my record with my opponent or speaking about something I believe in, and these groups can literally run roughshod over the system, spending millions of dollars without any accountability.

McCain-Feingold addresses that. Thank God it does. If we don't put an end to this outrage, most of these other reforms are meaningless. To eliminate soft money and to allow special interest groups, whether on the business or labor side, to continue to spend money unfettered in issue advocacy and the like is outrageous. The McCain-Feingold legislation is an idea whose time has come.

I hope that a number of my colleagues will step forward, as my colleague, the Senator from Maine, has done already. We have 49 votes, ladies and gentlemen, for McCain-Feingold. We need one more. Every Democrat has signed onto this bipartisan legislation. We now have four Republican Senators. We need one more. Who will it be? Who will step forward and say, ''This is the most important debate in American history and I want to be on the right side of history''? I hope we can come up not only with that 50th vote, but with enough votes procedurally to keep this issue alive. The rules of the Senate, like cloture and filibuster and the like, allow people who in the name of good government, or whatever, can stop an issue in its tracks. I hope that doesn't happen. I hope we can debate this to its conclusion and have a real vote on real reform.

I yield the remainder of my time.

Ms. COLLINS addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine is recognized.

PRIVILEGE OF THE FLOOR

Ms. COLLINS. Mr. President, I ask unanimous consent that Steve Diamond, from my staff, be accorded privileges of the floor for the duration of this debate.

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

Ms. COLLINS. Mr. President, I rise to urge my colleagues to seize this opportunity to make much-needed changes in our campaign finance laws by supporting the modified version of the McCain-Feingold legislation. I am pleased, Mr. President, to be a cosponsor of this landmark bill.

Shortly after becoming President of the United States, one of our former Presidents was asked what his biggest surprise was on assuming office. Without hesitation, he said it was his discovery that things were actually as bad as he had been saying they were during the campaign.

Mr. President, during my Senate campaign, I told the people of Maine that our Nation's campaign finance system is broken. Since my election, I have spent a great deal of my time questioning witnesses at the hearings held by the Governmental Affairs Committee. Unlike the former President, what I have discovered is not that things are as bad as I had been saying they were; it is that they are much worse.

The twin loopholes of soft money and bogus issue ads have virtually obliterated our campaign finance laws, leaving us with little more than a pile of legal rubble. We supposedly have restrictions on how much individuals can give to political parties; yet, Yogesh Gandhi is able to contribute $325,000 to the DNC to buy a picture with the President, and Roger Tamraz mockingly tells a committee of the U.S. Senate that next time he will spend $600,000, rather than $300,000, to buy access to the White House. We supposedly prohibit corporations and unions from spending money on political campaigns; yet, the AFL–CIO spends $800,000 in Maine on so-called issue ads which anyone with an ounce of common sense recognized were designed to defeat a candidate for Congress.

We in this body decry legal loopholes, but we have reserved the largest ones for ourselves. Indeed, these loopholes are more like black holes, and that sucking sound you hear during election years is the whoosh of six-figure soft money donations rushing into party coffers.

Why should this matter, we are asked by those all too eager to equate freedom of speech with freedom to spend? It should matter because political equality is the essence of democracy, and an electoral system driven by big money is one lacking in political equality.

Mr. President, this is an issue of great concern to the people of my home State. While there are differences in Maine on how the system should be reformed—I, for one, do not believe that meaningful change requires that we make taxpayers underwrite campaigns—there does seem to be a stronger consensus in Maine than elsewhere on the need for reform.

If my colleagues will indulge me a bit of home State pride, I think the Maine perspective results from old fashioned Down East common sense. Maine people are able to see through the complexities of this debate. They focus on what is at heart a very simple and yet very profound problem. As long as we allow unlimited contributions—whether in the form of hard or soft money—we will not have political equality in this country.

It is not simply the lack of a level playing field for those seeking public office. What is more important is the lack of a level playing field for those seeking access to their government.

It strikes me that the Maine attitude may be shaped by the fact that many communities in my State still hold town meetings. I am not talking about the staged, televised town meeting which has become so fashionable of late. I am talking about a rough and tumble meeting held in the town office or the high school gym or the grange hall. Attend one of these sessions and you will observe an element of true democracy: People with more money do not get to speak longer and louder than people with less money. What is true at Maine town meetings is unfortunately not true in Washington.

Mr. President, let me address a very disquieting aspect of the debate on the McCain-Feingold bill; namely, the misinformation that is being spread about what the bill would do. In that connection, I would emphasize that McCain-Feingold does not bar issue advocacy. I will say that again because the legislation's opponents persist in misstating this point—McCain-Feingold does not, and I emphasize not, bar issue advocacy.

To explain this aspect of the bill in more detail, and to share with my colleagues an experience that contributed to my becoming a cosponsor, I need to go back to the 1996 race for Maine's First Congressional District in the House of Representatives. In the course of that election, the AFL–CIO spent $800,000 to defeat the Republican candidate. They did this by running a steady barrage of blatantly negative ads.

Now why am I protesting a national union, using money from its general treasury to run a saturation campaign of negative ads that may well have decided a Maine congressional race? Whatever our objection to such ads, isn't that perfectly legal? The answer is, or at least is supposed to be, no. Current law prohibits a union, as well as a corporation, from spending money, other than through a PAC, to influence an election for a Federal office.

That leads to another obvious question—if current law forbids unions from using non-PAC money to run ads to influence a Federal election, how was the AFL-CIO able to spend $800,000 to defeat a Republican congressional candidate in Maine? Mr. President, that question takes us to the heart of the problem and to the need for McCain-Feingold.

Unfortunately, some courts have interpreted ''expressly advocating'' to require that the ad use words such as ''vote for'' or ''vote against'' or ''elect'' or ''defeat.'' If the ad avoids those magic words and makes at least a passing reference to an issue, as the AFL–CIO did in Maine, those courts concluded that it does not expressly advocate the election or defeat of a candidate, and the union may run it.

Mr. President, the situation I have described has led to the biggest sham in American politics. Nobody in Maine believed that the AFL–CIO's negative ads were for any purpose other than the defeat of a candidate. Indeed, at least one newspaper which endorsed the Democratic candidate blasted the union ads against his opponent. Ads of that nature make an absolute mockery out of the prohibition against unions and corporatings spending money on Federal elections.

The ''express advocacy'' provision in McCain-Feingold is designed to do away with this sham. Contrary to what some have said, it would not affect independent ads financed other than by a union or corporation, except to enhance the reporting requirements, which everyone in this body purports to favor. It also would not stop unions and corporations from running true issue ads.

Mr. President, I would say to my colleagues that if you believe, as I do, that it continues to represent sound public policy to prohibit unions from using their vast general funds to dictate the results of Federal elections, particularly in small States like Maine, then you should support McCain-Feingold.

Mr. President, let me also take a minute to explain the bright line test for express advocacy that has been the subject of ill-informed criticism during this debate. What that test would provide is that any television ad that clearly identifies a candidate and that is run within 60 days of an election would be deemed express advocacy.

I view the bright line test as a key provision of McCain-Feingold, and I support its inclusion for two reasons. First, the courts have said that for constitutional purposes, people must clearly know what they can and cannot do, something which the bright line test gives them.

Second, and contrary to what some opponents of the bill have said, the bright line test lessens the power of the Federal Election Commission. By having a clear standard, rather than one which requires a case-by-case analysis, the regulatory agency has less discretion to determine what the law should be and when actions should be brought. Thus, those who have argued both against the test and against a greater role for the FEC are in reality arguing with themselves.

Mr. President, this subject is more complex than any of us would like, but behind the complexity is a simple proposition. Current law has given rise to the widespread practice of running bogus issue ads, and that should not be allowed to continue. Those Members of this body who support the prohibition against unions and corporations using their vast resources to dictate the results of Federal elections should vote for McCain-Feingold. Those Members who do not support the prohibition should take the honest road and work for its repeal. The one unacceptable course is to perpetuate a sham that undermines the integrity of our election laws.

I look forward to debating this issue in the days ahead.

Thank you, Mr. President.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from Michigan.

Mr. LEVIN. Mr. President, let me congratulate the Senators from Arizona, Wisconsin, Maine, and other Senators who have joined so strongly in this effort—an important bipartisan effort—to finally reform the campaign finance laws. The system is terribly broken. I think most of us know that, and I hope enough of us will get together to really reform it properly.

The time has finally come for Congress to decide whether we are going to fix this system, which is in shambles, and fix the laws that are now doing so much damage to public confidence in our governmental operations. These laws are now so full of loopholes that what was intended to be limits on campaign contributions in effect are easily evaded. And if we are going to close those loopholes we must do it together. This will not happen if Democrats and Republicans do not come together. It is going to require that kind of a bipartisan effort if we are going to restore public confidence in this campaign finance system.

For the past couple of months, members of the Senate Governmental Affairs Committee have sat through hours and days of hearings on the failings of our campaign finance laws. We have asked dozens of witnesses hundreds of questions on the problems of the 1996 elections.

My constituents are asking me just one question. ''Are you going to do something about it?'' That is what they want to know. They have heard our questions. They have heard the answers. They know we have observed the witnesses. They have seen and heard the debate. And, of course, the majority who have not been able to watch the hearings personally know that the campaign finance system is a subject of great debate.

Yet the question I get wherever I go is, ''Are you going to do something about it?'' It is a simple question. It is a direct question. My answer is, ''I hope so, and I am sure going to do everything I can to see that we finally do in fact close the loopholes that have made a shambles of the laws that are supposed to set limits on how much money could be contributed by individuals to our campaigns.''

The Senate hearings have focused much of their time on allegations of illegal conduct in the 1996 elections. But the vast majority of what the public doesn't like is not what is illegal, although they surely don't like that. It is what is legal. Most of it involves the so-called soft money or unregulated money because both parties have gotten around the law of the 1970's by establishing a whole separate world of campaign finance. That is the world of so-called soft money—contributions that are not technically covered by the limits under current law.

In the 1996 election, the Republican Party raised more than $140 million in soft money. The Democrats raised over $120 million.

That is how we get to these enormous sums of money in the last campaign, like the $1.3 million to the Republican National Committee from just one company in 1996 and a $450,000 contribution from just one couple to the Democratic National Committee the same year.

Once that soft money loophole was opened and once that loophole was viewed as being legal, the money chase was on, and that chase has been carried on by both parties. When you couple that with the high cost of television advertising, you have the money chase involving just about all candidates. The chase for money has led most of us in public office or seeking public office to push the envelope and to take the law to the limits in order to get the necessary contributions. The money chase pressures political supporters to cross lines that they should not in order to help their candidates get needed funds. The money chase in political campaigns is a serious disease and it has become chronic. Most of us have been affected by it. Most of us have spent too much time fundraising and in the process pushing the fundraising rules to their limits. We know in our hearts that the money chase is a bipartisan problem and that bipartisan reform is the right way to go.

If the Senate hearings have exposed illegal practices that would otherwise go unpunished, that is useful. If the hearings have also exposed activities that are currently allowed but which should not be, and if that arouses public opinion so that Congress will end the money hunt, that would be a major contribution. But if those hearings leave no solid record of legislative reform behind, we will have done something far worse than missing an opportunity. We will be deepening public pessimism and thickening the public gloom about this democracy's ability to restore public confidence in the financing of our campaigns and our elections. And that is why I believe the enactment of major campaign finance reform is so critical. Existing law says that individuals cannot contribute more than $1,000 now to any candidate or political committee with respect to any election for Federal office. Existing law says that corporations and unions can't contribute at all to those candidates. And Presidential campaigns are supposed to be financed with public funds. That is the law on the books today. And yet we have all heard stories of contributions of hundreds of thousands of dollars from individuals, from corporations and from unions—Roger Tamraz giving $300,000 to Democrats. What happened to the $1,000 contribution limit?

Here is a Democratic National Committee document relative to DNC trustees. These are major contributors, I think $100,000, and they're offered various events to attend if they make that large contribution. What are the events? The events are two annual trustee events with the President in Washington. That is just an offer of access for contributions. But these are not the contributions that the law is supposed to limit to $1,000 for each candidates. These are $100,000 contributions. These are the soft money contributions. And these are the connections to access. Both parties do it.

Here is the 1997 RNC Annual Gala, May 13, 1997. Right in the middle of all of this angst, all of this concern about big money and access, it has this dinner. It is open, nothing hidden about this. Cochairman of the Republican National Committee Annual Gala, $250,000 fundraising goal.

What do you do? You sell or purchase, sell or purchase, Team 100 memberships or Republican Eagle memberships. That's $100,000 I believe for Team 100. And what do you get? You get, among other things, luncheon with the Republican Senate and House committee chairman of your choice. It is the open offer of access in exchange for a

contribution, and the contribution is soft money. It is not the $1,000 contribution to come to a dinner. It is give or raise $250,000 and you get lunch with the committee chairman of your choice. It is like the Democratic National Committee offer, give $100,000 and you get two receptions with the President.

Now, one of the ways we are going to stop this abhorrent offer of sale of access in exchange for contributions is if we get to the soft money loophole it is the most direct way to get to it. Here are some other examples, recent examples of soft money. This is, I believe, a Team 100 document, a Republican document called hot prospects. Who is the third prospect? Some retired inventor. And here is what the document says.

We are working on getting him an appointment with Dick Armey so we can get his other $50,000.

These are documents which came up in our investigation, in our hearings. We can get his other $50,000 if we can get him an appointment with DICK ARMEY. The public sees that and they respond the way I respond. That is abhorrent. What are we doing, offering access in exchange for a contribution? And the amount of money here is abhorrent. ''His other $50,000.'' That means he has already given $50,000. Here is a total of $100,000. What happened to the $1,000 limit?

We thought there was a law. The problem is that in the race to compete and to win in our Federal elections, candidates and parties have found a way around the law. And that is the soft money loophole. Hard money, the contributions which are regulated by campaign finance laws, is, indeed, hard money. It is harder to come by. So soft money is easier to raise. You can get $100,000 or $500,000 from just one corporation or individual. You don't have to go to 500 different people and raise $1,000, and you don't have to go to 5,000 people and raise $100 the way you do with hard money. You can just find one person, one corporation wealthy enough or willing enough to pay a half-million dollars and then you accept that contribution.

Now, there is another part of the current law which says if you spend money in an election in support of a candidate or opposed to a candidate, you have to spend money that is only raised the hard way, following the limit. But one of the greatest areas of abuse in the 1996 election was the use of hundreds of millions of dollars of unregulated, unlimited, and undisclosed money to broadcast so-called issue ads just before an election—ads that any reasonable viewer would interpret as attacking or supporting a particular candidate.

Here is an example of one of these so-called issue ads. This was an ad that was run against Congressman CAL DOOLEY in California. This ad was paid for with unregulated, unlimited dollars. It read as follows:

Congressman Cal Dooley makes choices for you and your family.

Cal Dooley said ''no'' to increased money for federal prisons. Instead, Dooley gave money to lawyers. Lawyers that used taxpayer's money to sue on behalf of prison inmates and illegal aliens.

Cal Dooley said ''no'' to increased money for drug enforcement. Instead, Dooley gave your money to radical lawyers who represented drug dealers.

Is Cal Dooley making the right choices for you?

That is a so-called issue ad, at least it was called, because it didn't use the magic words ''vote for,'' ''vote against,'' ''elect,'' ''defeat.''

And that is paid for with unlimited dollars. But here is the same ad with one of the magic words:

Congressman Cal Dooley makes choices for you and your family.

Cal Dooley said ''no'' to increased money for Federal prisons. Instead, Dooley gave the money to lawyers that used taxpayer's money to sue on behalf of prison inmates and illegal aliens.

Cal Dooley said ''no'' to increased money for drug enforcement. Instead, Dooley gave your money to radical lawyers who represented drug dealers.

Is Cal Dooley making the right choices for you?

That is the exact same ad except in this version I have added the following words: ''Defeat Cal Dooley.''

All of a sudden the same ad becomes an ad which under the current approach of some has to be paid for in hard dollars. If you put that ad on and then comply with the election limits, you could go to jail. But if you put the first ad on and just said, ''Is Cal Dooley making the right choices for you?'' You can put on millions of dollars of advertising. No one knows where it is coming from, no restrictions, the exact same ad with the same effect except for one word.

Now, any viewer looking at that ad is going to say that both ads have the same effect. They are both attack ads. They are both attacking a candidate. And yet one of those ads, if paid for with dollars that are supposed to be limited but weren't, could actually put the person who put that ad on either in jail or given a fine. The other ad, unlimited soft money.

In the real world, there is no difference between those ads. The Supreme Court has ruled that the second ad, with the word ''defeat,'' must be paid for with limited dollars. This is a candidate advocacy ad, and that is what the Supreme Court has ruled. It is said that we can require that ads which explicitly call for the election or defeat of a candidate must be paid for in limited dollars. But the first ad which I have put up is the functional equivalent of the second ad. It is the apparent equivalent of the second ad. It is the real world equivalent of the second ad.

This bill, which has been introduced today, would treat these two ads the same legally because they have the same apparent effect, the same functional effect, the same real world effect, the same practical effect. There is no difference between those ads except for one word. And to our constituents there is no difference when they see those two ads.

We believe that the Supreme Court, because we maintain a bright-line test, will permit this law to stand. That is our hope, and that is our belief. It is based on the real world, the real world of our constituents who, when they see those two ads I have just read, see and hear no difference between them because they know that the first ad is an ad that is attacking a candidate just the way the second ad does and there is no real world difference between those two ads.

Now, we intended corporations and unions not be allowed to contribute to candidates. That is the intention of the current law. Corporations are not supposed to contribute except through political action committees. Unions are not supposed to contribute except through very limited means.

How is it then that, for instance, corporations contribute millions of dollars? The same thing can be said for unions—millions of dollars to these campaigns which do not comply with the current law? Congress is permitted to restrict the contributions of corporations and unions. That was a decision in the Austin case where Justice Thurgood Marshall said that ''we, therefore, have recognized the compelling governmental interest in preventing corruption supports the restriction of the influence of political war chests funded through the corporate form.''

Justice Marshall said, speaking for the Court, ''Regardless of whether this danger of financial quid pro quo corruption may be sufficient to justify a restriction on independent expenditures, Michigan's regulation,'' which was the regulation on corporate contributions at issue, ''aims at a different type of corruption in the political arena, the corrosive and distorting effects of immense aggregations of wealth that are accumulated with the help of the corporate form and have little or no correlation to the public support for the corporation's political ideas.''

And then he went on:

Corporate wealth can unfairly influence elections when it is deployed in the form of independent expenditures just as it can when it assumes the guise of political contribution.

We intended to restrict corporate contributions to candidates. We intended, in our law, to say that corporations cannot contribute to candidates at all except through the very strict rules for political action committees. Yet we have corporations and unions, both, contributing millions of dollars that effectively get involved in campaigns and effectively go to either help candidates or hurt candidates. It is that same soft money loophole that allows the frustration of congressional intent.

Our intent was clear. The Supreme Court has held that our intent is legitimate; that where there is an express

advocacy in a campaign for the defeat or the election of a candidate, that we are right, we are permitted, it is allowed for Congress to restrict those kinds of contributions. That effort on the part of Congress over 20 years ago to restrict corporate and union contributions has also been frustrated by the soft money loophole. We are determined to close that loophole. We are also determined to make it very clear that advertisements, which are functionally the same, that have the exact same effect on the effort to defeat or elect a candidate, be treated the same. That is part of this bill, the so-called independent expenditure part, or issue advocacy part. We simply are adopting another very bright bright-line test.

The Supreme Court did not say it was the only bright-line test. The Supreme Court said that a bright-line test was necessary, relative to satisfactory compliance with the first amendment. And it gave an example of a bright-line test, an example which was realistic in the world of the 1970's. But another bright-line test is necessary now because the first test that we adopted, that the Supreme Court used as an example, has been evaded. And the rules that were permitted by the Supreme Court to apply, the law which the Supreme Court said was appropriate to enact relative to advocacy—to the election or defeat of a candidate—that has been frustrated, it has been evaded, and we are now simply trying to implement it in another way which is fully compliant, we believe, with the first amendment.

There has been a new study by the Annenberg Public Policy Center, which estimates that during the 1996 election cycle, as much as $150 million was spent on so-called issue ads by political parties and groups other than candidates. Their research shows that half of those ads favored Democrats and half favored Republicans. It found that nearly 90 percent mentioned a candidate by name and, compared to other types of political advertising, these so-called issue ads were the highest in pure attack.

Mr. President I ask unanimous consent that a summary of the Annenberg Center study be inserted in the RECORD.

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

ANNENBERG PUBLIC POLICY CENTER ANALYSIS OF BROADCAST ISSUE ADVOCACY ADS, SEPTEMBER 1997

A national survey of 1,026 registered voters commissioned by the Annenberg Public Policy Center shortly after election day showed that a majority of voters (57.6%) recalled seeing an issue advertisement during the 1996 campaign. When compared to other political communications, using data collected from the same national survey viewership of issue advertisements ranked below that of presidential candidate-sponsored advertising and debates. More voters recalled seeing issue advertisements than recalled watching at least one of the short speeches delivered by President Clinton and Robert Dole using free air time donated by broadcast networks.

The Annenberg Public Policy Center has compiled an archive of 107 issue advocacy advertisements that aired on television or radio during the 1996 election cycle. These ads were sponsored by 27 separate organizations. Data about the content of these advertisements are summarized below. The following figures are percentages of produced advertisements, which do not take into account differential airing and reach of the ads. In addition, although the Center's archive does include independent expenditure advertisements aired by parties and advocacy organizations, only the issue ads are included in this analysis.

As noted earlier, issue advertisements are those that do not expressly advocate the election or defeat of a candidate. If the ads do not call for viewers or listeners to cast a vote in a particular manner, what action do they call for? In many cases, the advertisement makes no call to action at all. Our analysis shows that one-quarter of issue ads (25.2%) contained no action step. Of those issue ads produced in 1996 that did solicit some actions on the part of the audience, the greatest proportion asked voters to ''call'' a public official or candidate (37.4%). Some asked individuals to ''tell'' or ''let a public official know'' one's support for or disapproval of particular policy positions (16.8%), while others asked that a call be placed directly to the advocacy organization sponsoring the ad (15.9%). A few of the advertisements called for support or opposition to pending legislation (4.7%).

Despite the presence of clear calls to action, many advertisements did not provide information, such as a phone number or address, to enable the individual to carry out the action. One in three (31.3%) issue ads that suggest action did not provide sufficient actionable information.

During the 1996 election cycle, it was the norm for issue advertisements to refer to public officials or candidates for office by name. Early nine in ten did so. It was also common for television issue advertisements to picture officials and candidates:

Both ends of the political spectrum were represented in issue advertising campaigns. Based on the number of advertisements produced, ads generally supportive of Democratic positions and those generally aligned with Republican positions were evenly split. Each accounted for 48.6% of the total. A few advertisements (2.8%), on term limits and flag burning, were not categorized as Democratic or Republican.

While issue advertising echoed many dominant campaign themes, it also raised issues not addressed by the major party presidential candidates. For instance, abortion, gay rights, pension security, product liability reform, and term limits were among the topics that appeared in issue advocacy advertising, but were largely absent from the policy debate among the presidential candidates.

Medicare was the topic most frequently mentioned in the issue advocacy advertising of 1996. One in four advocacy ads (24.3%) mentioned the issue.

Consistent with prior Annenberg Public Policy Center research on the discourse of political campaigns, we divided issue advertisements into their central arguments. Arguments were categorized as advocacy (a case made only for the position supported by the ad's sponsor), pure attack (a case made only against the opposing position), and comparison (an argument that pairs a case against the opposition with a case for the sponsor's position). Comparison is considered preferable to pure attack because it allows evaluation of alternative positions. Pure attack contributes to the negative tone of political campaigns.

Compared to other discursive forms, including presidential candidate ads, debates, free time speeches and news coverage of the campaign (both television and print), issue advertisements aired in 1996 were the highest in pure attack. Two in five arguments in issue ads attacked.

Arguments in issue ads were less likely to compare positions than debates, free time speeches, and ads sponsored by the presidential candidates.

Because pure attack and comparison accounted for 81.3% of the arguments, so-called ''advocacy ads'' rarely simply advocated their own position. Pure advocacy appeared in fewer than one in five of the ads (18.7%).

Mr. LEVIN. So the result is now a vicious combination, outside of the limits of our campaign finance laws, of, one, huge amounts of money; two, funding the worst type of campaign attack ads. And the net result is that the exceptions to our campaign finance laws have swallowed the rules. The rules basically no longer exist. It is up to this body and to the House to restore limits—restore some fences around contributions so what we intended to do, and the portion of what we did that was affirmed by the Supreme Court in the Buckley case, can be operative in the real political world that we operate in.

It is a daunting task to plug these loopholes, to make the law whole again—to make it whole, to make it effective. If we don't do this, if we do not act on a bipartisan basis and adopt real campaign reform, and if we do not make real what Congress intended to do 20 years ago, and which the Supreme Court has said we can do, where the advocacy of the election or defeat of a candidate is involved—we are allowed to act relative to campaign contributions. We know that. We were told that in Buckley. Providing our aim is at those contributions which go to the effort to elect or defeat a candidate, we are permitted to act providing we act in a way which is clear and has a bright line, and which is aimed at a problem, a societal problem which we identify. Clean elections are something that we are allowed to seek to achieve. We are allowed to seek to achieve the reduction of the impact of aggregated money by corporations and power by corporations and unions. That has been permitted by the Supreme Court. It is up to us, now, to fashion a bill which complies with those standards and we believe this bill does.

If we do not do it, if we do not put a stop to the money chase and the attack ads that are overwhelming the system and disgusting the American people, we will let down our constituents. Marlin Fitzwater, who was the press secretary for President Bush, made this statement in April 1992. He made this statement following a dinner for President Bush, at which the major contributors, soft money contributors, were offered access, private receptions with the President in the White House. It was a very open offer of access in exchange for major contributions, contributions of soft money. This is what Marlin

Fitzwater said very openly and honestly in April 1992, following that dinner: ''It buys access to the system, yes. That's what the political parties and the political operation is all about.''

He spoke the truth. He spoke the tragic truth that buying access to the system is what the political operation is all about and, too often, what the political parties are all about. We have to change that. We have to restore to the political process what the political parties and the political operations should be all about, which is listening to people, communicating with people, organizing people, grassroots effort—yes, raising contributions in small amounts, limited amounts as we intended to do in the 1970's when we passed that law. That is what the political operation and the political parties should be all about.

But whether or not they are going to, again, be about that instead of about raising $50,000 and $100,000 and $250,000 and $1 million in soft money, which is spent in the functionally equivalent way—the same way, apparently, as the so-called hard money—whether we are going to be able to do that is going to be dependent on whether or not we can pull together Democrats and Republicans as Americans, realize that we have a sick system of campaign finance raising and money raising, and change it—close the loopholes, respond to the demand of the American people that the money chase and the excessive contributions and the attack ads end.

In the next week or two, that is a decision we are going to make. I believe the majority of the Senate will support significant reforms and the President has said he will work for the passage of McCain-Feingold and will sign it with enthusiasm. The time for waiting while we document further campaign abuses that we all know exist is over. The time for ending those abuses is here.

I want to close by again commending the sponsors of the bill for their steadfast efforts and their commitment to campaign finance reform. It is a privilege to be part of their cause.

I ask unanimous consent that a number of documents be printed in the RECORD including the campaign television advertisements that were involved in the Cal Dooley campaign and in the Bill Yellowtail campaign. I ask unanimous consent they be printed in the RECORD at this time. I yield the floor and thank the Chair.

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

CITIZENS FOR REFORM AD

Congressman Cal Dooley makes choices for you and your family.

Cal Dooley said ''no'' to increased money for federal prisons.

Instead, Dooley gave the money to lawyers. Lawyers that used taxpayers' money to sue on behalf of prison inmates and illegal aliens.

Cal Cooley said ''no'' to increased money for drug enforcement.

Instead, Dooley gave your money to radical lawyers who represented drug dealers.

Is Cal Dooley making the right choices for you?

CITIZENS FOR REFORM AD AS MODIFIED

Congressman Cal Dooley makes choices for you and your family.

Cal Dooley said ''no'' to increased money for federal prisons.

Instead, Dooley gave the money to lawyers. Lawyers that used taxpayers' money to sue on behalf of prison inmates and illegal aliens.

Cal Dooley said ''no'' to increased money for drug enforcement.

Instead, Dooley gave your money to radical lawyers who represented drug dealers.

Is Cal Dooley making the right choices for you?

Defeat Cal Dooley.

CITIZENS FOR REFORM (AS AD RAN)

NEGATIVE TV AD ON WIFE BEATING AND CRIMINAL RECORD

Who is Bill Yellowtail?

He preaches family values, but he took a swing at his wife.

Yellowtail's explanation?

He only slapped her, but her nose was not broken.

He talks law and order, but is himself a convicted criminal.

And though he talks about protecting children, Yellowtail failed to make his own child support payments, then voted against child support enforcement.

Call Bill Yellowtail and tell him we don't approve of his wrongful behavior.

CITIZENS FOR REFORM (WITH CHANGED LAST LINE)

NEGATIVE TV AD ON WIFE BEATING AND CRIMINAL RECORD

Who is Bill Yellowtail?

He preaches family values, but he took a swing at his wife.

Yellowtail's explanation?

He only slapped her, but her nose was not broken.

He talks law and order, but is himself a convicted criminal.

And though he talks about protecting children, Yellowtail failed to make his own child support payments, then voted against child support enforcement.

Call Bill Yellowtail and tell him we don't approve of his wrongful behavior.

Vote Against Bill Yellowtail.

DEMOCRATIC NATIONAL COMMITTEE TRUSTEE—EVENTS & MEMBERSHIP REQUIREMENTS

EVENTS

Two annual trustee events with the President in Washington, DC.

Two annual trustee events with the Vice President in Washington, DC.

Annual economic trade missions: Beginning in 1994, DNC Trustees will be invited to join Party leadership as they travel abroad to examine current and developing political and economic matters in other countries.

Two annual retreats/issue conferences: One will be held in Washington and another at an executive conference center. Both will offer Trustees the opportunity to interact with leaders from Washington as well as participate in exclusive issue briefings.

Invitations to home town briefings: Chairman Wilhelm and other senior Administration officials have plans to visit all 50 states. Whenever possible, impromptu briefings with local Trustees will be placed on the schedule. You will get the latest word from Washington on issues affecting the communities where you live and work.

Monthly policy briefings: Briefings are held monthly in Washington with key administration officials and members of Congress. Briefings cover such topics as health care reform, welfare reform, and economic policy.

VIP status: DNC trustees will get VIP status at the 1996 DNC Convention with tickets to restricted events, private parties as well as pre- and post-convention celebrations.

DNC staff contact: Trustees will have a DNC staff member specifically assigned to them, ready to assist and respond to requests for information.

1997 RNC ANNUAL GALA, MAY 13, 1997, WASHINGTON HILTON, WASHINGTON, DC

GALA LEADERSHIP COMMITTEE

Cochairman—$250,000 fundraising goal: Sell or purchase Team 100 memberships, Republican Eagles memberships or dinner tables. Dais seating at the gala; breakfast and photo opportunities with Senate Majority Leader Trent Lott and Speaker of the House Newt Gingrich on May 13, 1997; luncheon with Republican Senate and House Leadership and the Republican Senate and House Committee Chairmen of your choice; and private reception with Republican Governors prior to the gala.

Vice chairman—$100,000 fundraising goal: Sell or purchase Team 100 memberships, Republican Eagles memberships or dinner tables. Preferential seating at the gala dinner with the VIP of your choice; breakfast and photo opportunities with Senate Majority Leader Trent Lott and Speaker of the House Newt Gingrich on May 13, 1997; luncheon with Republican Senate and House Leadership and the Republican Senate and House Committee Chairmen of your choice; and private reception with Republican Governors prior to the gala.

Deputy chairman—$45,000 fundraising goal: Sell or purchase three (3) dinner tables or three (3) Republican Eagles memberships. Preferential seating at the gala dinner with the VIP of your choice; luncheon with Republican Senate and House Leadership and the Republican Senate and House Committee Chairmen of your choice; and private reception with Republican Governors prior to the gala.

Dinner committee—$15,000 fundraising goal: Sell or purchase one (1) dinner table. Preferential seating at the gala dinner with the VIP of your choice; and VIP reception at the gala with the Republican members of the Senate and House Leadership.

(Benefits pending final confirmation of the Members of Congress schedules.)

MEMORANDUM

To: Tim Barnes, Kelley Goodsell.

From: Kevin Kellum.

Re: Hot prospects.

These prospects are not ''real hot'', but are very realistic.

Gino Palucci, Palucci Pizza. Eric Javits has spoken with Gino who has committed to join Team 100. He asked me to call Gino's money man in D.C. (Henry Cashen) who is in charge of fascilitating these transactions. I have spoken with Henry who said he would get back to me and have since placed a couple of calls to his office with no response. I will call him again next week.

Ron Ricks, President, Southwest Airlines. Asst: Linda. Herb Vest has spoken with Ron and said he committed to joining Team 100, but since then Nancy has called and left a message with no return call. I will call his office next week.

Ole Nilssen (HOT), Retired inventor. We are working on getting him an appointment with Dick Armey, so we can get his other $50,000. We had a meeting set up for this week, but Armey cancelled his Florida leg of his trip.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I think, with some research by some very excellent staff members, we may have a basis for an agreement here. I really believe we have a very strong chance, because I think we can use, to a large degree, as a basis for our negotiations, not so much the McCain-Feingold bill but the bill that was introduced as S. 7 by Senator Robert Dole and Senator MCCONNELL on January 31, 1993.

This was S. 7, remembering in those days on this side of the aisle the Republicans were in the minority, so the majority had the first five bills and the minority, the Republicans, had the next five. This is S. 7, so I don't know what 6 was, but this was the second one.

I want to talk about this a little bit because I think it is important. This is a bill that Senator MCCONNELL introduced and spoke on with Senator Dole. I think it is very important. The bill was introduced in the Senate on Thursday, January 21, 1993 by Senator Robert Dole. At the present time there are 24 cosponsors of the bill—24 Republicans. Let me tell you the cosponsors of this bill. They were BURNS, CHAFEE, COVERDELL, CRAIG, D'AMATO, DOMENICI, Durenberger, GORTON, GRASSLEY, GREGG, HATCH, Hatfield, KEMPTHORNE, LOTT, LUGAR, MCCAIN, MCCONNELL, MURKOWSKI, NICKLES, Packwood, ROTH, Simpson, STEVENS, THURMOND.

So, most of the present leadership of the Republican side was represented as cosponsors of this bill. Of course Senator LOTT, Senator COVERDELL, Senator NICKLES, the whip, Senator CRAIG, and of course Senator MCCONNELL.

The bill says: Deal with campaign finance reform. Let me read very quickly from Senator MCCONNELL's remarks.

> Mr. President, in 1992, voter turnout increased, electoral competition increased, campaign spending increased. Most objective observers of the political system . . ..
>
> Mr. President, Democratic campaign finance bills based on spending limits and taxpayer financing do, indeed, constitute change. They do not, however, reform. They do not improve the electoral process.

Quoting from Senator MCCONNELL:

> The Democratic bills we have seen in the past were good public relations . . .. Spending limits were totally discredited in the presented system . . .. Mandatory spending limits are unconstitutional . . .. Taxpayer funding of the Congressional campaign system to provide inducements or penalties is not palatable.

Then he goes on and says:

> Republicans will not stand by while the first amendment is sacrificed for a facade of reform. Campaign finance reform need not be unconstitutional, partisan, bureaucratic or taxpayer funded. The minority leader and I, joined by Republican colleagues, have today introduced the Comprehensive Campaign Finance Reform Act, the most extensive and effective reform bill before this Congress bar none. It bans PAC's, the epitome of special interest influence and a major incumbent protection tool. Our bill bans soft money, all soft money, party, labor, and that spent by tax-exempt organizations. It cuts campaign costs, provides seed money to challengers paid for, not by taxpayers, but by the political parties. It constricts the millionaires' loophole, [which, by the way, happens to be a part of the revised package we have, I am sure by coincidence] restricts and regulates independent expenditures, fights election fraud, and restricts gerrymandering.
>
> Real reform: In stark contrast to the Democrats' bill, the Republican bill puts all the campaign money on top of the table where voters can see it. Nothing would have a more cleansing effect on the electoral process.

Then:

> The text of the bill eliminates all special interest political action committees, corporate, union, and trade association, also bans all non-connected or ideological PAC's and all leadership PAC's.
>
> Note, if a ban on non-connected PAC's is determine to be unconstitutional by the Supreme Court, the legislation will subject nonconnected PAC's to a $1,000 per election contribution limit.

I could not agree more with Senator MCCONNELL's position on that.

Soft money ban: Bans all soft money from being used to influence a Federal election. Soft money is defined as the ''raising and spending of political money outside of the source restrictions, contribution limits and disclosure requirements of the Federal Election Campaign Act and its regulations.''

So we are in complete agreement with Senator MCCONNELL on that.

Establishes new rules for political party committees to ensure that soft money is not used to influence Federal elections, including the requirement that national, State, and local political parties establish a separate account for activities benefiting Federal candidates and a separate account for activities benefiting State candidates.

Requirement of full disclosure of all accounts by any political party committee that maintains a Federal account, and the establishment of minimum percentages of Federal funds which must be used for any party building program, voter registration, get out the vote, absentee ballots, ballot security which benefits both Federal and State candidates.

Exempts certain organizational activities, as ours does—research, get out the vote, voter registration—from coordinated or other limitations.

Requires disclosures and allocation for these activities and retains the same coordinated expenditure limits for media expenditures.

Maintains the limit on total contributions of Federal party accounts at $20,000; limits to $50,000 per calendar year the total amount of contributions an individual or other entity may make to national, State, or local party accounts combined.

Labor and soft money employee protection: Codifies the Supreme Court decision in Beck versus Communications Workers of America and provides certain rights for employees who are union members.

Soft money restrictions: Prohibits tax-exempt 501(c) organizations from engaging in any activity which attempts to influence a Federal election on behalf of a specific candidate for public office.

Extends to all 501(c) organizations the current prohibition on campaign activity which applies to 501(c) charities.

Restricts tax-exempt organizations from engaging in voter registration or get-out-the-vote activities which are not candidate-specific if a candidate or Member of Congress solicits money for the organization.

Restricts Federal activities by State PAC's created by Members of Congress.

Reduces from $1,000 to $500 the maximum allowable contributions by individuals residing outside a candidate's State, an interesting take on the influence of outside money.

Indexes the individual contribution limit, $1,000 per election for in-State contributions or $500 per election to out of State.

Congressional candidates using Consumer Price Index, something that I think could be very well discussed.

Prohibits bundling, which I think is a very laudable goal, and then it talks about independent expenditures.

Requires all independently financed political communications to disclose the person or organization financing it. That is very interesting. I wonder how the Christian Coalition and the right to life and other organizations would feel about requiring all independently financed political communications to disclose the person or organization financing it. When Senator FEINGOLD and I floated that proposal, it met with a pretty strong opposition from both sides. This is a proposal that, obviously, as I have said many times, Senator MCCONNELL made around 4 years ago; requires that that disclosure be complete and conspicuous.

Requires timely notice to all candidates of the communications placement and content.

Defines independent expenditure to prohibit consultation with a candidate or his agents.

Requires the FCC to hold a hearing within 3 days of any formal complaint of collusion between an independent expenditure committee and a candidate.

I must say, Mr. President, if, in the last election campaign, that provision requiring the FCC to hold a hearing within 3 days of any formal complaint of collusion between an independent expenditure committee and a candidate had been the law of the land, they would have been holding hearings 24 hours a day, 7 days a week.

Creates an expedited cause of action in Federal courts for a candidate seeking relief from expenditures which are not independent.

Allows for a broadcast discount in the last 45 days before a primary and the last 60 days before a general election.

Permits challenger seed money, which I think is a laudable goal, and

addresses a problem that we have had with giving a challenger a level playing field.

Requires congressional candidates to declare upon filing for an election where they intend to spend alone over $250,000 in personal funds in a race and raises the individual contribution limit to $5,000 per election, from $1,000 for all opponents of a candidate who declare such an intention.

No limits would apply to individual contributions by party, et cetera.

Then there is a very interesting one, franked mail. Prohibits franked mass mailings during the election year of a Member of Congress and requires more disclosure of the use of franked mail for unsolicited mailings.

Our proposal, as we know, is to cut off the name and face being mentioned in drawing a bright line. I have 60 days. Senator MCCONNELL's 1993 proposal prohibited franked mass mailings during the entire election year.

It goes into gerrymandering and goes into enhanced FEC enforcement. I heard my colleague from Utah complaining long and loud about any possibility of enhanced FEC enforcement. By the way, my colleague from Utah was not here in 1993, so I kind of doubt that he would have cosponsored this bill, as did 24 Republicans.

Mr. BENNETT addressed the Chair.

Mr. MCCAIN. I guess what I am saying is that we had a very good bill in 1993—a very good bill—and one that I was proud to cosponsor, along with Senator Dole and Senator MCCONNELL and 24 of our Republican colleagues.

Mr. BENNETT. Mr. President, will the Senator yield for a clarification?

Mr. MCCAIN. I will be glad to yield.

Mr. BENNETT. I was here in 1993, and I think I probably did cosponsor that. The Senator is making a good case that I probably made a mistake.

Mr. MCCAIN. Thank you. I appreciate the correction from the Senator from Utah.

That entire list of 24 Republican cosponsors of S. 7, as I mentioned, are BURNS, CHAFEE, COVERDELL, CRAIG, D'AMATO, DOMENICI, Durenberger, GORTON, GRASSLEY, GREGG, HATCH, Hatfield, KEMPTHORNE, LOTT, LUGAR, MCCAIN, MCCONNELL, MURKOWSKI, NICKLES, Packwood, ROTH, Simpson, STEVENS, and THURMOND.

Mr. President, I haven't had a chance to examine all the details of the proposal that Senator MCCONNELL's and Senator Dole's S. 7 had, and I believe that there are probably some differences, but I will argue very strongly that we have the basis for negotiations and possible agreement based on S. 7.

My understanding is that there is not the independent campaign bright line. That actually, as my colleagues know, was an idea that Mr. Norm Ornstein and Mr. Mann and Mr. Trevor Potter, Professor Potter, came up with as a way of trying to get about the issue of the independent campaigns which we all know are out of control and they are all negative campaigns.

I was, frankly, encouraged to see that Senator MCCONNELL had proposed such a comprehensive way of reforming the campaign system as far back as 1993, obviously displaying a degree of clairvoyance that I didn't have at the time. So I hope we can go back to that.

Mr. President, I just want to end up—and I know Senator MCCONNELL wants to respond to that—there is a book that Brooks Jackson wrote called ''Honest Graft: Big Money in the American Political Process.'' This book is somewhat dated. It was published in 1990. A lot of things have happened since then. Some things haven't happened. Some things haven't changed, they have just gotten worse.

Let me quote from a chapter in his book, and I will be brief:

> Nearly everyone complains that something is wrong with the American political system. Liberals see a Congress bought by business interests, while PAC managers complain they are being shaken down by money-hungry legislators. Lawmakers detest the rising cost of campaigning, the inconvenience and indignity of asking for money, and the criticism they endure for accepting it. Democrats envy the Republican Party's financial strength and decry the sinister influence of big money and expensive political technology while trying to get as much of both for themselves as possible. Republicans, portrayed by the business PACs they nourished, seethe at their inability to dislodge Democratic incumbents. Critics of various leanings deplore lawmakers who use their office to help themselves or moneyed benefactors. Liberal and conservative commentators alike call the system ''corrupt.''
>
> The problem isn't corruption; it is more serious than that. If unprincipled buying and selling of official favors was at fault then the solution would be simple. Honest legislators would refuse to participate, and prosecutors or voters would deal with the rest. To be sure, corruption does exist; it is hard to imagine any other community of 535 souls where felonies are so often proven. But those illegalities are only symptoms of the underlying sickness.
>
> The true predicament is that perverse incentives twist the behavior of ordinary legislators. The system of money-based elections and lobbying rewards those who cater to well-funded interests, both by keeping them in office and by allowing men like Ferdinand St. Germain to enrich themselves while they serve. It also punishes those who challenge the status quo, as D. G. Martin discovered. And it bends even the best of intentions, like Tony Coelho's priestly instincts, toward the courtship of moneyed cliques. As Coelho himself says, ''the process buys you out.'' The system doesn't require bad motives to produce bad Government.
>
> America is becoming a special-interest nation where money is displacing votes. Congress commands less and less support among the electorate as it panders increasingly to groups with money, yet its members cling to office like barnacles on a hull of a broken-down steamer.

Mr. President, I would not use those words myself. I think they are strong words. I do respect Brooks Jackson a great deal. He is one of the foremost authorities on campaign finance reform. But if that was the case, if that was the view of one of the most respected commentators in 1990, can you imagine what the view of many of them are today?

Again, I want to say that I hope we can sit down and have some serious negotiations. I would, to a large degree, move to S. 7 as a basis for a lot of those negotiations. Maybe we can get Senator Dole back, most respected by all of us, and see if Senator Dole—I believe he still supports many of those principles. We could all sit down together.

If I can very seriously say, I hope that we can understand that what the American people want is not a filibuster and not a gridlock, not a filibuster by Republicans, not a filibuster by Democrats, but we have shown certainly this year what we are capable of doing when we sat down on both sides of the aisle and put the Nation on a path toward a balanced budget; when we sat down, Republicans and Democrats alike, trading off, as is necessary, to reach a goal of giving the American people their first tax cuts in 16 years.

I believe we can do that if there is a willingness to do so, and I, for one, believe that the majority of my colleagues would agree that there are some things that are fundamentally wrong with this system. If the majority of my colleagues agree with that, then it seems to me we should be able to reach some kind of agreement on how we can reform that system.

Mr. President, I yield the floor.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I am sure my good friend and colleague from Arizona will agree that politics is a team sport. In order to be effective, we have to have allies. The bill he went back 4 years to had 24 cosponsors. I can assure my friend from Arizona, it had a good idea from all 24. Legislation is, someone said, sort of like making sausage: a little bit of this and a little bit of that.

I confess to having joined in cosponsoring a bill with a whole lot of things that my friend from Arizona will surely remember that I have consistently argued against for 10 years. But the feeling was, and he remembers it because he cosponsored the bill, that we needed to have a Republican alternative. And in the spirit of being a part of the team, I put my name on a bill. I am sure the Senator from Arizona has never put his name on a bill with which he disagreed with any part. In fact, he said here today he is not entirely happy with the union provision in the bill that he is putting forward.

The Senator from Kentucky may be guilty of many things, but I think in this debate rarely guilty of inconsistency and many of the things that the Senator from Arizona mentioned I personally argued against prior to coming up with this five-legged dog. Somebody said you might be able to make a five-legged dog, but nobody has ever seen one in nature. That is sort of what that bill was. So I confess to having signed on to a bill much of which I thought was probably not the right thing to do.

But let me ask the Senator from Arizona—he said on Friday and again, I believe, today, any genuinely independent expenditure made to advocate any cause which does not expressly advocate the election or the defeat of a candidate is fully allowed. Is that the view of the Senator from Arizona?

Mr. MCCAIN. That is correct. That is correct.

Mr. MCCONNELL. I say to my friend from Arizona, under the Federal Election Campaign Act the term ''independent expenditure'' is defined as follows:

The term ''independent expenditure'' means an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate or any authorized committee or agent of such candidate and which is not made in concert with or at the request or suggestion of any candidate or any authorized committee or agent of such candidate.

I am wondering if the Senator from Arizona really meant what he said, because an ''independent expenditure'' under the Federal Election Act does by definition expressly advocate the election or defeat of a candidate.

Mr. MCCAIN. I say to my friend from Kentucky, we are changing the definition of ''express advocacy'' as well as the definition of ''independent campaign.'' And we feel compelled to do so because we see that on both sides the campaigns are no more independent than I am qualified to be on the next trip to Mir.

We are, on page 13 of the bill, under where it says ''Definitions * * * (17) Independent Expenditure—* * *. The term ''independent expenditure'' means an expenditure by a person—(i) for a communication that is express advocacy; and (ii) that is not provided in coordination with a candidate or a candidate's agent or a person who is coordinating with a candidate or a candidate's agent.''

And then ''(b) Definition of Express Advocacy—Section 301,'' which the Senator from Kentucky just quoted from ''* * * is amended by adding at the end the following: '(20) Express Advocacy—(A) In general.—The term ''express advocacy'' means a communication that advocates the election or defeat of a candidate by—containing a phrase such as ''vote for'', ''reelect'', ''support'', ''cast your ballot for'', ''(name a candidate) for Congress'', ''name of candidate in 1997'', ''vote against'', ''defeat'', ''reject'', or a campaign slogan or words that in context can have no reasonable meaning * * *'.''

This is the important part—''can have no reasonable meaning other than to advocate the election or defeat of 1 or more clearly identified candidates; * * *''

That is, so we are changing both. I say to my friend, I am changing both the definition of ''independent expenditure'' and the definition of ''express advocacy.'' We are doing so because there is clearly a huge problem in American politics today, which I am sure the Senator from Kentucky appreciates. There are no longer independent campaigns. There is nowhere in any dictionary in the world the word ''independent'' that would fit these campaigns. They are part of campaigns. To my dismay, and I am sure to every Member of this body, they are negative. And they are negative to the degree where all of our approval ratings sink to an alltime low.

So that is—I am sorry for the long response, but the Senator from Kentucky asked a very good question.

Mr. MCCONNELL. Then the definition of what is ''reasonable'' would be determined by the Federal Election Commission; is that correct?

Mr. MCCAIN. And the courts, just as the previous ones were interpreted, and in the case of the Colorado decision, as the Senator from Kentucky well knows, opened up a massive loophole which was driven through with alacrity and speed. That is what we are trying to close here.

Mr. MCCONNELL. I ask my friend from Arizona, how would it work? The Federal Election Commission would either on its own initiative or as a result of receiving some complaints from someone intervene in what way to determine what is or is not ''reasonable''?

Mr. MCCAIN. First of all, as you know, any bright line would be that the candidate's name or face would not be mentioned, which is carrying what was, in my view, the original intent, which was obviously that they could not say ''vote for'' or ''cast your ballot for.''

So I would be glad to discuss with the Senator from Kentucky exactly how we could define that in report language or other.

But I want to return to the fundamental problem here with the Senator from Kentucky. I ask him, in return, does he believe that these so-called independent campaigns are truly independent?

Mr. MCCONNELL. Well, if they are not, if it is an independent expenditure which is required under the law——

Mr. MCCAIN. I am talking about, are they really independent in what any of us would define as the word ''independent,'' or are they just additional methods to get around contribution limits in order to defeat another candidate? Which is it?

Mr. MCCONNELL. Is the Senator talking about independent expenditures or express advocacy?

Mr. MCCAIN. I am talking about independent campaigns. I am talking about a problem. What drives independent campaigns, as the Senator from Kentucky well knows, is the definition of ''independent expenditure'' and ''express advocacy,'' which we are changing.

I am asking the Senator from Kentucky again, does he believe that in the last campaign the attacks by labor, for example, in congressional district 6, where over $2 million was spent by labor, with Congressman J.D. HAYWORTH'S face distorted on the screen, sometimes morphing into that of NEWT GINGRICH, does the Senator from Kentucky believe that that was an independent campaign against Congressman J.D. HAYWORTH?

Mr. MCCONNELL. What I believe it was is an engagement in issue advocacy.

Mr. MCCAIN. You really believe that was an issue advocacy ad when they said: Congressman J.D. HAYWORTH is an enemy of every man, woman and child in Arizona? Surely, the Senator from Kentucky does not believe that. Surely, the Senator from Kentucky does not believe that these independent ads, which are done by both sides, both Republican and Democrats, are no more than character attacks, destruction, but, more importantly, adjunct to political campaigns. Surely, the Senator from Kentucky cannot stand here on the floor of the Senate and say that those are independent campaigns by any reasonable definition.

Mr. MCCONNELL. I say to my friend from Arizona, it really does not make any difference what the Senator from Kentucky says. The Supreme Court says——

Mr. MCCAIN. I think it has a lot to do with what the Senator from Kentucky believes. I think it has a lot to do with it, because if the Senator from Kentucky thinks that this is just basically an evasion of the law by getting around the law, which has contribution limits, then certainly it matters what the Senator from Kentucky believes.

If the Senator from Kentucky believes that these are truly independent campaigns, set up and run and funded by individuals who just want to see their particular issues, whether it be pro-life or pro-choice or workers' right to strike or any of the others, then fine. But it is beyond me to believe that the Senator from Kentucky could have, having seen these ads—he is very deeply involved in the political process—that they are independent. They are not. They are appendices of the political campaigns. The tragedy of it is, 98 percent of them are attack ads, as the Senator well knows.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Kentucky.

Mr. MCCONNELL. I believe I have the floor.

All I was trying to say to my friend from Arizona is that worth a good deal more than the opinion of the Senator from Kentucky is the opinion of the Supreme Court, which has said in order to avoid—and admittedly these groups want to criticize us. There is no question about it. They want to criticize us. They want to criticize us. And we hate it. They want to criticize us in proximity to the elections. Sometimes they criticize us earlier than that.

But the Supreme Court has said that it is issue advocacy unless the words ''vote for,'' ''elect,'' ''support,'' ''cast your ballot,'' ''Smith for Congress,''

''vote against,'' ''defeat,'' or ''reject''—or it lists the magic words here. It is not really vague. I think the reason the Court did this is because they want to encourage citizens to be free to be critical of us any time they want to.

I would readily concede to my friend from Arizona we have gotten a lot more criticism in the last couple of years than we used to. I will also readily concede that having been the beneficiary, or victim, depending on your point of view, of some of that myself, I do not like it. But the Court, it seems to me, has made it rather clear that we do not have the right to keep these people, these groups, from expressing their views about our records at any point, whether it is in close proximity to the election or not.

Now, an independent expenditure, as my friend from Arizona knows, is different. That is hard money. That is regulated by the FEC. In order to qualify as an independent expenditure, you must not consult with those whom you are seeking to aid or reject.

Issue advocacy is a different animal. The Court has put that in a separate category. Admittedly, the distinctions are sometimes blurred. The Court anticipated in the Buckley case that many times the distinction would be blurred. But they erred on the side of more expression. They erred on the side of allowing more and more citizens, if they chose to, to criticize us at any point they wanted to.

Now, what we all saw in 1996 was there was a lot of criticism, a lot of criticism by a lot of groups that a lot of people on my side of the aisle did not like. But I think there is not any chance whatsoever the Supreme Court is going to allow us by legislation to make it difficult for people to criticize us just because it may be in close proximity to an election.

Therein lies the dilemma. My good friend from Arizona is trying hard to do that. I understand why he would like to do it. These campaigns are a source of great irritation to the people who run for public office. I understand that.

Mr. MCCAIN. Could I respond?

Mr. MCCONNELL. It is just my prediction—just as one Senator here having read these cases, it is my prediction that the courts will not allow us to in effect shut these folks up or to create a context in which their criticizing us is more difficult. That is just my opinion. But it is also the opinion of many, including the American Civil Liberties Union, who have looked at this particular area.

Mr. MCCAIN. Could I respond to the Senator very quickly?

Mr. MCCONNELL. Sure.

Mr. MCCAIN. First of all, the Senator well knows better than I, footnote 52 is where the magic words are, which is a footnote on the decision. The interpretation of many of us is that the language in the body of the opinion indicates that Congress does have a role to play and can be involved in it.

But that is a difference of opinion that the Senator from Kentucky and I have. That is why I think I would be willing to try to make a case on the floor of the Senate here of the constitutionality of our view of changing the definitions of ''independent expenditure'' and ''express advocacy'' just as when we passed the line-item veto and there was significant constitutional question about the line-item veto by good and principled individuals of this body who said, ''Look. What you're doing here is unconstitutional; so, therefore, I'm voting against it.''

I am saying that I believe there is sufficient good opinions by good and principled individuals that differ as to what the interpretation is and what Congress has the right to not do.

May I ask unanimous consent, Madam President, to have stricken from the RECORD the name of a Member of the other body, because I misspoke, and it is against the rules of the Senate to say the name of a Member of the other body. I ask unanimous consent that that reference be removed from the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. MCCONNELL. Madam President, I believe I have the floor. I had yielded to the Senator from Arizona for a question.

The PRESIDING OFFICER. The Senator from Kentucky has the floor.

Mr. MCCAIN. So if I could finish my answer. It is not so much that it aggravates me as to whether it is negative or not. Of course, it pains all of us when the approval rating of elected officials is so low. There was a Fox poll that said, ''I believe that my Member of Congress is:'' 36 percent said, ''someone I can trust,'' 44 percent said, ''a lying windbag.'' That bothers all of us. But that is not the fundamental problem here, I say to my friend from Kentucky, because you can do that with hard money. You should be able to do that with hard money, any kind of attack, any kind of thing you want to do.

What we are objecting to is it being used for soft money and the fact that it is not independent, does not meet, by any objective measure, at least in my view, the definition of the word ''independent.''

I thank the Senator from Kentucky.

Mr. MCCONNELL. I believe I still have the floor.

The PRESIDING OFFICER. The Senator from Kentucky still has the floor.

Mr. FEINGOLD. Will the Senator yield?

Mr. MCCONNELL. No, not right now.

I say to my friend from Arizona, it is not at all clear that express advocacy has to be independent. But nevertheless, the Senator from Arizona is entirely correct that the words are in a footnote. There is no question that the words are in a footnote.

On the other hand, there have been at least 15 cases in this field. This has been a field that has been very much litigated. The Federal Election Commission has been interested in going after issue advocacy groups for years. So there has been a lot of litigation on the issue that my friend from Arizona raises.

He raises a good point, it is in a footnote. It is not like we haven't been there before. There have been 15 cases. The FEC has lost every single issue advocacy case seeking to do things similar—similar—to what is sought to be done by legislation here.

Recently in the Citizens Action Network case, not only did the fourth circuit rule against the Federal Election Commission trying to do what we are trying to do here, it ordered them to pay the legal fees of the group that they were out to quiet.

So the only thing I say to my friend from Arizona, he is right, it is a footnote. On the other hand, this is something that the courts have had a good deal to say about, a good deal to say about, and there has been a lot of litigation on this whole question of trying to quiet the voices of those who would criticize us for our votes.

I see my friend from Utah is on the floor.

Mr. FEINGOLD. Will the Senator from Kentucky yield?

Mr. MCCONNELL. Was the Senator from Utah seeking to ask a question?

Mr. BENNETT. I would like to obtain the floor in my own right at some point, but I make a comment to the Senator from Kentucky and ask him if he would like at this point with respect to the 126 scholars that have been mentioned up until now—I will wait until I have the floor.

Mr. MCCAIN. I think this kind of debate we need to engage in. I think this is important. I think the CONGRESSIONAL RECORD needs to be made and I look forward to more of this kind of debate and discussion because this is really the heart of the matter. I thank the Senator from Kentucky for raising this particular issue because this seems to be one of the major, if not the major, areas that need to be discussed.

Thank you.

Mr. MCCONNELL. I believe I still have the floor.

I agree with the Senator from Arizona. I think this is the heart of the current version of MCCAIN-FEINGOLD, and certainly does need to be adequately vented.

I see the Senator from Wisconsin was interested in getting into the discussion.

Mr. FEINGOLD. I thank the Senator from Kentucky for his courtesy and I will have a couple of brief questions for him on a very interesting discussion that the Senator from Arizona and Kentucky had.

I ask the Senator from Kentucky if he voted for the Communications Decency Act, which was sent up to the Supreme Court?

Mr. MCCONNELL. Frankly, I don't remember. I am sure the Senator knows.

Mr. FEINGOLD. The answer is yes. I believe there were only 16 Members of

the Senate—I happened to be one—who did not think it was constitutional, who thought it was a violation of the first amendment to start censoring the Internet.

Does the Senator recall how the Supreme Court disposed of the Communications Decency Act?

Mr. MCCONNELL. Why don't I let the Senator from Wisconsin tell us.

Mr. FEINGOLD. It was a unanimous decision, 9 to 0.

The U.S. Senate, including yourself, voted overwhelmingly for something that in my view, was unconstitutional on its face.

What was the downside of it? What happened? What happened was that the law was struck down, isn't that right?

Mr. MCCONNELL. My friend from Wisconsin, who is a distinguished lawyer and went to Harvard knows that pornography does not enjoy the same level of protection as political speech. The Supreme Court has always put political discourse in a special protected category. Pornography, by its very definition, has been excluded from first amendment protection.

My guess is that in that particular piece of litigation we didn't have a very good idea how the Supreme Court was going to decide and the Senator from Wisconsin is probably going to say why not take a chance here and see if the Court will uphold these restrictions on express advocacy.

Mr. FEINGOLD. I assume the Senator has no doubt that this Supreme Court will strike down the provisions in our bill he is talking about, isn't that right?

Mr. MCCONNELL. It is my hope, Madam President, that we won't give them an opportunity to do it.

Mr. FEINGOLD. I understand, but my question is, Don't you believe that this Court would strike down the provisions you criticize?

Mr. MCCONNELL. Yes, I believe the Supreme Court would not, in this highly protected area of political speech, allow the Congress to reduce the quality of criticism that can be leveled at us in proximity to an election.

I think we are not flying entirely blind here, Madam President, because this whole delicate area of issue advocacy has benefited from a lot of litigation.

Mr. FEINGOLD. One other question, a point I am trying to make for the RECORD is I agree with the Senator from Kentucky that should we pass this legislation, this, of course, will go to the Supreme Court. I think it is very important that we acknowledge as we make this RECORD that they will review it, and that they will want to know exactly what our intentions were with regard to this legislation.

I want to ask a question in terms of making this RECORD, following on the question of the Senator from Arizona. I will read the Senator from Kentucky an advertisement that supposedly was an issue advocacy ad, apparently legally treated that way, and ask him if he believes this is properly characterized as issue advocacy rather than express advocacy or campaign ad.

The ad concerned a Winston Bryant. The announcement said, ''Senate candidate Winston Bryant's budget as attorney general increased 71 percent. Bryant has taken taxpayer-funded junkets to the Virgin Islands, Alaska, and Arizona, and spent about $100,000 on new furniture. Unfortunately, as the State's top law enforcement official, he has never opposed the parole of any convicted criminal, even rapists and murderers; and almost 4,000 Arkansas prisoners have been sent back to prison for crimes committed while they were out on parole. Winston Bryant: government waste, political junkets, soft on crime. Call Winston Bryant and tell him to give the money back.

Does the Senator from Kentucky consider that to be an issue ad within the Supreme Court definition, or does he think it is possible—possible—that the U.S. Supreme Court just might find that to be a campaign ad?

Mr. MCCONNELL. Madam President, that ad sounds very similar to some newspaper editorials I have read during the end of campaigns and in editorial endorsements, another form of criticism that we typically find very offensive.

My guess is, absent the words ''vote for,'' or ''vote against,'' the others that we went over in the Buckley case, the Court would in all likelihood say those voters are perfectly free to make candidate Winston Bryant very uncomfortable before his election.

And I understand that the Senator from Wisconsin and the Senator from Arizona would like to change that standard and give the Supreme Court another chance to try to reach a different decision.

Let me tell you why, Madam President, I think it is extremely unlikely that the Court would go in the direction that the Senator from Wisconsin would like it to go. Referring again to the American Civil Liberties Union, America's experts on the first amendment, dealing with the restrictions on independent expenditures and issue advocacy in the bill we are discussing.

They say the new restrictions on independent expenditure are improperly intruding upon the core area of electoral speech and invading the absolutely protected area of issue advocacy—absolutely protected area of issue advocacy.

The ACLU went on: Two basic truths have emerged with crystal clarity after 20 years of campaign finance decisions— 20 years. This is not a new area of the law; 20 years of campaign finance decisions.

First, independent expenditures for express electoral advocacy by citizen groups about political candidates lie at the very core of the meaning and purpose of the first amendment. This is not some peripheral area here—the very core of the first amendment.

Second, issue advocacy by citizen groups lie totally outside the permissible area of Government regulation. So I say to my friend from Wisconsin, my prediction that no matter how much candidate Bryant may not have liked that criticism, my prediction that the Court is likely to uphold the ability of citizens to band together and engage in that criticism is based not on some kind of speculation but on 20 years of decisions in this field.

So I guess my prediction, in answer to the question the Senator from Wisconsin asked, is that I don't think there is any chance the Court would allow the Congress to make it tougher for people to criticize us. There is absolutely no hint in 20 years of cases in this area that the Court is going to backtrack and give us the ability to quiet our critics. We would love to do this.

One thing I am sure the Senator from Wisconsin and I agree on, we don't like this kind of thing. We really would prefer not to be criticized by either of these avenues, whether it is independent expenditures or whether it is express advocacy, we don't like it. I think we can stipulate that.

However, the Court has been rather clear over 20 years that we are not going to be able to quiet these voices. So my prediction would be that they would not allow us to do it.

There are others who want to speak. I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. I thank the Senator from Kentucky for his candid answers and say I have great confidence in the U.S. Supreme Court. They are perfectly capable of handling this provision. Our job is to pass a law so they can take it up and they can strike it down if they don't like it. That is the approach we take here when there is a good-faith disagreement about a constitutional provision. Surely there are good-faith arguments on both sides, and the right body to resolve it is the Supreme Court.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Madam President, during the hearings we have held in the Governmental Affairs Committee there have been a number of headline-grabbing witnesses who have appeared before us. Unfortunately, when we got to the phase of the hearings where we were discussing this issue, the television cameras all left the room and the press tables all became vacant.

In that atmosphere I was able to say some things that I maybe wouldn't have otherwise said because I knew no one would say anything. It is a bit like the question, When a tree falls in the forest and nobody is there to hear it does it make any sound?

But there was one witness that appeared who made a lot of sound and whose statements are so apropos I have taken the floor to read most of them into the RECORD. His full statement is available to anyone who wants to go into the committee. I will not take the

time to read the full statement here, but for the Senators who participated in this debate I think hearing some of the comments this man made will be particularly enlightening. I am speaking of Curtis Gans, the director of the Committee for the Study of the American Electorate. The advisory board of that committee includes people such as David Gergen, Peter Hart, Abigail McCarthy, Cyrus Vance, former Secretary of State, Ted Van Dyk, Anne Wexler, Richard Whalen, and a number of others whose names I don't recognize but I am sure are equally distinguished.

Mr. Gans points out he has been the director of this nonpartisan nonprofit committee for 21 years, engaged in the issues surrounding low and declining voter participation. That is his area of expertise. He has published publications, organized commissions, testified before Congress, engaged in this activity for a long period of time.

With my apologies for quoting so much, I will get into the details of Mr. Gans' testimony because, as I said, I think it is particularly enlightening.

I am now quoting from Mr. Gans:

Mr. Chairman, with all respect to this committee's good work and the chairman's good intentions, I would like to suggest a few verities: that campaign finance is the most overblown issue in American politics, that the problems we face today in campaign finance are the products of bad law passed in 1971 and 1974 and the severability contained in that law and not the result of the Buckley versus Valeo decision; that there are serious problems in the present methods of financing campaigns, but that they are built into the incentive structure current law creates; that, in attempting to remedy the existing problems deliberations should be guided by the principle of ''Do No Harm,'' (that we have already seen the unintended consequences of good intentions) and that it should proceed incrementally and with true bipartisanship; and that the case for such incremental reform can be done without the gross vilification of individual leaders or the system as a whole which is both inaccurate and does a profound disservice by undermining—perhaps more than the laws themselves—public faith in the political process.

Mr. Gans goes on in another place in his testimony:

I think the American people have long known that people give money for essentially four reasons:

1. That they are friends with the candidate or officeholder.

2. That the candidate or officeholder has views congruent to the giver on one or more key issues.

3. That the opponent has views which are anathema on one or more key issues.

4. To gain access to the candidate/officeholder to express one's interest and point of view.

I don't believe that the American people think that Representative . . .

He names the Member of the other body.

is a liberal because he gets liberal money, or that . . .

He names another Member of the other body.

is a conservative because he gets conservative money.

I do believe they understand that access is different from influence—even if money buys access. I think they know that access to a leader comes from several different sources—personal friendship, long-time loyalty, fame, grassroots citizens organization and money, and that money does not speak with one voice. I think the American people know—as their responses to surveys about their own Congresspersons and Senators (the ones with whom they have had first-hand experience)—that the overwhelming majority of leaders are honorable leaders who arrive at public policy decisions on a basis other than contributions. And that if there is cynicism about the profession as a whole, it is not because of its actions, but because they have been vilified by those who seek reform.

Later on in his statement, Mr. Gans gives what I find to be two fascinating questions:

I am fond of asking the question: ''What do Social Security, Medicare, Medicaid, Aid to Families with Dependent Children, Federal aid to education, the Civil Rights Act, the Voting Rights Act, the Occupational Safety and Health Administration, the Environmental Protection Agency, the Council on Environmental Quality have in common?''

The answer is that they were all enacted and created when individuals could give unlimited and undisclosed amounts of money to candidates, often in unmarked paper bags, and when the Republican party usually enjoyed a 3–1 spending advantage over the Democrats. (As one staff member of this committee has pointed out, it should also be noted that the Hatch and Taft-Hartley Acts were also enacted in this period, lest the Republicans think reform would be a good thing for their policy ends.)

What this incandescently shows us is that major public policy is a matter of leadership and citizen consensus rather than campaign cash.

Mr. Gans goes on in his second question, equally compelling in my opinion:

I am also fond of asking a second question, ''What do Michael Huffington, Clayton Williams, Rudy Boschwitz, Mark Dayton, Lew Lehrman, Jack Brooks, Guy VanderJagt, Steve Forbes and, if anyone remembers, John Connally, have in common?''

The answer is that each and every one of them spent millions of dollars of their own money, outspent their opponents by as much as 5–1 and lost.

When he gets to discussing our current problems, Mr. Gans has this to say.

. . . campaign finance laws were enacted in 1971 and 1974, whose only beneficially durable features were the mandating of public disclosure of some of the money in politics, the provision for partial public financing of campaigns and the establishment of an agency, which for whatever its flaws, has attempted to do a decent job of disclosure and tracking and improving election law.

Later, he says:

That law were challenged and substantial parts of the law were overturned in Buckley. The Supreme Court ruled, and I believe rightly, not, as some would have us believe, that ''money is speech,'' but rather that money is necessary for speech to be heard. Accordingly, the Court ruled against spending limits—as inhibiting speech and competition (about which there is considerable evidence) unless such limits were truly voluntary and until there were compensatory benefits to insure that there would be a full and fair hearing of campaign speech. It overturned restrictions on the use of personal funds in campaigns. But it left stand, I think wrongly, the $1,000 contribution limits (to meet the ''appearance of corruption,'' and established a ''bright line'' of ''express advocacy''—the specific advocacy to vote for or against a particular candidate, so named, as the only place in which the amount of money spent on such advocacy could be regulated.

Because the law law was written so that it was severable—that the provisions which were not struck down—would remain in place, we emerged with an accident waiting to happen, a partial law for which evasion would prove not only likely, but perhaps necessary. We ended up with contribution limits that were constraining and subject to strict disclosure, hard money for both candidates and national parties which were severely restricted and subject to disclosure both on the contribution and expenditure level, soft money—to nonfederal party accounts and to nonprofit groups—which were unregulated and only partially disclosed. . . . The problems with the resulting system became evidence early.

Mr. Gans goes on to give us a personal example that I found fascinating. He says:

(On the issue of venture capital, I can speak from some experience. I provided the theory for and helped organize in 1967 something called ''the Dump Johnson Movement,'' and by the accident of being one of two persons who knew who populated that movement, I became staff director of Senator Eugene McCarthy's 1968 Presidential campaign. When the candidate announced on November 30, 1967, he was unknown to 57 percent of the American people; in early February, he stood at 2 percent in the polls in New Hampshire, the first primary, and there was near-universal opinion that one could not beat a sitting President within his own party. If we had had to live within the present contribution limits, that campaign would never have happened and the people of the United States would have been denied the opportunity to express their opinion on the war in Vietnam and Johnson's leadership within the political process. There was neither the time to raise the money or an adequately accessible number of small contributors to make that effort possible. And we do not today know how many other legitimate challengers have been denied the opportunity since 1974 to compete because of a lack of venture capital.)

Now, apropos of this debate, Mr. Gans has some interesting things to say about that great bugaboo, soft money:

Then, there is the question of ''soft money.'' I, along with Dr. Herbert Alexander and Dr. Anthony Corrado, among comparatively dispassionate and nonpartisan observers, have long been a defender of soft money. I have done so because my research shows that in competitive campaigns for the U.S. Senate, nearly 60 percent . . . of the hard money campaign budget goes to televised advertising, 30 percent usually is expended on fundraising, and the balance on candidate travel and staff. In this situation, soft money are the only funds then and now available for activities involving people—grassroots campaigning, voter registration and education and party development.

But beginning in 1992, soft money has increasingly been used for none of these. Instead, almost all of these unregulated moneys have been poured into television advertising, which is the antithesis of grassroots organization and party development. They underline participation and erode respect for either party. It is safe to say that one reason the Democratic National Committee is substantially in the business of refunding illegal contributions is that they so denuded their

staff during the campaign to put every last dollar into advertising that there was no one left to exercise oversight.

All of which is to suggest that—without the high-flown rhetoric about corruption, elections being bought and public policy being for sale—both supporters and critics of current and choice reform proposals see some of the same problems.

The question is what to do. And therein lies the rub.

Mr. Gans says:

I will leave to others the argument about the implication of limits on the First Amendment guarantees of free speech. While I agree with them, leaders like Senator MITCH MCCONNELL, Ira Glasser, Roy Schotland, among a host of others, can carry this argument better than I. I would rather deal in the world of practicality.

He goes on to say:

I think there are four verities which will, at least in my limited lifetime and perhaps through the lifetime of my ten-year-old child, continue to hold:

1. That because of the recent realignment in the South, the Republican Party will continue to have, at the very minimum, a cloture-proof minority. The impact of this on campaign finance law is that campaigns will be run for the forseeable future largely or totally on private money.

I think his implication there is that he knows the Republican Party is opposed to public funding.

2. That the Supreme Court is highly unlikely ever to rule that an individual cannot spend whatever he or she wants of his or her personal money on his or her campaign. Thus, we will continue to have self-financed millionaires running for office.

3. That the Supreme Court is highly unlikely to rule that like-minded people cannot band together, organize, participate and contribute to campaigns. Thus, we will continue to have political action committees.

4. That the Supreme Court is highly unlikely to say that groups and individuals independent of campaigns cannot express their points of view on the issues and candidates up for election. Thus, we will continue to have independent expenditures.

(Two things in this regard should be noted. The recent statement by 126 legal scholars, organized by the Brennan Center, was notably silent on these issues. Secondly, Mr. James Bopp's excellent law review article which chronicles various recent cases regarding independent expenditures shows that, if anything, both the Court—in the Colorado case, and the courts, in general, are likely to expand the ability of both parties and independent groups to exercise their free speech rights in the electoral context.)

All of which suggests to me that no closed system can or, from my point of view, should be created and that limits will not work.

Do we really want to continue the current low level of contribution limits and continue to advantage millionaires and those with large rolodexes of midlevel and large contributors?

Do we really want to abolish soft money if the net effect will be simply to starve the political parties and drive money toward independent expenditures?

He says:

In some mythical world it might be conceivable to create a system of limits which would not have downside effects—that would be high enough to insure competition, that would provide for full accountability, and would provide varying forms of compensation for the inequities that grants the constitutional rights to such entities as millionaires and independent expenditures may create.

Madam President, I love this sentence. It summarizes better than anything I could say how I feel about the enforcement procedures that we are having discussion about here:

But to administer such a program would likely take a bureaucracy larger than the Department of Defense and a litigation budget considerably in excess of the Department of Justice and the tobacco companies combined.

Well, what does Mr. Gans have to offer in the way of a solution? He says this toward the end of his testimony:

I think at this time there is a possibility of real bipartisan agreement on a number of modest, but not unimportant steps.

1. That we mandate full and timely disclosure of all contributions and expenditures above a certain level and within a certain timeframe—including the expenditures and larger contributions to State parties and independent expenditure groups.

2. That we establish nationwide computerization of finance records and mandate electronic filing and fast release of all things mandated to be disclosed.

3. That we define adequately what a foreign contribution is, provide strict prohibition on such contribution and provide teeth in the enforcement of this provision.

4. That, at least within this mandate, we empower the federal election commission and give it the resources to do its job.

5. That we indeed do something about soft money. But that we need to think carefully about what we do. To abolish soft money would send money into independent expenditures and, in the absence of substantially raising the amount which can be given in hard money, starve already atrophying parties.

There is, to my mind, a better way. Which is that soft money has been justified on the basis that it exists to provide a source of funds for grassroots activity and party building. Let us limit its use to that. Specifically, let us, as we have not until now, recognize in law that such funds exist, deny their use for broadcast advertising and overrule the Federal Election Commission's decision that ''generic'' advertising is not broadcast advertising as stated in existing law. If we did that we would either reduce the demand for soft money or there would be enormous amounts of money moving in the right direction—in activities that educate and engage the citizenry and strengthen and build political institutions rather than in destroying the will to vote.

This would not solve all the problems contained within the campaign finance conundrum, particularly with respect to contribution limits, independent expenditures and the overall and spiralling demand for money. But it would be a good start. It would make the system profoundly more accountable, and it would correct the worst abuses of soft money without rendering the parties impotent.

Finally, as he concludes, Mr. Gans summarizes this whole circumstance in language that is one of those phrases you say afterward, ''Gee, I wish I had written that.''

This is his conclusion.

The dialogue on campaign finance has generated a maximum amount of heat and a minimum amount of light.

Our political system has been called corrupt. Our Congress bought. Our leaders cowardly. All in the name of attempting to force through a particular set of ill-thought out proposals for reform on a Congress which well understands their weakness.

Those responsible for this dialogue are Common Cause, Public Citizen and their mouthpieces particularly on the editorial boards of The Washington Post and New York Times. And while both the latter are great newspapers with noble journalistic traditions, with respect to this set of issues, all should be ashamed.

Not only because it is not true, but because they, by this attitude, much more than the admittedly flawed system of campaign finance, are deepening the cynicism of an already increasingly cynical public.

I know the overwhelming majority of our leaders are honorable. I know many have demonstrated courage in their lives and in their political conduct. I know that, despite many flaws, this nation's political system is the greatest in the world or at least among the greatest.

It is time to stand up to the bullies and cool the dialogue—to pinpoint our flaws precisely and address them, but not to tear down the system most of us love and are seeking to improve.

As I said at the outset, Madam President, I apologize for quoting so much from one man's testimony. But I found it compelling. I find myself in agreement with almost all of it, if not all of it. I am particularly in agreement with his statements that our problems arise in large part because of the flaws in the current law, and the lack of severability that occurred when the law came before the Court, so that when the Court found portions of it unconstitutional they did not strike down the entire law. And we were left with, as Mr. Gans says, ''an accident waiting to happen.''

I know in the context of this debate we cannot start with a clean sheet of paper and move in the direction that Mr. Gans outlined. But if in fact, as many are predicting, and as, frankly, I expect nothing comes of the present effort to enact McCain-Feingold, I hope that instead of walking away from it shaking our heads and pointing our fingers at each other that we take a clear look at Mr. Gans' approach, which would be to, as he quotes Abraham Lincoln, ''think anew and act anew,'' and say, We can solve this problem. We can solve it in a bipartisan manner. But we can do it in such a way that would not create all of the evils that his testimony so graphically describes.

I thank my colleagues for their indulgence in allowing me to read so much.

I yield the floor, Madam President.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, I must say that it is interesting when we involve ourselves in aggressive and controversial debates that we find from time to time we disagree with colleagues for whom we have the greatest respect. That is certainly the case with me for the Senator from Utah. He is one of the best Members of the U.S. Senate, and I have been privileged to work with him on a lot of things. And, yet, I profoundly disagree with him on

this issue. I want to spend a bit of time explaining why that is the case.

In September 1796, George Washington announced that he was retiring after some 45 years of service. I want to read just a paragraph from his Farewell Address, which is read each year here in this Chamber.

George Washington wrote:

> This government, the offspring of our own choice, uninfluenced and unawed, adopted upon full investigation and mature deliberation, completely free in its principles, in the distribution of its powers, uniting security with energy, and containing within itself a provision for its own amendment, has a just claim to your confidence and your support.

George Washington was right about that. I wonder today, as perhaps others have before me, why has the confidence and support of the American people in this institution receded? What is causing that?

I happen to enjoy public policy. I rather like politics. I feel that it is an enormous privilege to serve here in the U.S. Senate. And, yet, I think the political system is a system that has become distorted in a caricature of itself. The question is, what can we do about that? What should we do about that? In answering that, we should probably answer, what is the problem? Answer the question, what is the problem? And then define, what is the solution?

I have listened for the last hour and a half with great interest to my friend, the Senator from Kentucky, who I am sure will be back on the floor momentarily. He made references when the Senator from Arizona was speaking that no one can nor should be prevented from involving themselves in issue advocacy, et cetera. No one that I am aware of on the floor of the Senate has ever proposed such a position. No one that I am aware of is suggesting that anyone under any circumstances in this country can be prevented from speaking, or prevented from paying for a political message. No one has made that proposition.

So, to the extent that it is being represented that is so, let us say, yes, that is the case. And let's move on to what we are debating, and not create a new debate.

When the Lincoln and Douglas debates were well underway, at one point, I am told, President Lincoln was so frustrated because he couldn't get Mr. Douglas to understand his point. And finally he said to him in great frustration, ''Well, then tell me. How many legs does a horse have?''

Douglas said, ''Why, four, of course.''

Lincoln said, ''Well, now if you were to call a horse's tail a leg, how many legs would the horse have?''

Douglas said, ''Why, five.''

Lincoln said, ''See, that is where you are wrong. Simply calling it a leg doesn't make it a leg at all.''

That is the point in this debate. One can take positions. But if they are not on point and totally relevant to what is being discussed, what is the value of the position?

I want to describe that just a bit in terms of what I mean by that.

The Senator from Wisconsin read an advertisement. I want to read it again because I think it is at the heart of this discussion, and it is at the heart of the mess that we find ourselves in in campaign finance reform. This was an ad in a Senate race down South. I will just add as an aside that both political parties did this. Independent groups did it. But here is an ad.

> Senate candidate Winston Bryant's budget as attorney general increased 71 percent. Bryant has taken taxpayer-funded junkets to the Virgin Islands, Alaska and Arizona, and spent $100,000 on new furniture. Unfortunately, as the State's top law enforcement official, he has never opposed the parole of any convicted criminal, even rapists and murderers; and almost 4,000 Arkansas prisoners have been sent back to prison for crimes committed while they were out on parole. ''Winston Bryant: government waste, political junkets, soft on crime. Call Winston Bryant and tell him to give the money back.''

Should there be some position that says they don't have any right to say this? No. Whoever did this has every right to put this on television, and did. Do they have a right to put this on TV with soft money so that those who contributed are never disclosed? Do they have a right to say this is not part of the political process; this is not part of the campaign; it is totally unrelated; this is an issue advocacy commercial? Does that pass anybody's laugh test? Not in a million years.

That is why one Senator, when asked repeatedly by the Senator from Arizona, ''Do you really think these are independent; do you really believe these are independent expenditures?''—referencing a series of these kinds of things. It was never answered. I suspect the answer would be no.

We all understand what is going on. The same people are involved. They hire common television producers to produce the commercials, and the same fundraising networks. But it has become a legal form of cheating. It has taken the old tax reform law and manipulated it and distorted it to the point that is no longer recognizable, and becomes what I think is a legal form of cheating. And I say that we ought to stop this. Stop it by saying You can't say it? No. You can say that. But if you want to get involved in this particular Senate campaign, then you must abide by the rules. You say it by hard dollars and disclose who donated the hard dollars.

That is the point. It is not that they can't say it. It is that they are required to use the same hard dollars that the people involved in the race are using, and getting it from the same sources and disclosing who made the contribution.

Mr. BENNETT. Madam President, will the Senator yield for a question?

Mr. DORGAN. I would be happy to yield for a question.

Mr. BENNETT. I hesitate to intrude when he is in full cry because I don't like to be intruded on when I am in a full cry. But I am emboldened by the kind of words that my colleague offered at the beginning.

This is a personal observation. I agree with the Senator absolutely. That ad should be identified; that it was clearly part of the campaign. I am not any more fooled than anybody else. However, we are driven to that kind of chicanery by the present law.

My solution—and I am speaking clearly just for myself and not for anybody else on this side—would be to repeal the present law and allow the campaigns to go back to a degree of honesty. I do say to the Senator: I believe that under the present ruling of the Court the statement by the Senator from Kentucky is correct. The Court would rule that since the magic words were not in that ad it would in fact not be considered a campaign ad under the legal definition.

I agree with the Senator. The legal definition is artificial and improper.

But I would solve it in ways other than passing the McCain-Feingold.

I thank my friend.

Mr. DORGAN. I appreciate the contribution because the contribution made by the Senator from Utah is that this sort of thing is improper, and that it is chicanery.

If that is the case—if in fact what I just described is improper and chicanery—then the question isn't whether there is a problem. The question is, What do we do about the problem?

And there are some people, as the Senator from Utah especially knows, in this Chamber who would say, What problem? There is no problem. The only problem we have, they say, is there is not enough money in politics.

I want to show my colleagues what is happening with campaign finance.

This line, the red line, describes what is happening with funding for political campaigns in this country.

I assume we can find people who will come to the floor and will wave their arms, and say on this floor and on the floor on the other side of this building, Well, the American people spend *x* hundreds of millions of dollars on Rolaids, they spend *x* hundreds of millions of dollars on Preparation H, and Oh Henry candy bars and, therefore—what? Therefore, what? It is totally irrelevant.

The point is what is happening to campaign financing is it is mushrooming and escalating out of control. Is there a problem? Or is it just fine?

In the paper today there is a statement by one of the leaders of the other body saying there is not enough money in politics; we need more money in politics. In fact, those who debate this issue saying there is too much money in politics are wrong. We need more money in politics, they say.

I could not disagree more. You see what is happening. There is too much money in politics. Too much money. In State after State after State, all of these campaigns are mushrooming out

of control, and it is not just the campaigns; it is the independent expenditures and all the groups weighing in with chicanery and with improper, in my judgment, spending, packaging up things saying, by the way, this is independent, this is express advocacy, this is issue advertising. And all of us know that you cannot say that any longer with a straight face. It is all connected. It is all part of the same campaign. It becomes legal cheating. If we do not have the courage to stand up when we see this proliferation of legal cheating going on and saying, if that's the way the law is going to be interpreted and if, after pulling the teeth of the FEC, we complain they can't chew, if we are left in that position, then let us at least change the campaign finance law to know what we should do in this country and take at least some of the influence of money out of campaigns.

Now, there is a proposal that is being debated in the Senate called the McCain-Feingold proposal. I don't think it is perfect. If I had written it, I would have written it differently. I cosponsored it, but I would have written it differently. But it is a proposal that deals with a whole range of things, and it needs to deal with some more. I hope that we will add to it an amendment to restore a portion that was not included when it was brought to the floor of the Senate but which was included when it was written. That provision is spending limits.

Now, I want to deal just a bit with this question of spending limits and free speech. I noticed this weekend some of the columnists talked about the speech patrol and the infringement of free speech, and so on.

Spending limits, which is not now in this bill, which I think should be—and I hope there will be an amendment we can vote on to restore spending limits—is an attempt to say let's establish a set of rules by which campaigns are waged and let's try to see if we can, if not establish enforceable spending limits, at least establish voluntary spending limits with sufficient incentive that most campaigns would abide by voluntary limits. The limit might be $1.5 million in one State, $3 million in another, less than that in a third State, in which both candidates agree here is a practical limit on spending.

As I said, there are lots of ways to do that. The Supreme Court has already ruled by a one-vote margin that enforceable spending limits is not appropriate; it is unconstitutional. I think the Supreme Court ought to be asked to rule again on another case because, if it is that close, I think you can make the case they might rule differently in other circumstances. Notwithstanding that, I think we ought to try to work to achieve some approach by which we are able to get spending limits in campaigns.

The problem is campaigns cost too much. That's why money has such a corrosive influence in politics. Campaigns cost too much. How do you get to the solution of that? Well, you try to establish some spending limits, some spending limits that are practical, that you can make stick.

John F. Kennedy used to say that every mother kind of hoped her child might grow up to be President as long as they didn't have to be active in politics. I suppose he was musing about how unpopular the process of politics is. I am not someone who believes that politics is something that is underhanded or dirty. I think politics is noble and honorable. I am involved in it because I enjoy the political process. But I do not enjoy what is going on with respect to campaign finance. I think this system is broken. No one in this Chamber can look at this system and with a straight face say, yes, this system sure does serve America well.

This system does not serve this country well. This system is a disservice to the country. Now, do we fix it by suggesting, as one Senator today has implied, that we prevent this group or that group from being able to speak in the political system? No. No one has ever recommended that—no one. So if you want to have that debate, have that debate alone. You can always win a debate that no one else is involved with. I say good for you; you just won a debate that I was advocating.

We are not suggesting, none of us, that we would infringe on the right of any group to say anything at any time. I am saying, however, that when you take a look at advertisements like the one I described and read in the Chamber, as did Senator FEINGOLD, and understand that this is a pole vault over the legal definition and becomes on its face a farce and an attempt to undermine the process, if we are not willing to decide to correct this, then there is no hope for us to deal with the issue of campaign financing.

We have a bill in the Chamber that is called a reform bill. It is cosponsored by Senator MCCAIN from Arizona and Senator FEINGOLD from Wisconsin. Both of them are Senators for whom I have a great deal of respect. I do not agree with them on everything either, but they brought a reform to the floor of the Senate. It is interesting; at least for a half-hour or so today I heard a description of this bill that doesn't match the bill. The description was that somehow Senator MCCAIN and Senator FEINGOLD want to prohibit criticism of the Congress. So I felt, well, maybe I may have missed something here. Maybe they have introduced a bill that I hadn't read previously.

But then I realized that is simply taking the debate and moving it over here to create an issue that does not exist because one is uncomfortable debating the issue of McCain-Feingold.

No one is suggesting there would be any manner that one could devise in McCain-Feingoldo prohibit criticism of the U.S. Congress. Lord, read a couple hundred years of history and discover about a Congress that's been criticized. No one is suggesting that you could not do anything that constitutionally prohibits criticism of the Congress. We have generous criticism of the Congress, always will. The issue that Senator MCCAIN and Senator FEINGOLD address is not criticism of the Congress. It is the corrosive influence of money in campaigns. And ads like this sponsored and run by organizations whose funding is secret, undisclosed to anyone in this country, collected in soft money increments perhaps of $20,000, $50,000, maybe $100,000, could be $1 million. We have seen 1 million chunks of money go in soft money, undisclosed secret money, through organizations used as express advertising or express advocacy rather than declare they are not part of the campaign. What a bunch of rubbish. It does not pass any laugh test in any cafe in this country, and that is why we must be serious about trying to find a way to thoughtfully reform this system.

I would like to just mention two additional items before I close. One of the concerns I have about our political system is so much of the advertising is negative. There is nothing you can do about that; I understand that. We cannot prohibit this kind of advertisement. We can say, if you are going to put this kind of advertisement on the air, you have to play by the rules and get hard money and disclose the donors.

There is nothing wrong with that. But we cannot prohibit any advertisement. So much of it now is negative and so much of it is a 30-second little political explosion that goes on across our country where candidates are not even hardly named, at least with respect to the person's campaign, in financing the 30-second ad. It is a nameless, faceless, little bomb directed to destroy, tar or feather some other candidate.

One of the small amendments that I intend to offer is the following. We now require in Federal law that television stations provide the lowest cost for television commercials during certain periods of the year. In other words, the lowest part of their rate card must be offered to campaigns for those political commercials. I am going to propose that the lowest cost on their rate card be provided candidates whose commercials are at least 1 minute in length and on which the candidate appears 75 percent of the time. I am not suggesting you cannot continue the 30-second slash-and-tear ads. Everybody can do that. Why should we reward those advertisements with the bottom of the rate card? Why don't we as a matter of law say we will provide and require the lowest rate be offered to those commercials that are at least 1 minute in length and on which at least 75 percent of the time the candidate appears in the commercial.

Well, we will have a debate about that. I suppose some will say, well, that is interference. We interfere already by saying you must charge the

lowest rate that a television station offers for advertising for a political campaign during certain portions of the year. Perhaps we could do so providing an incentive that the campaign commercials be somewhat instructive and somewhat related to the candidate who is actually paying for the campaign commercial.

There are several kinds of air pollution in this country, one of which is political air pollution, and if we can do anything to in any small, measurable way, provide a little more thoughtful approach to campaign advertising through an incentive, then I would like to see us do it. I expect, however, that when and if I am able to offer this amendment, some will suggest it is some sort of colossal interference. I think not. I think it is a sensible, thoughtful way to address that issue.

Finally, if the problem is there is too much money in politics and the solution is to reform our campaign financing system in one way or another, then how will we reform our system? Well, we reform it by bringing a bill to the floor and passing it, doing the same in the House, going to conference, agreeing in conference and getting a bill to the President he can sign.

Now, is that likely? What is likely to be the future of campaign finance reform? I applaud Senator LOTT for bringing it to the floor of the Senate for a debate. Giving us the opportunity to discuss this issue is important. But it is the starting line, not the finish line. The finish line for Congress will be when we have, on a bipartisan basis hopefully, achieved an agreement on a campaign finance reform package that will give the American people some basic confidence that what we are holding are elections not auctions; some basic confidence that we will step away from this exponential increase in spending on political campaigns.

Senator MCCAIN and Senator FEINGOLD have taken a first long jump here to get this legislation to the floor of the Senate, and I hope that in the coming few days we can open up the process and allow some amendments and have a vote.

I noticed today, when the Senate opened for business, amendments were offered in a very careful way. In fact, it took, I believe, six different amendments today in a series of maneuvers to fill the tree which, for those who don't know about our parliamentary situation, means that no one else is allowed to do anything at this point because the parliamentary tree is full. Amendments are not allowed. So we have had a maneuver that was accomplished today to fill the tree.

So we will see where all that leads. Every time somebody does that—and both sides have done it about a handful of occasions—every time someone has done it, they have done it to prevent someone else from doing something later. I hope that is not the case. I hope we can shake this tree a bit and shake it sufficiently so that we can offer some amendments and reach a conclusion on campaign finance reform that is good for this country and restores some confidence in the American people that we are moving in the right direction.

Mr. President, I yield the floor.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER (Mr. ALLARD). The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair.

This, as the tone of the debate indicates, is a critically important debate with consequences that go well beyond the subject at hand, campaign finance reform, because the infusion of massive amounts of money into our political process affects so many other areas in which we are supposed to govern and to legislate, and it is why this appropriately becomes a priority topic.

As I hear the seriousness of the debate in the Chamber, I must share my own disappointment that there is murmuring outside the Chamber that nothing is going to happen this year, that there is not going to be any campaign finance reform legislation adopted, that this is just a lot of sound and fury which, as the bard reminded us, will signify nothing.

Well, that would be an infuriating tragedy, an outrageous, in my opinion, abdication of our responsibility, a shocking refusal to face the facts that have come out at the hearings of the Senate Governmental Affairs Committee, on which I am privileged to serve. That committee's hearings show that ours is a system in crisis, and it is a crisis that affects so many aspects of our Government.

I hope these murmurings are wrong, and I hope that the debate we have begun in the Chamber will signify more than noise; it will signify the beginning of a genuine effort to change the laws, to go back in some ways to where we were after the last great campaign finance scandal, which was the Watergate scandal, to go back to the laws adopted after that scandal which set limits not only on contributions but on spending in a campaign.

In my capacity as a member of the Governmental Affairs Committee, I have had what might be called a front-and-center view of the extraordinary failures of the status quo campaign finance system, failures that routinely stem from the corrupting influence of big money in politics. As if peeling back the layers of an onion, in this case a spoiled onion, our investigation slowly revealed story after story of unseemly and negligent behavior that all too often seemed to cross over the line into lawlessness.

I know the Governmental Affairs Committee's hearings were controversial. Sometimes they were criticized for being partisan. In fact, sometimes they were too partisan. But the fact is, though they were not always orderly and they weren't always neat and they weren't always pretty, they told a story. They told a story of a system gone out of control and the consequences it has had on our great democracy.

There was the international entrepreneur who never registered to vote because he thought his money was more influential than his franchise. The sad fact is, he was right.

There was the story of the White House official who advised a potential contributor, whom he had never met, whom he had just talked to over the phone, about how to effectively skirt tax liabilities on a proposed donation of somewhere between $1 million and $5 million.

There was the Republican Party research institute that defaulted on a loan from a Hong Kong businessman and then swindled him out of the interest he had earned on his own money, which was deposited as collateral for the loan; and the party chairman, Democratic Party chairman, who allegedly called on the CIA—although there is doubt on this, conflicting testimony, but an allegation that the chairman called on the CIA to help burnish the image of a questionable contributor.

In no uncertain terms, as far as I am concerned, people with fat wallets bought access at the highest levels of our Government, executive and congressional, and some Government leaders were perfectly willing to auction off their clout.

As California entrepreneur and major Democratic donor Johnny Chung observed, ''The White House is a subway: You have to put in coins to open the gates.''

Clearly, the two parties, in their mad scramble for money, shamelessly exploited during the 1996 election cycle well-intentioned campaign finance laws to the point of rendering them meaningless. In the end, their debased standards of the pressure-cooker world of high-stakes election campaigns mocked one of the basic principles of our democracy, the principle that all citizens have an equal vote, an equal voice in the governance of their country, an equal opportunity to influence its policies.

Now we have an unfettered political fundraising system that neither serves the public interest nor deserves the public trust. No wonder the American people look on politics with a jaundiced eye. No wonder more and more of them have concluded their vote doesn't count, so they don't vote. I saw a survey awhile ago of 165 countries in the world today who conduct elections. The United States of America is 139th in terms of those of voting age who actually vote. Our proud democracy—we are proud to call it the greatest democracy in the world—we are 139th among the countries of the world in the percentage of our population that can vote that actually does vote. Don't you think part of that has to do with the conclusion that millions of our fellow Americans have made that their vote doesn't count, not if they don't have money?

The proposal offered by Senators MCCAIN and FEINGOLD is, in my opinion, our best hope for changing this unacceptable status quo and for reviving public faith in our Government.

The key to real reform, I conclude after sitting through the Senate Governmental Affairs Committee hearings, is less big money and less special interest money in the election process. That is exactly what the McCain-Feingold bill would do. The central provision of this bill is a ban on soft money; that is, a ban on unlimited contributions to the two national parties from corporations, unions, and wealthy individuals.

It is hard to believe, but it actually was 1907 when a law was passed by this Congress that made it illegal for corporations to contribute to political campaigns. In the 1940's a similar law was passed regarding labor unions. How is it that in the 1996 election corporations and labor unions contributed hundreds of thousands of dollars individually, millions in some cases? It is because of this so-called soft money, this little opening that was created in a vaguely worded law that was then interpreted by the Federal Election Commission to allow people to give unlimited amounts of money to parties to help voter registration, get out the vote, that turned into a loophole large enough for a fleet of trucks—not Mack trucks but Brinks trucks—to go driving through.

The explosive growth of soft money and the way it is spent represents, in my opinion, the most egregious abuse of our campaign finance laws today. Most of the controversial donations from the 1996 campaigns were soft-money contributions. Most of the foreign money contributions that we took evidence on at the governmental Affairs Committee hearings were soft-money contributions.

Soft money has played a role in Federal elections since 1980, the year after Congress tried, the way I mentioned, to enhance the role of national parties. But in 1996 it exploded—$272 million that we know of spent by both national parties in soft money in 1996, 13 times the amount spent in 1984, an increase that has dramatically changed the landscape of campaign fundraising and of American democracy. By the November 1996 elections, the soft-money loophole had become a cash bonanza for the two parties, an irresistible opportunity to raise and spend money, each driving the other to keep up, and the easiest way to do it was to raise big money. It became, for that reason, the most expedient way for an elite class of contributors to buy access; frankly, for an elite class of contributors to be exploited, in some sense coerced, by the political class into giving contributions of unprecedented size.

The quintessential example of trading money for access was the brutally honest and now legendary Roger Tamraz. An international banker-businessman, Tamraz donated $300,000 to the Democratic Party because he wanted to talk to President Clinton and other high officials of our Government about his plans to finance an oil pipeline through the former Soviet Union. The National Security Council warned against admitting Tamraz to the White House. They had already decided, in the due and diligent exercise of Governmental decisionmaking, that his proposal was not the right proposal for a pipeline in that particular part of the world. They understood that he was falsely claiming White House support for his projects. They warned that, if high officials of our Government gave him even a meeting, even were seen close to him, he would trade on that proximity in the area of the world in which he was doing business.

But Tamraz was nothing if not persistent. He said to us at one point that, ''I'm the kind of person, if I can't find my way through a door, I'll go through a window. And if that window is closed, I'll go through another window until I get in.'' He went so far as to enlist a buddy at the CIA to lobby the administration on his behalf. But what he really did was kept going to the window with his checkbook. Eventually, he was invited to six different social gatherings.

The very troubling clincher is this. When I asked Tamraz when, not whether he registered to vote—because I then was going to ask him what party he was in, trying to prove the fact that parties didn't matter to him, ideology didn't matter to him, he was just buying access, he was trying to influence our Government with bucks—when I asked him when he registered to vote he shocked me by saying he wasn't registered to vote. When you think about it, in his world, the world that soft money invites, there is no need to register to vote. His money was more important and bought more access than any vote could. It was as if he was saying: Oh, voting is a nostalgic exercise for those millions of people out there who don't have influence—most Americans. They are the ones who can take the time to register and vote. I buy my way, in America, to the highest levels of power. So Mr. Tamraz seemed to be saying.

The right to vote, which was central to the creation of our country, the right to vote, for which our founders and succeeding generations of Americans have fought and died, didn't matter to Tamraz. He figured it out—$300,000 bought him a lot more access in this democracy than anybody who just votes had. This standard is so well embedded in our political system that when I asked him whether he got his money's worth, even though he never actually won White House support for his pipeline nor got a separate private meeting with the President, Tamraz said next time he'd double that donation to $600,000.

I am not naive. People have always tried to do what Roger Tamraz did. As long as there have been governments, as long as there have been people with any power in any human society, people have tried to seek favor by conveying items of worth, and they will continue to do so. But, when soft money contributions open the door to unlimited contributions, when the competitive pressure of our political campaigns raises leads to spending without limits, the temptations will be that much greater for the influence peddlers and purchasers, for the hustlers to try to buy something big. Frankly, the temptation will be that much greater and, ultimately, for many, irresistible, for those in power to sell what the influence purchasers are trying to buy. That is why, in short, we have to ban soft money.

The attempt to influence Government with purchases is nothing new. Look in the Bible. There is a prohibition there against judges or other leaders accepting gifts from anyone who comes before them for judgment, anyone who is affected by their leadership.

The wisdom there was based on an understanding of human nature and the need for those in government to set limits to protect themselves and those they governed. People in government who exercise power are, after all is said and done, beneath their titles, no matter how high they are, just human beings with the same frailties as everyone else. Put them in the public competitive reality of a political campaign, and too many will not be able to say no, particularly while they see their opponents saying yes.

The Governmental Affairs Committee's hearings have built significant support for banning soft money. Just last week, John Sweeney, the president of the AFL–CIO—his organization, in fact, contributed millions in soft money, almost all of it to the Democratic Party in the 1996 cycle—said, soft money donations are ''polluting our political system.''

Last week, a group of business leaders made essentially the same statement demanding a ban. Chief executives at Monsanto, General Motors, and Allied Signal have already dropped out of the soft money game. Why? They said it is impossible to track contributions to gauge their success. In other words, the payoff for five- or six- or seven-figure contributions is simply not worth the expense.

I will tell you something else they didn't say. Members of the Senate may have heard, as I have, from people who were solicited for soft money contributions, large contributions. They felt coerced. They felt it hard to say no. Think about it, if you are the executive of a business and you have a lot of contact with the Government and are regulated by the Government, if you are the executive of a business that has matters before Congress and a high official in the executive branch or the legislative branch calls you and asks for a large soft money contribution, it is hard to say no.

If we are successful only in banning soft money, however, as important as

that is, our work will still be incomplete. Although I must say, if we could just ban soft money, I think we will have achieved enormously significant reform.

But in the best of all worlds, it is not enough, and in the best of all bills, the McCain-Feingold bill, they don't stop at banning soft money. It is important to go on. Money is like water, it flows to the weakest point. Just as water spills through an unplugged gap in the dike, once one hole is filled, it will find the next hole, or it will find the weakest point in the dike to make a hole. Political money seeks unregulated gaps in our election laws.

I do not say this simply as a matter of physics or theory. I say this, again, as a result of what we heard in the hearings before our committee. Money blocked by contribution limits to candidates flows instead into unlimited soft money contributions to parties. Money blocked by a soft money ban will be diverted in increasingly large amounts to unregulated issue ads.

Issue ads are paid for by soft money raised by independent advocacy groups and parties. They are supposed to be about specific policy issues, not specific candidates. That is why unlimited amounts of money may be spent. But issue ads, as we heard discussed on this floor in the 2 days of this debate, have actually become stealth candidate ads.

Widespread abuse in the last election saw these ads hiding behind the veil of issue advocacy, even as they promoted or attacked individual candidates.

A study by the nonpartisan independent Annenberg Public Policy Center found that 87 percent of the so-called issue advertisements broadcast in 1996 mentioned a candidate by name—87 percent mentioned a candidate. Almost 60 percent showed the likeness of a candidate.

The Annenberg study further found that more than 40 percent of the 1996 ads plainly attacked candidates, not issues. One of the witnesses before our committee said last week that by his review of the ads, the issue ads were actually more negative to candidates than the candidate ads were. Some ads don't bother with issues at all.

One of these ads, run by opponents of a congressional candidate in Montana, simply used the air time to rehash the candidate's marital problems. Ads broadcast by the Democratic and Republican parties ostensibly on the issues in the 1996 Presidential campaign were little more than biography spots at best, promoting the election of President Clinton or of our former leader, Bob Dole.

Issue ad sponsors, like the AFL–CIO or the National Rifle Association, are under no obligation to disclose the money they spend when they do issue ads. But when the ad zeros in on specific candidates, as we all know was the case and as the Annenberg study so brilliantly documents, clearly there is at least a violation of the spirit of the Federal spending limits. It is an end run on what the law says can be spent on a campaign.

No one can be held accountable for the false or misleading information those ads might convey, because the public doesn't know who paid for the ads. And yet in the 1996 election cycle, advocacy groups and the two parties spent more than $135 million on issue ads. That is about one-third of the $400 million that was spent on broadcast advertising by all Federal candidates last year.

Kathleen Hall Jameison, director of the Annenberg center, concluded that issue ads ''set an agenda different from that of either candidate and, in some cases, drown out the voices of these who are actually running for office.''

We run the risk here, Mr. President, of the candidates becoming bit players in a contest that occurs at a higher level between dueling interest groups spending millions of dollars running issue ads with soft money.

McCain-Feingold appropriately proposes a more precise distinction between ads supporting or opposing an issue versus those supporting or opposing a candidate. I am convinced, based on my own reading of the Supreme Court decisions, that that provision will withstand the constitutional test.

The soft money ban and the crackdown on illegal issue ads, which I have spoken to, are two of the most critically important and politically realistic reforms that we can hope to make. I say politically realistic in the sense of being related to the political reality that we all have experienced in campaigns, and it was vividly documented in the hearings that the committee held.

Other provisions in the McCain-Feingold bill—strengthening disclosure requirements, outlawing the solicitation of campaign donations in Federal buildings and limiting the amount of personal money that candidates may contribute to their own campaign—will also help bring our fundraising system back under control.

But, Mr. President, I regret that the bill has been stripped of the voluntary spending limits in it, because I believe that ultimately the best way to end corruption or the appearance of corruption in campaigns is to impose spending limits on campaigns.

I know that there is a disagreement among Members on whether that would be constitutional. Under the Buckley versus Valeo decision, mandatory spending limits would not be constitutional. If I had my druthers, as Li'l Abner used to say, personally I would like to see that 1976 Supreme Court decision overturned, because I think the central principle established by that case, that money equals speech, is not right, and, even if it had some validity in theory in 1976, it no longer reflects the reality of the last 20 years of campaign raising and spending.

Money doesn't equal speech. How can speech be free if it costs money? How can speech be free if you have to spend money to get it or, as I believe my friend and colleague from Georgia, Senator CLELAND, who is on the floor, said in our committee—and I paraphrase knowing I will not achieve the pungency that he did—if money equals speech, if you have to have big bucks to have speech, that means the people who don't have big bucks aren't going to have any speech. Is that what the Framers of the Constitution intended when they adopted the first amendment? I can't believe that they did.

Several times in the history of the Supreme Court, the Justices have applied principles of law that did damage to our country and that experience ultimately proved were not realistic. That most tellingly was the case when the Court upheld segregation laws on a theoretical basis of equal protection when the reality of equal protection was not there.

It took until 1954 when a massive amount of evidence was brought before the Supreme Court to show that separate but equal was in fact not equal—only then did the Court strike down those discriminatory laws. In another way, this was true with some of the labor laws adopted in the earlier part of this century.

Minimum wage laws were originally struck down as violations of employee's rights to contract until a case was built by advocates for those laws which showed that the right to contract, though noble in theory, was not real when you had two unequal parties negotiating the contract. So the Supreme Court reversed itself, and upheld the minimum wage laws and maximum hour laws to protect working people from being exploited.

Respectfully, I think the same scenario is true with regard to the interpretation of the first amendment rendered by the Supreme Court of 1976 in Buckley. Let me just point out for the record, which a lot of folks forget—I forgot myself before I went back and read the Buckley decision—that the post-Watergate reforms, the 1974 Federal Election Campaign Act didn't just say that Mr. Buckley, who was a part-time resident of my State and truly one of the Lord's noble people, could spend his own money and not being restricted from doing so by the law, but the Buckley decision struck down the preexisting limits on what Members of Congress could spend in their campaigns—the 1974 act actually had limits that Members of both the Senate and the House could spend on their campaigns based on a certain amount per voter in the State—the Court struck that down on the theory that that was an element of free speech.

But what is the reality? The reality is that the unlimited spending that has occurred has distorted and constricted free speech. It has limited the free speech of those who don't have the money. It has undercut the other fundamental bedrock principle of our Government that everybody should have equal access to Government. All people

are created equal, all created in God's image. Our rights were given to us not by Congress, but by our Creator, as it says in the first paragraph of the Declaration of Independence. That principle clearly has been compromised by the enormous sums of money people are spending in political campaigns today.

I must also say that the testimony we heard, and I understand we didn't hear exactly a random sample of contributors of big soft money contributions, but it seemed to me, at least, that those generous contributions were not political speech in the way we normally contemplate.

Roger Tamraz did not give $300,000 because he had a particular feeling that he wanted to express about an ideology, a candidate or a party. He was buying access. He was trying to make money. It was clear that he was willing to spend $300,000, $600,000 because he would have made hundreds of millions of dollars if his pipeline proposal had been adopted.

Johnny Chung, Yogesh Ghandi, the whole range of people who were buying access through soft money, they were not interested in political speech as we know it, the kind of political speech that the Founders of our country established in our formative documents.

They were buying a picture with the President to take back home, as one said, ''to put powder on my face so I would look better so I could convert that into business.'' They were looking to do business. They were looking to influence Government to make them richer. That is not political speech in the traditional way in which it has been known. They were advancing their interests.

White House coffees, photo-ops with the President, breakfasts, lunches, dinners with Members of Congress—these are the things that top-dollar contributors enjoy. These are the things that are protected by the Buckley decision. These are things that we do not normally consider to be speech in the fullest sense of our democracy.

Jefferson, I think, would be surprised—Madison, Hamilton, Adams, no matter which side they were on, in the early debates of our country's history, they would be surprised to see that it is the rights of Roger Tamraz and Johnny Chung that we are now using the first amendment to protect. The Supreme Court adopted that theory in 1976, but now we have the facts. And with the facts, I hope someday we can reverse this decision.

I know that more than 20 State attorneys general of both parties have formed a task force to see if they can find a case to take back to the Supreme Court to relitigate the Buckley decision, because the fact is that you cannot really have contribution limits without spending limits that are effective.

When candidates and parties are free to spend as much money as they want, they will. That is what the record shows. They will find ways to raise that money in larger and larger amounts even if it means ignoring the results and breaking the law because the stakes are enormous. Those who continue to argue for the Buckley decision are just not considering the realities of what has happened under that decision. And those realities are based on the realities of human nature and the give-and-take of today's real political world.

Despite all of that, we have to legislate within the Buckley decision. We have to recognize that reality. Within that decision, I think the McCain-Feingold proposal, by banning soft money and regulating issue ads, does as much as we can possibly do and does a lot to put us back on course to protect the equal access to and founding principles of our Government.

If we do not adopt something like this, I hesitate to think about what the future is going to look like. Despite all the congressional hearings, all the special investigations, all of the concern about foreign money and big money in the 1996 campaign, the fact is that while all this attention has been given, Federal Election Commission records show that the two parties have actually raised $34 million in soft money in the first half of this year, which is not less than the last comparable period, it is 2½ times the $13 million raised in the 6 months after the last election.

These numbers are going to continue to escalate, Mr. President, unless we find the courage to rein in the system, to rein in ourselves. If we face the 2000 Presidential election without any change in the law, I am afraid it is going to be the biggest auction in American history.

What is going to be for sale is our Government. And what is going to be lost is the people's faith in public service, which will erode at ever-alarming rates unless we give them, by our actions, reason to respect the political system. Our own integrity, human as we are, full of frailties as we are, our own integrity will continue to be threatened by the pressure to spend big money in an unlimited system and the need, therefore, to raise it.

Mr. President, the people are watching. They are skeptical. We can control temptations that inevitably arise when gigantic amounts of money are available for political campaigns. Millions of them have, in fact, given up on us and our system, bringing our great democracy I am afraid to one of the lowest points in its proud history.

We have it within our capacity to change all this, to work together across party lines to reform the status quo of the campaign finance system, to return our politics to a higher ground and revive our citizens' trust in their Government by adopting genuine campaign finance reform like that included in the McCain-Feingold bill.

The question remains, and it will echo throughout the debate this week and next, will we do it? Will we seize the moment or will this debate ultimately be just a lot of sound and fury that will ultimately produce nothing?

I thank the Chair and I yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I wish to speak on campaign reform, but I also see my colleague from Georgia is here. I have kind of come in two or three times to speak thinking maybe we are going to alternate. I do not want to impugn on his time.

Mr. CLELAND. Mr. President, I yield to the Senator from Oklahoma.

Mr. NICKLES. I thank my colleague from Georgia. It is a pleasure to serve on the Governmental Affairs Committee with him. He is one of the members, as well as the Senator from Connecticut, who spends a lot of time on the committee and does a very good job, I will say, in really trying to find out what has happened and what the facts are.

Mr. President, just a few general comments on campaign reform. Everybody says, ''Well, now we change the law. It's vitally important for us to change the law.'' I think it is more important, and maybe the best campaign reform that we could have would be enforcement of the existing law.

Why in the world, if the statutes are very clear on the books—and some people say they are ambiguous; I think I will show in a moment they are not that ambiguous—why in the world should we be worried about changing the law if we are not going to enforce the law as it is written?

We have numerous cases that, I believe clearly, laws were broken, and in some cases flagrantly broken, and yet we have seen almost no enforcement from this administration, and yet they are out there beating the drum, saying, ''Change the law. Change the law.'' It reminds me of something like somebody has been robbing banks and says, ''Oh, yes, let's have a tougher law against bank robbing. Oh, yeah, I've been doing it a long time. Oh, yeah, if I get caught, I'll send the money back.'' I don't think that is good enough.

As a matter of fact, this administration has been caught with their hand in the cookie jar for millions of dollars. They have sent millions of dollars back, and they say, ''Well, that's OK.'' Well, I do not think that is OK.

If the law has been broken, it should be enforced. If we would enforce the law, if we would actually indict people, if we would arrest people, if we would seek their participation and comments before a grand jury, I think that would do more for campaign reform than any of the bills that we have before us.

And we have a lot of bills, good bills I will say, Democrat bills, Republican bills. Before we do that, we have several statutes that are on the books that ought to be enforced. Frankly, they have not been enforced. You

might say, ''Well, give me an example.''

One that has been kind of famous is 18 United States Code 607: prohibits soliciting and receiving contributions in Government building.

I know we heard from Mr. Sandler, who is general counsel for the Democratic National Committee say—well, he interprets that to mean that you can be in a Federal building, you can make all the phone calls you want on hard money, soft money, as long as you are calling somebody that does not happen to be a Federal employee in a Federal building, that you can do it.

That is an absurd reading of the statute. I do not see how an intelligent person can read the statute and come to that conclusion, but that is the Democratic National Committee's general counsel, that was his general summary. It seems to be the advice that the Vice President has followed, to say he has broken no law.

But the law is very clear. It says it should be unlawful for any person to solicit or receive campaign contributions in a Federal building, period. If you look further, the definition of ''contribution,'' is ''money received to influence an election.'' So I think they have broken the law.

Maybe we will just ignore the law and say there is no controlling legal authority because that law has not been enforced. But my guess is no other administration in history has ever broken the law like this administration, never abused the law, never pushed the envelope. I think they pushed well beyond the envelope. I do not think it is into the gray area. I do not think it is a couple cases where somebody called you back and, ''Well, yes, we'd like for you to host something.'' I think this was systematic, flagrant—''Let's raise a lot of money.'' I believe very much that the President and the Vice President were involved in it. The President had a memo that said, ''Start the overnighters at $50,000 and $100,000.'' I happen to think that is the silver bullet people are talking about.

The President of the United States said, ''Let's start the coffees.'' He is talking about raising money. They had 103 coffees. They raised $26.4 million. In the President's own handwriting he said, ''Start them.'' Guess what, they started right after he said, ''Start them.'' ''Start the overnighters''—they started the overnighters. They had hundreds of people spending the night, hundreds of people spending the night in the White House, more than any other administration, a volume that they have never seen before. And a whole lot of them were contributing $100,000. We had the FBI testify that 51 averaged over $107,000 each to spend the night in the White House. I happen to think that is a flagrant violation of the current law, the law as it is written right now.

We could just go on and on.

And 18 United States Code 600: prohibits promising any Government benefit in return for political support. Johnny Chung is reported to have donated $25,000 to Ms. O'Leary's favorite charity at her direction in order for Mr. Chung to obtain a meeting with several Chinese businessmen. He contributed the money. He got the meeting. Ms. O'Leary's charity got the $25,000. He also donated more than $360,000 to the DNC from 1994 to 1996.

And 2 United States Code 441(e): prohibits a foreign national from making a political contribution either directly or through another person. Also prohibits anyone from accepting such contributions.

Pauline Kanchanalak contributed $135,000 which the DNC had to return when it was revealed the contribution was actually from her mother-in-law. She visited the White House 26 times, she testified. Yet, has she been before a grand jury? Has this administration done anything to compel her testimony for laundering funds? I do not think so.

Charlie Trie contributed $789,000 to the President's legal defense fund which we heard testimony that some of the checks were laundered through a Taiwan-based religious sect, Suma Ching Hai. He also received a steady stream of wire transfers from foreign sources from 1994 to 1996, totally $1.4 million, some of which came from Mr. Wu, his Macao-based business partner.

Some people said, ''Well, we haven't seen any foreign money.'' They have not had their eyes opened.

Mr. Trie had a lot of foreign money, $1.4 million, wired in, and he had great access. This is a person who is a Little Rock restaurant businessman. And all of a sudden he is spending millions of dollars, had unbelievable access to the White House. He visited the White House at least 37 times. He received a Presidential appointment to a foreign policy commission, one that the President had to expand the number of commissioners so he could serve on it.

John Huang directed a $50,000 contribution to the DNC through Hip Hing Holdings which was reimbursed from Lippo's Indonesian headquarters. John Huang and a DNC fundraiser, Maria Hsia ''Shaw,'' collected $100,000 to $140,000 from Vice President GORE's Buddhist Temple fundraiser of which half had to be ordered returned from foreign sources. A lot of that money was laundered as we found out through testimony. It happens to be illegal.

United States Code 201: prohibits any Federal official from receiving any benefit in return for official action. Johnny Chung brought in six Chinese officials to hear the President's radio address and gave the First Lady's chief of staff a $50,000 check in the same week that he was able to get them in. In exchange for $50,000, they were able to attend the radio address. That happens to be illegal. Has Mr. Chung been indicted? Has he been brought before a grand jury? Has he testified before the Senate committee? No. Mr. Chung made a statement, ''I see the White House like a subway; you have to put in the coins to open the gates.''

I could go on and talk about Charlie Trie getting a Chinese arms dealer into a White House coffee with President Clinton. Only 4 days before the coffee, it is reported, Mr. Huang's arms trading company received special permission to import 100,000 special assault weapons, although there was a ban on the importation of these assault weapons.

United States Code 7201 prohibits evasion of income tax; United States Code 371 prohibits conspiracy to defraud the United States. The Buddhist temple is a tax-exempt organization. They made contributions to Vice President GORE, they made contributions to other colleagues in this body, they made contributions at the DNC with tax-exempt dollars. People were getting tax deductions, writing checks to the Buddhist temple, and the Buddhist temple wrote political checks. Everybody else in the country who writes political checks has to do it with after-tax dollars. In this case, people got a tax deduction for contributing to a Buddhist temple, and it was the Buddhist temple who was making contributions.

That is wrong. That is against the law. That is against the IRS Code. I just quoted the IRS Code. Who has been indicted on that? This is an egregious violation of the law. It has happened time and time again.

My point is we need campaign reform. In my opinion, one of the best steps we could take toward campaign reform would be to enforce the existing law. Maybe we should enforce the existing law and find out where its shortcomings might be before we try to expand the law or redefine the law or change the law.

Now, Mr. President, I want to make a couple of comments concerning the legislation that we have before the Senate, the so-called McCain-Feingold legislation. First, let me compliment the authors of the legislation because I think they made some steps in the right direction. They have improved it and taken off, as I can see, the spending caps. They have taken off the ban which, incidentally, I think is clearly unconstitutional. They have taken off the ban on PAC's, political action committees. Those are steps in the right direction.

They did a couple of things, though, that need to be improved upon, one of which is they said, well, we are going to codify Beck. We are going to make sure union members can get their money back. That is the language I have heard bandied about on the floor. Mr. President, that is not good enough.

I firmly believe we should make sure that all Americans have voluntary contributions to campaigns. No Americans should be compelled to contribute to a campaign, whether they work for a business, whether they are a member of the union, or whether they are not a member. Some say that is an antiunion provision, a killer amendment. I beg to differ. If we are going to pass campaign

reform this year, we will pass a provision that makes campaign contributions voluntary for all Americans.

I feel very, very strongly about this. You might say, where did this come from? It came from a town meeting I had in Collinsville, OK, when an employee of American Airlines held his hand up, and one of the first questions he asked was, ''Senator NICKLES, I really don't like my money being taken away from me on a monthly basis without consent to be used to elect people and support issues I don't agree with. That is not America. That is not right.'' The company the person worked for happened to be American Airlines. He happened to be what some people call a blue-collar, middle-income American. He is a great American. He is a union guy. He is prounion. He just wants to have a voice on whether or not he is going to contribute to a political party or not.

I happen to agree with that. I happen to be a Republican, but I don't want anybody taking my money to spend it for political purposes without my consent. It would be over my body. I don't think anybody should be compelled to contribute to a different campaign or to a campaign they don't agree with. If you are going to have compulsory campaign contributions, you have lost real freedom, you have lost your political freedom. To say, ''We will give you information on how you can get a refund,'' is not satisfactory. That is after the fact. That is after your money has already been taken away from you, spent in a way you didn't like, and, ''Oh, yes, you can file for a refund. Incidentally, you have to go through a lot of trouble if you file.''

Guess what? You can't be a member of the union. Under the Beck language we have in the McCain bill and under the language that is currently out, if you get a refund, you have to be basically a nonunion member. You can't vote in union elections. You can't decide who would be president of that union. You can't have any impact on the collective bargaining strategy. Maybe you want to be a member of the union. Maybe it is the thing to do, but you disagree with the union's political agenda. Right now you don't have a choice. You can't have both. You can't be in the union and say, ''No, I don't want my money going to elect liberal Democrats or to elect people who have a social agenda that I disagree with.'' You don't have that option under current law.

We will change that. If we are going to have campaign reform this year, we will have the underlining promise that all campaign contributions will be voluntary, period. Every employee that works for any company should know his campaign contributions will be voluntary. If he doesn't want to make them, he doesn't have to make them, period, whether they are a member of the union, not a member of the union, whether they work for a company that doesn't have a union, they should all know, nobody should be compelled to contribute to a political campaign against their will. Nobody.

So that is one of the amendments we have up here. I don't look at it as a killer amendment. I tell my colleagues I am willing to negotiate. I heard Senator MCCAIN say he is willing to negotiate. I am willing to negotiate. Senator LOTT asked me to see if we couldn't work out a bipartisan bill. I am willing to work with my colleagues.

I mentioned earlier, I think the McCain-Feingold bill took some steps in the right direction. I think it maybe has a couple of steps further to go. This is one of them. This is one of them. If we are going to have campaign reform, in this Senator's opinion, it will have to start with the premise that all campaign contributions will be voluntary; make sure that no one is compelled.

Then what else can we do? We can do a lot of things. Some say ban soft money, others have proposals to limit soft money. Some say allow individuals to do more. Some people have ideas requiring that a certain percentage has to be raised within an individual's home State or district. I think all those things are legitimate for discussion. Let's put them all on the table. Some people have a proposal that says you can't contribute to campaigns unless you can legally vote. I think that is a good proposal. Other people want to have free TV time. I don't happen to agree with that. Some people want to have subsidized TV or half-rate TV for political candidates. I don't agree with that.

I am willing to talk about it. I am willing to negotiate. I am willing to negotiate everything I mentioned, but the one fundamental thing I draw a line on is that the campaign contributions have to be voluntary.

I take issue with anybody who says that is an antiunion bill. That is a proworker provision. That is a profreedom provision. It is basically saying no one should be compelled to contribute to a campaign against their will. That is a fundamental American freedom. We should be ashamed of ourselves for making anybody be compelled to contribute to a campaign against their will.

We will fix that. I hope we will fix it. I believe we will fix it. I also believe that will be part of our bill, and then I will tell my colleagues I don't look at it as a killer amendment, because I'm willing to work with them to try to pass real, substantive campaign reform.

Keep it constitutional, do not limit speech, encourage participation, make it possible for more people to participate, do not come up with a system that guarantees incumbents' advantage. I am more than willing to do other things that would limit incumbents' advantage. We can say, incumbents, you can't do any mailings in an election year. That will crimp it down a little bit. Incumbents, you cannot have carryover funds. We can do a lot of things for real campaign reform that we could pass in a bipartisan fashion.

I believe one fundamental freedom should exist that we should all agree on, Democrats and Republicans, and that is that all campaign contributions should be voluntary. That is the reason why we have the Paycheck Protection Act. We don't want anybody reaching into your back pocket, taking your money out, and spending it for political purposes unless you say OK. That is your back pocket. You are the one who worked hard; you are the one who put the money in there. Nobody—no group, no association, no employer—should be able to reach in and say, ''I will take a little bit out and spend it the way I want without your permission.'' We will protect your paycheck and let you have control over it. That will be part of this bill. It will be the first amendment I believe we will vote on.

I urge my colleagues to vote for it.

Mr. CLELAND addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. CLELAND. Mr. President, I enjoyed the remarks of my colleague from the great State of Oklahoma.

Mr. President, this is a day I have been waiting for since I had the great honor and privilege of taking my oath of office as a U.S. Senator back in January: a day when we are debating pending campaign finance reform legislation on the Senate floor. It has been a long and tortuous road since January, and on more than one occasion, we have all heard pronouncements that campaign finance reform was dead for this session, if not for all time.

That we are here today is a great tribute to the perseverence an effectiveness of my friends and colleagues, Senators MCCAIN and FEINGOLD, as well as the relentless commitment of the Democratic leader, Senator DASCHLE, to the cause of campaign finance reform.

I wish also to thank the distinguished majority leader for affording us the opportunity to debate, and cast meaningful votes, on this vital issue.

This is also a testimony to the groundswell of public opinion that is compelling us to act on a very embarrassing matter, the way we raise political money.

Will Rogers said it best: ''It takes a lot of money now days to even get beat with.'' That was said over 70 years ago. It is certainly even more true today.

But, in describing the current unremitting, unforgiving money chase which has overtaken our democratic process, especially, at the Federal level, in such a manner as to have a ''for sale sign'' on both ends of Pennsylvania Avenue, I like the quote by W.C. Fields to the extent, ''We must take the bull by the tail and face the situation.''

As we begin this Senate debate on whether or not we should enact far-reaching restrictions on the current way money is raised and spent for Federal office in America, we must face

the situation that this current system is fatally flawed. It has enough loopholes in it to drive a fleet of 18 wheelers through it and is rendering our democratic process and our Government, which flows from that process, vulnerable to influence peddling, the inordinate impact of special interest pressure groups, foreign influence and outright corruption.

It's time to take the bull by the tail.

I for one have been fighting this battle for campaign financing reform for many years.

In 1974, in the wake of the Watergate scandal, I introduced legislation in the Georgia Senate when I was a State senator limiting campaign expenditures and contributions. As Georgia's secretary of state in the 1980's and early 1990's, I fought for tighter limits on campaign giving, and full disclosure of lobbying expenditures.

As a U.S. Senator sworn in this year on January 7, the first legislation I signed as a cosponsor was the McCain-Feingold campaign financing reform bill. I am 1 of 45 of my Democratic colleagues and 4 of my Republican colleagues pledged to support the McCain-Feingold bill in its present form when it comes to the floor of the Senate.

Also, as a new Member of the Senate, I volunteered for service on the Governmental Affairs Committee, which has been conducting a far-reaching investigation into the multitude of alleged illegal and improper activities associated with the 1996 campaign. Just last week, the committee turned to consideration of suggested remedies for such abuses. All year long, I have listened to numerous witnesses, sifted through countless pages of testimony, read scores of media reports, and otherwise immersed myself in the nitty-gritty of the financing of Federal campaigns last year. I also had the personal experience of enduring the current process in my own race for the U.S. Senate in 1996.

Sitting in these hearings and seeing the sordid tale of the money chase in 1996, has turned my stomach. I also think the American public has viewed all this with increasing disgust. What I have witnessed, heard, and read has made me even more convinced than ever that we must strengthen our campaign financing laws, now, and provide strong enforcement through the Federal Election Commission of these laws, or risk seeing our elections process, which is supposed to be conducted between the candidates, the press, and the voters, be swept away in a tidal wave of big bucks. Unless we act now, we will only see the power of special interest groups, corporations, and unions to pedal influence grow. We will only see our system more and more vulnerable to foreign governments and unscrupulous individuals. Unless we tighten our laws, we will see our system more and more operating against the public interest.

I don't think our Founding Fathers, especially Thomas Jefferson and James Madison, had that in mind when they helped create this Government.

Mr. President, the other day I was over in the Library of Congress and received a marvelous book by James Madison, titled ''The Search for Nationhood.'' Mr. President, I am afraid that more and more candidates for Federal office are not so much in search of fulfilling our search for nationhood as they are for fulfilling the search for money.

I certainly don't think they had that in mind when they led the effort to create the U.S. Senate. Jefferson and Madison led the way to create the Senate to look at the long view of American government, and provide a balanced approach for the future of our country.

Thomas Jefferson, the author of the Declaration of Independence stated in that magnificent document that the Founding Fathers had pledged their lives, fortunes and sacred honor. They didn't say that in order to set up a democratic form of government that one had to spend their lives to pursue a fortune to run for public office and jeopardize their honor in the process.

Opponents of McCain-Feingold tend to concentrate their spoken criticisms on its alleged violations of free speech. Those criticisms mistakenly equate money with speech. It is an equation which inevitably leads to the conclusion that the paid speech of the millionaire will have greater weight and influence than the opinions and expressions of the common man and woman.

Certainly there can be little doubt about the commitment of James Madison, Father of the Constitution, an architect of the Bill of Rights, and President of the United States, to the great cause of free speech. But listen to what Madison wrote in The Federalist Papers:

> But what is government itself, but the greatest of all reflections on human nature? If men were angels, no government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself.

While he was certainly both a revolutionary and a visionary, Madison never allowed himself to stray too far from the practical realities of the world in which he lived. To him, the lack of human perfection was thus the basis for government, and a factor which must be taken into account in providing a government with sufficient powers to accomplish its necessary functions, while at the same time holding it fully accountable to the governed. We must hold those who run for Federal elective office fully accountable to tight regulations and complete disclosure in the raising and spending of campaign dollars.

Last week on the Senate floor, Senator THOMPSON delivered a very fine statement on campaign finance reform and free speech in which he pointed out that, in the real world, this current debate about campaign finance reform and free speech is not one of absolutes, as some would have it. This is not a choice between a system of unfettered free speech and government regulation, for our current system recognizes many, many instances in which there is a legitimate, and constitutional, public interest in regulating speech, from slander laws, to prohibitions on the disclosure of the identities of American intelligence agents, to the campaign arena itself, with a long-standing ban on corporate contributions, and quarter-century and older limits on other forms of contributions and disclosure requirements.

So the debate really isn't about free speech. TV isn't free, yet it's the main vehicle by which Federal candidates connect to their voters, and the single most important factor driving up campaign costs. In the words of Dr. Norm Ornstein, a noted political scientist and recent witness in the Governmental Affairs hearing, the question is not free speech, but whether we will erect some fences to prevent the worst abuses of campaign financing to occur. I'm for tighter fences, to prevent the horse from getting out of the barn next time.

Campaign finance reform opponents also sometimes claim to be concerned that such efforts will further increase the advantage currently enjoyed by incumbents. Even on its face, I have a hard time taking this argument seriously. I am aware of very, very few cases in the real world of contemporary American politics, whether at the Federal, State, or local level, where incumbents do not enjoy a substantial advantage over challengers under the current system. And, it is difficult to imagine any situation under which any form of campaign limits, whether or contributions or spending, will not constrain far more the incumbents rather than the challengers.

For example, earlier this year, the group Public Citizen presented one of the first detailed analyses of the likely impact of the expenditure limits contained in the original version of McCain-Feingold, based not on theoretical conjecture, but on the actual results had S. 25 been in effect in the most recent elections for each of the 100 U.S. Senate seats, based on the 1992, 1994, and 1996 Senate elections. The findings of the Public Citizen study clearly demonstrate that had the provisions of McCain-Feingold been in effect since 1992, Senate campaign spending would have been reduced by $259 million—that's $259 million—with far more of this reduction coming among incumbents than challengers. While fully 90 percent of all the Senate incumbents were able to exceed McCain-Feingold's spending limits, just 24 percent of all the challengers did so. In other words, 9 out of 10 Senate incumbents would have been forced to spend less by McCain-Feingold, while only one in four challengers would have seen their spending constrained. This should

put to rest any legitimate argument that spending limits are an incumbent's protection measure. The record does not bear this out, and as the figures demonstrate, this is not even a close call.

Some also charge that McCain-Feingold, in whatever version, would somehow advantage Democrats more than Republicans. First of all, one of the prime sponsors of S. 25 is my good friend and fellow Vietnam veteran, the distinguished senior Senator from Arizona. Senator MCCAIN is many things. He is a wonderful human being, and a fine Senator. But, he is also a very faithful Republican. He would never put forward a proposal which would harm is party.

Once again, the Public Citizen report bears out this commonsense wisdom.

Since 1992, almost identical portions of Democratic and Republican Senate candidates would have exceeded McCain-Feingold spending limits: 54 percent of Democrats, 59 percent of Republicans. You can't get much more of a level playing field than that.

And, while the revised version of McCain-Feingold does not contain spending limits, the principles of greater constraint on incumbents than challengers, and of relatively even partisan impact, applies to soft money and issue advocacy advertising as well.

As I have told anyone who has asked, I like being a U.S. Senator. Having the privilege of representing my State in this body, where such giants as Clay, Webster, Calhoun, Norris, LaFollette, Dirksen, and Russell have served with distinction is the greatest honor of my life. But, sitting here day by day, with evidence continually mounting in the Governmental Affairs Committee hearings of campaign abuses, and public opinion surveys chronicling the loss of public trust in the political process, not to mention the ongoing massive fundraising which takes place all the time in the Nation's Capital, I cannot but conclude that the current campaign finance system is broken and cries out for reform.

We have heard a lot of talk, and we will hear more talk this week and next, about these abuses, and about the general topic of campaign finance reform. But, the time is coming when we must take action. Certainly, the revised McCain-Feingold package is not perfect; it is not all that I think needs to be done to remedy our problem, but it is an essential first step aimed at dealing with the worst of these abuses which currently plague our campaign system.

The revised bipartisan campaign finance reform proposal does not contain spending limits, does not contain limits on PAC's, and does not provide free or discounted broadcast air time for Federal candidates, all of which I personally favor. It places no limits on what groups or organizations say in their campaign-related communications.

What the proposal does do is this: It bans soft money contributions to and spending by the national political parties—something that has been the bane of those that care about campaign finance reform, and who have witnessed the testimony before the Government Affairs Committee. It should be noted that the pursuit of soft money is at the root of almost all of the questionable fundraising activities identified to date by the Governmental Affairs Committee upon which I sit.

I might say also that if you ban soft money then all contributions, whether you are a union member, a citizen, stockholder, would be voluntary because you would have only two ways you could contribute: Independently on your own, or through a political action committee registered with the Federal Elections Commission. That is voluntarily as well.

The bill modifies the definition of ''express advocacy.'' These are ads, unfortunately, that don't provide a clear distinction between communications used to advocate issues from those used to back or oppose candidates. This bill would require that clear distinction.

Under the proposal, independent groups will be free to air either kind of ad, but to qualify for the ''issue ad'' designation and thereby to avoid the disclosure and financing requirements applied to candidates and party committees, they merely have to not use a candidate's name or else run more than 60 days before the election. This hardly represents an infringement on free speech.

It improves the enforcement of existing laws by expanding disclosure and Federal Election Commission monitoring capability. It strengthens current law in such areas as fundraising from Federal property, and the use of the Congressional franking privilege.

It strictly codifies the Beck decision concerning the right of nonunion members to have a refund of any union fees used for political purposes to which they object.

It bars political parties from making coordinated expenditures on behalf of candidates who do not agree to limit their own personal spending on their own behalf.

It bans all campaign contributions and expenditures by foreign sources.

In addition to this core package, Senators MCCAIN and FEINGOLD will offer an amendment, which I strongly support, to establish a voluntary system in which those candidates who raise a majority of their contributions in their home State, accept no more than 25 percent of total contributions from political action committees, and spend no more than $50,000 of their own money in the election would receive a 50-percent discount on television costs.

We must have controls—rigid, well-enforced controls—on campaign financing because campaigns are the embryo of democratic government itself. Men are not angels, yet we must find ways to govern ourselves in a fair and democratic manner. Therefore, we must enact laws to control the financing of campaigns for Federal office in a fair and democratic manner.

My colleagues, the country is watching what we do on campaign finance reform. Make no mistake about this. They are understandably skeptical that we will take action to reform the system under which we all were elected. Their expectations for our action are quite low. Let's surprise the public as well as ourselves. Let's prove that physicians can heal themselves. Let's take the bull by the tail.

I urge my colleagues to support the distinguished efforts of two courageous Senators, JOHN MCCAIN and RUSSELL FEINGOLD, who through their diligence, persistence, and strong belief in upholding the finest traditions of our democratic process have brought us to this hour.

I yield the floor, Mr. President.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, let me first thank my friend, the Senator from Georgia, for his kind remarks, but more importantly for his steadfast support on the issue of campaign finance reform.

The first thing that the Senator from Georgia did when he became a Member of this distinguished body was to cosponsor our legislation. But he didn't stop there. He has been out here every single time we have had to fight the battle. And I know he will be again. I thank very much the Senator from Georgia for his support.

I also want to thank my colleagues, Senators LEVIN, LIEBERMAN, DORGAN, COLLINS, and, of course, Senator MCCAIN for taking the time on what is usually a quiet Monday to have a very intense debate to continue this discussion on campaign finance reform.

Mr. President, one of the most important tactics that has been used already in this debate is to single out a couple of provisions of the McCain-Feingold modification and to suggest that they are the entire bill. It happens that the provisions that have been discussed—the issues having to do with express advocacy, and a couple of others—are very important provisions, but you would swear that they were the whole bill. That is because it is virtually impossible to criticize or attack the rest of the bill. Let us remember what is included in the entirety of the McCain-Feingold modification—the bill that we introduced today.

First of all, it completely bans soft money. We have heard virtually nothing on the floor effectively criticizing banning these $100,000, $200,000, and $500,000 contributions that have clearly undermined our political process and made a mockery of the fact that for almost a century corporations have not been allowed to give contributions to campaigns directly, and for almost half a century labor unions have not been allowed to give contributions directly to campaigns. Our bill bans that, and the other side apparently has dropped their concern about that.

There is also virtually no discussion of the fact that our bill strongly improves the provisions having to do with disclosure of information about campaign contributions; and strengthens the hand of the Federal Elections Commission so it can do its job; so we can enforce the current laws—the very argument that we have heard the majority leader and the Senator from Kentucky make. ''Why don't we enforce the current law?''

Why no comment about the series of important provisions in our bill that do exactly that, that improve disclosure and improve enforcement?

Why no comment on the lowering of contribution limits from $200 to $50? If somebody gives $100 to a candidate, we think this ought to be reported.

Why no comment on the fact that our bill strengthens the hand of the Federal Election Commission by tripling the penalty for knowing, willful violations of Federal election law? This is exactly the kind of provision that the other side claims we should have and yet fails to mention it is part of the bill.

Why no mention of the fact that our bill does provide for electronic filing with the FEC on a daily basis of campaign contributions so that the public does not have to wait and the media do not have to wait for 6 months to find out whether a contribution occurred in close proximity to a vote? Our bill provides for that. Our bill provides that the FEC would make campaign finance records available on the Internet within 24 hours of their filing.

The bill also strengthens the hand of the Federal Election Commission by permitting the FEC to conduct random audits at the end of a campaign to ensure compliance with Federal election law. We are strengthening the hand of enforcement under the current law.

Why no discussion at all of the fact that our bill, in addition to the other issues, makes it absolutely clear that campaign contributions cannot be used for personal purposes? You cannot buy a new suit with campaign contributions. You cannot finance various family activities or mortgage payments or country club memberships. Some of this has been done in the past. Why no comment on the fact that our bill tightens up on that?

Why no reference to the fact that the McCain-Feingold bill requires political advertisements to carry a disclaimer that clearly identifies who is responsible for the content of the campaign ad?

Do you know what really irritates my constituents in Wisconsin? It is all those negative ads and the fact that the candidates who put them out make sure that they are not identified, that people do not know who made the ad? The McCain-Feingold bill says if you want to say it, you can say it, but how about letting us know you are saying it. The other side completely ignores this provision that I think would be of great appeal to many members of the public.

Why doesn't the other side say anything about the fact that the McCain-Feingold bill bans the practice of using mass mailings under the franking privilege in an election year? We get rid of that. We get rid of that incumbent protection provision in current law that allows Senators to send out thousands, tens of thousands, of items at public expense, at Government expense when they are running for reelection. We get rid of that. I happen to not do these mailings anyway. A number of Senators do not do them anyway. But we get rid of that in an election year. But no comment whatsoever from the other side.

Our bill also clarifies, which is long overdue, that it should be absolutely unlawful to raise any money or solicit any money on Federal property, whether it be in the White House or whether it be in the Capitol or whether it be in one of these Senate or House office buildings. We do know that even Members of Congress have already said that they have done that. This bill makes it clear that there are no excuses for doing that in the future.

No reference from the other side except for a brief one to the fact that we do begin in this bill to voluntarily provide an incentive to candidates to limit their spending. Our bill, as we introduced it today as a modification to the underlying bill, says that if you contribute over $50,000 of your own personal money to a campaign, you can do that, but you shouldn't be able to get the large party-coordinated expenditures to assist you. We do that.

We have provisions relating to clarifying contributions regarding money contributions from foreign nationals.

All of this is in the bill. They are very good provisions. But yet, in an effort to distort what this bill is about, the focus has been on only one or two provisions rather than the heart of the bill.

Mr. President, I should like to summarize the debate today by pointing out that all of this emphasis on a couple of items in the bill to the exclusion of the rest of the bill is merely a prelude to the three principal arguments that our opposition has raised thus far as we have debated the issue on Friday and today.

The first argument has been the primary argument in the past, but it is flagging. The argument that our bill will be deemed unconstitutional by the U.S. Supreme Court just is not having the same luck it has had in the past.

The senior Senator from Kentucky recently said on one of the national news shows with reference to me, he said:

> Russ has got no constitutional experts with any credentials who will say that this is going to be upheld in court.

That was on Fox News Sunday, September 14, 1997. Not one constitutional expert, the Senator from Kentucky said, would support our view that the basic provisions of the bill are constitutional.

That was an unfortunate claim because 1 week later we were able to release a letter signed by 126 constitutional experts across this country representing 88 different institutions, including those in Kentucky, saying just the opposite—126 constitutional scholars specifically said that the ban on soft money and those provisions that relate to providing voluntary incentives to candidates to limit their spending are perfectly constitutional within the ruling of the Supreme Court 20 years ago in Buckley versus Valeo.

It is hard to read this chart because there are so many of them, because 126 of the leading constitutional experts in this country say that this constitutional argument is wrong. In fact, the constitutional argument is nothing but a smokescreen because it has been shifting from month to month. First, it was the claim that the PAC ban was unconstitutional, even though the Senator from Kentucky knew very well that we had a backup provision because of that concern which he himself had introduced in the past. The Senator from Kentucky had proposed the very provision that he said was unconstitutional. So then he shifted to saying that banning soft money was unconstitutional.

Well, that is not working out very well after 126 constitutional scholars say just the opposite. There is no credible argument under current law that banning that kind of contribution is unconstitutional. There simply is no credible authority who believes that.

So the Senator from Kentucky shifts again. He says that providing voluntary incentives to candidates to limit their spending is unconstitutional. But that is the very thing that Buckley versus Valeo laid out as a mechanism by which you could limit spending voluntarily.

So now the Senator from Kentucky seems to have dropped all of these constitutional arguments and all he has left now is to try to say that our attempt to clarify the meaning of express advocacy is unconstitutional. Well, he is wrong about that, too. But as he admitted in the Chamber today—and this is critical—in the worst-case scenario, in the very worst-case scenario, if he is right and we are wrong, the Supreme Court will simply strike that provision down.

Our bill is severable. What does that mean? It means that if the Supreme Court determines a provision is unconstitutional, they can sever that provision, leaving the rest of the bill intact. That's exactly what the Court did in the landmark case of Buckley versus Valeo, where the Court said you can't have mandatory spending limits, and it severed that from the bill, but the Court did say you could have contribution limits, which is what we have had for 20 years. This is where PAC's are limited to $10,000 per campaign, where individuals are limited to $1,000 per individual. So the fact is that these constitutional arguments, if they are

right, in the worst-case scenario, will simply be dealt with by the Supreme Court doing their job. Now, why can't we do our job and let the Supreme Court do their job?

Where was the concern of the Senator from Kentucky about this when he voted for the Communications Decency Act, saying that it violated the first amendment? And the Supreme Court voted 9 to nothing: No, you can't do that. It was taken care of, it was struck down. It is not a law. So, this is a smokescreen. Mr. President, 126 constitutional scholars have already said that the basic provisions of our bill are constitutional.

So, the constitutional argument is flagging. So the opponents of reform, who I think sometimes can also be known as the filibusterers, go to a second tactic, that is killing the bill by trying to force a filibuster. Today, not surprisingly—the majority leader had his choice of any amendment he could offer. That is his right. He could offer a substitute amendment, a whole new bill, he could offer a simple amendment having to do with certain kinds of contributions or aspects of soft money or FEC enforcement—he could choose any amendment he wanted. What did the majority leader choose? And what did he use to fill up the tree? He used a provision specifically and harshly directed at labor unions. The majority leader, and I do appreciate his letting us have this bill come to the floor, came out here and said that that choice, to be the first item we debate, was not intended as a poison pill.

What does that mean? What it means is, he is saying he didn't pick that amendment as a way to cause a filibuster. But this does not square with what the majority leader said last Friday. He was quoted in the Wall Street Journal, saying ''I set it up so they will be filibustering me.'' That is what I am talking about. He had his choice. He came out here, he purposely offered a strong antilabor amendment, he set it up in the hope that he would force Members on the other side of the aisle to filibuster the bill so that he and his colleagues would not be blamed for killing it. How can you say that's not a poison pill, if your very statement was that you set it up so the other side would filibuster? That is the definition of a poison pill. Let no one mistake this. This is an intentional effort to kill campaign finance reform.

Why, if this concern about this issue was so great, was it not brought up earlier? This is S. 9, that he has brought up. It is a bill I believe offered by the Senator from Oklahoma. Why was this not brought out to the floor earlier? Why is this the item that we lead with, if it is not intended to destroy campaign finance reform and make sure somebody else gets blamed for it? It is a poison pill. It's a more dangerous attack than the flimsy constitutional arguments. It does run the risk—it does run the risk of destroying the bill, and everyone should know that when we vote on the poison pill antilabor amendment, that is exactly what it does.

Most of the time that has been taken up on the floor of the Senate by those who seek to kill this legislation has been devoted to a third attempt. That third attempt is to make the public believe that this bill somehow creates a giant Government bureaucracy that is going to regulate their speech. If I could just show a copy of the bill—the problem with that is, in the past, when folks have tried to argue that a bill is a huge Government bureaucracy bill, they hold up the bill. They hold up the President's budget: 2,000 pages. They hold up the health care bill and they weigh it on a scale. But this is not going to work with the McCain-Feingold bill. It is only 55 pages. It is pretty hard, the way lawyers write, to set up a giant Government bureaucracy in 55 pages.

But that is what they want folks to believe. They want folks to believe that somehow we are creating a new world of campaign financing that will change the way things are done in this country and will change the ability of members of the public to speak their mind in an election. I think it is just the opposite. I think what the current system is, I think the status quo, that the Senator from Kentucky defends so vigorously, is so at variance with the system that I grew up to believe in that it is shocking. I think we have come so far from the notion of one person one vote; so far from the notion that every child born in this country could grow up to serve in the House or serve in the Senate, or perhaps even be President, that it is an embarrassment.

Look at what Mr. Tamraz said recently about this system and how he apparently gamed it. He said, before the Governmental Affairs Committee on September 18, 1997, in response to a question—the question was a very direct question:

> Was one of the reasons that you made these contributions because you believed it might get you access? That's my question.

Mr. Tamraz' response was very straightforward. He said:

> Senator, I'm going even further. It's the only reason—to get access, but what I'm saying is once you have access, what do you do with it? Is it something bad or something good. That's what we have to see.

When I heard that comment from Mr. Tamraz I just couldn't help but think how far we had come from the America that I was brought up to believe in. Maybe I was naive, growing up back in Janesville, WI, but I really believed it when my parents told me that, ''You may not be the richest kid in town, you may not be the most powerful person in the town or in the State or in the country. But every American has the same vote. Your vote counts the same as a Rockefeller's.'' That was the name we used in those days.

So, when you look at the story of what has happened in the last 30 years, I can't help but reflect that when I was 7 years old and John F. Kennedy was running for President, the way that we would sort of observe a Presidential campaign was not just through the television. There were a few television sets. You could go out to the Sauk County 4–H fair. There was a little Democratic booth. Just a few feet away was a little Republican booth. And there was a little ribbing going back and forth. You know, those booths have not moved an inch in 37 years. They are in the exact same place they always were. That is where the campaign was, people talking to each other.

Nobody said anything about raising money. I'm sure they had to fund their campaigns, but that was not what the news stories were about. I'm sure the Senator from Utah, who is on the floor, would agree with me, that that was not the nature of the discussion, who had the most money to win an election in those days. Then, as I got into my teen years, the civil rights movement came upon us, the Vietnam war, the beginning of the environmental movement, the women's movement—so many political movements; on the other side of the political spectrum, the great concern that arose about law and order in this country. These were the great discussions of our time, as well as others.

I recall some kind of conversation about Howard Hughes giving some money to both Presidential candidates, but it was sort of an odd story, an esoteric story. ''What is going on? Why would this rich fellow, a recluse, give all this money to Presidential campaigns?'' It was not the stuff of public life. It was not the news, who was giving what money to what political party. In fact, the gentleman who used to hold this seat before I did, a couple of Senators back, my friend Gaylord Nelson, told me recently that in his distinguished career in Wisconsin politics as a Member of this body for 18 years, he never once made a phone call to raise money. He never once picked up the phone and said: Hey, I'm running for reelection, can you give me some money?

I suggest that those were the good old days. What the Senator from Kentucky is trying to defend is a new world, where not only are Senators expected to make phone calls almost every day to raise money for their campaigns, but where Senators and others are encouraged to call up people and ask them for $100,000. This is not the system that I grew up with. This is not the system that led the late Robert Kennedy to refer to politics as an honorable profession.

Then, in high school, the people used to rib me a little bit. I guess I was a little bit too open about my desire to go into politics. Some of them would say, because I talked so much I would be a good politician, and other comments like that. But the one thing they never said to me was, ''RUSS, if you want to go into politics you have to go out and make $10 million first; that there is an opening ante, there is

an opening fee, that you must be a millionaire.'' That we are, in effect, recreating here in Washington the House of Lords, which we freed ourselves from over 200 years ago. Nobody ever said that to me.

Politics was still church dinners and Rotary clubs and the State fair and all those things that one may regard as corny. But the fact is, it was a pretty good system. This is a lousy system; a system where somebody pays $300,000 to get in a room to be with his competitor who has paid $300,000, a room that none of us could ever get in. That is a lousy system.

I was still under the perhaps naive belief, in 1982 when I sought election to the State senate in Wisconsin, my first race for public office—I was under the illusion that money wasn't important. Thanks to the good laws of the State of Wisconsin it wasn't terribly important.

I had no money, but the State law provided that if I could raise $17,000, the State would match it with $17,000 if I agreed to a $34,000 limit and that that would be a reasonable amount for a campaign voluntarily. That's what I did.

I wrote to every relative I had. I wrote to a few former professors and teachers of mine. They all sent in a few dollars. We had $17,000 by August, and we went out and campaigned. I went to the Sauk County Fair, walked in parades, and had some very civil and nice debates with my opponent.

I do remember a brief moment, though, at the end of that campaign when one of the senior Democratic officials in the State called me up and said, ''RUSS, you're going to lose if you don't borrow $10,000 for the last few days.''

I said, ''I can't do that. I'm just not going to do that to my family.''

He was almost right, because I only won that election by 31 votes out of 47,000. It was the closest election in the history of the Wisconsin State Senate. But the fact is, it was reasonable—$35,000. It was something I could at least think about as a person of average means.

Now the same races in that same district, just 15 years later, cost something like $250,000, $300,000 just for a Wisconsin State Senate seat that pays somebody some $35,000 to $40,000. But yet I still believe, because I won by the slimmest of margins, that running for office was not equal to having a lot of money.

I got a bit of a rude awakening, Mr. President, in 1987 when I started thinking about running for the U.S. Senate. I thought I had amassed a decent record over the years as a Wisconsin State Senator, and I wanted to run against the incumbent senator. But as I went around the State gradually for several years trying to build a grassroots organization, I wasn't asked what I had done in the State Senate; I wasn't asked what I had done before I was in the State Senate; I wasn't asked what my views might be. Almost every single encounter, whether with the media or with a potential supporter, was, ''RUSS, this is fine and good and you seem like a nice young fellow, but where are you going to get the money?''

''Where are you going to get the money, RUSS?''

''How can you possibly think you have a right or an opportunity to run for the U.S. Senate unless you are independently wealthy or if you are well connected to Washington?''

That was the message I was given over and over again. Anybody who knows the kind of race I went through—I had a lot of good fortune, obviously, because I am standing here—that was my biggest problem. I wasn't considered credible because I wasn't wealthy. That didn't feel to me like what my parents had told me. That didn't feel to me like the assurance that I would have a fair chance to compete with everyone else simply because I am an American citizen. It felt really bad. Maybe it made me work hard. Maybe it made me stay the course.

It got particularly difficult when I would go to a group with whom I had a good relationship; for example, the independent bankers, a group with whom I have a very good relationship. I always admired their independence in Wisconsin. And I said to them, ''Could you give me some support for my race?''

They said, ''Well, we think you have done a good job, but we have to check in with Washington.'' There is a guy in Washington who makes this decision.

Then when I checked in with some of my friends in the labor unions, whom I probably do support on many, many issues, I thought they would be able to decide at the local whether or not they would want to back me. But, no, they had to check in with Washington, with the Washington gatekeepers who want to kill this bill. That is what I learned about the system.

Of course, partially because my two primary opponents were both very well-heeled and attacked each other that I wound up winning the primary. They used their money to make each other look pretty bad, and I wound up winning the primary because I was the other guy who was running. And that gave me momentum to win the final election.

As I stand here with these colleagues I admire greatly, sometimes I wonder, am I the last person of average wealth and income who will ever serve in this body? Is the door going to slam on people who actually worry about making ends meet, people who actually worry about their mortgage payment, as I do? Am I the last person who is not a millionaire who will be invited to serve in this institution?

I don't think that is the way it will end up, but I can tell you this, if we don't pass a reform like the one we have before us today, it will be. I cannot in good conscience look at a high school senior today, as I was in 1971, and say, ''You know, it would be great if you pursued a political career; it will be wonderful; just learn the issues, work with people, show people that you are a natural leader.'' I can't just leave it at that. If I am being honest with a young person, I would have to say, ''And you better darn well come up with $10 million or nobody is going to take you seriously.'' That hurts my image of America that I have to say that to a high school senior today.

The opponents of this bill have absolutely no answer for those high school students. They say somehow that free speech in America means that they don't matter, it means that they can't participate, it means that they don't have the same right that everyone else does to run for an office in the House or Senate and have some kind of a belief that they can prevail.

Each of us, I suppose, wants to tell our own story of how we got here, as I just did. It is a great honor to serve in this body. Less than 2,000 Americans have ever done so. I appreciated it when the majority leader the other day spoke to some of his concerns when he was running for office. This is the only issue where all the Members of the Senate are experts, because we have been through it and we know.

But the reason I am involved with this bill is that the senior Senator from Arizona had the courage to come to me and say, ''Look, we've got to do something to change this system, to put aside our partisan differences.'' We just decided that we couldn't live with a country where a Presidential candidate would begin his campaign, make the high point of his announcement for President the following statement:

> I have the most reliable friend you can have in American politics and that is ready money.

That was a leading comment in an announcement for President of the United States. I don't remember either John F. Kennedy or Richard Nixon leading their campaigns in 1960 with that comment, on anyone else. That is a tragic commentary on where we have come over the years.

So that is what this really comes down to. You have heard the constitutional arguments and have seen them fall. You see already an attempt to bring a ''poison pill'' out on the floor to kill this bill by making it too harsh for either side to accept and destroy its bipartisan nature. You have heard the effort to distort what this bill really does by suggesting that somehow our bill will create a large governmental involvement in free speech.

The fact is, it is this system that is destroying free speech. It is a system where people can give hundreds of thousands of dollars of unregulated money or give huge contributions or fundraisers of hard money to candidates that cut the average person out of the process. This is the corporate democracy that we have come to.

So, in the coming days, we will hear more of the efforts of our opponents to

take each little piece of the bill and indicate that there is a problem here or a problem there. Of course, that is the purpose of the debate. But we are ready, Senator MCCAIN and I, to negotiate to solve some of the real problems. But what we will not tolerate is the suggestion that we should do nothing. Our opposition has no alternative. They have no answer to the careening role of money in American politics. They just want to kill this bill and get back to the business of running elections.

Mr. President, there will be much more to say on this bill.

All I can say is that we will not allow this debate to become mired in the minutia of important issues that ultimately would be resolved by the U.S. Supreme Court. We will come back again and again to the central point that this is still a country of one person-one vote, not $1 million-1 million votes. And it is still a country where every high school student should at least be able to think or dream about participating in the process without having to become a multimillionaire first.

Mr. President, I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I have listened to my colleague from Wisconsin chat about these problems. You know, in all honesty, I wonder sometimes if we do not treat the American public like they are idiots, when in fact the American public is a very smart collective group of people.

You know, I just do not see why in the world we have to have government interfere with the first amendment privileges of free speech, just to mention one constitutional issue involved here, just because some think there are millionaires in the Senate. There have always been millionaires in the Senate, as far as I know, at least in this century. But there have always been a number of Senators—and there is a great number of Senators here today—who are not millionaires who made it here the hard way, even under this present system, and who will always be able to make it because the American people are not idiots.

They are smart. They know what is going on. They have the ability to choose between competing candidacies. Every once in a while you know some of us worry about it because of some people who make it here, but, in all honesty, it seems to me that to put another layer of Federal regulations on what people can say and do in politics is not the way to do it, and it presumptively seems to believe that the American people do not have the capacity collectively or individually to make right decisions for themselves with regard to politics.

The thing that I find heinous and offensive in the current political structure is that we have all kinds of advocacy groups out there, some of which support only one party to the exclusion of the other, who spend millions and millions of dollars that are never reported in this political process.

I will just cite with particularity one group. I remember when the AFL-CIO decided they were going to spend $35 million in advocacy during the last campaign. Now, we Republicans all understand that because virtually every penny of that goes for liberal Democrats. The only Republicans that they ever support —and there are very few of those; and if there is a moderate-to-liberal Democrat, they will support the Democrat every time over even a liberal Republican for the most part—very few of the liberal Republicans are supported by them, but if any are, they have to be very liberal.

So virtually every dollar of the union movement goes into liberal Democratic Party politics. But $35 million is a drop in the bucket because the Congressional Research Service mentions that in every 2-year election cycle the trade union movement puts between $100 and $500 million into the political process, not one penny of which is reported in any filing or disclosure form.

There is nothing in the Republican Party that comes close to that type of economic leverage, and yet I have to say McCain-Feingold does absolutely nothing about that. There is good reason for it, because you would be restricting the right of the trade union movement in this country to express their viewpoints with regard to their political beliefs. But you are not talking about distortion.

Mr. President, $100 to $500 million every 2 years in local, State, and Federal politics, not one penny of which is reported. The $35 million was reported because those were direct contributions to individuals, or actually most of it was not reported because most of it was soft money that was used to advocate for Democratic, liberal Democratic Party politics.

In fact, ask conservative Democrats how much union money they get as a general rule. Not very much. So you know, I sometimes think that we beat our gums in here over what appear to be on the surface important principles but which really in reality would undermine the very constitutional process that we have.

In that regard, let me just mention that I think one of the most prescient articles on this subject ever written was written by George Will in the Washington Post yesterday. I know it has been mentioned here on the floor before. But let me just read a little bit from that article.

I did not come here wanting to talk about campaign finance ''reform,'' but I did want to say these few remarks. But I did read this today, and I brought it with me. He just says, ''Here Come the Speech Police,'' which is the title of the article—''Here Come the Speech Police.'' George goes on to say:

Almost nothing that preoccupies Washington is as important as Washington thinks almost all its preoccupations are. But now Congress is considering some version of the McCain-Feingold bill, which raises ''regime-level'' questions. It would continue the change for the worse of American governance. And Washington's political class hopes the bill's real importance will be underestimated.

With a moralism disproportionate to the merits of their cause, members of that class—including the exhorting, collaborative media—are mounting an unprecedentedly sweeping attack on freedom of expression. Nothing in American history—not the left's recent campus ''speech codes,'' not the right's depredations during 1950s McCarthyism or the 1920s ''red scare,'' not the Alien and Sedition Acts of the 1790s—matches the menace to the First Amendment posed by campaign ''reforms'' advancing under the protective coloration of political hygiene.

I ask unanimous consent that the full article be printed in the RECORD.

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

[From the Washington Post, Sept. 28, 1997]

HERE COME THE SPEECH POLICE

(by George F. Will)

Almost nothing that preoccupies Washington is as important as Washington thinks almost all its preoccupations are. But now Congress is considering some version of the McCain-Feingold bill, which raises ''regime-level'' questions. It would continue the change for the worse of American governance. And Washington's political class hopes the bill's real importance will be underestimated.

With a moralism disproportionate to the merits of their cause, members of that class—including the exhorting, collaborative media—are mounting an unprecedented sweeping attack on freedom of expression. Nothing in American history—not the left's recent campus ''speech codes,'' not the right's depredations during 1950s McCarthyism or the 1920s ''red scare,'' not the Alien and Sedition Acts of the 1790s—matches the menace to the First Amendment posed by campaign ''reforms'' advancing under the protective coloration of political hygiene.

Such earlier fevers were evanescent, leaving no institutional embodiments when particular passions abated. And they targeted speech of particular political content. What today's campaign reformers desire is a steadily thickening clot of laws and an enforcing bureaucracy to control both the quantity and the content of all discourse pertinent to politics. By the logic of their aims, reformers cannot stop short of that. This is so, regardless of the supposed modesty of the measure Congress is debating.

Reformers first empowered government to regulate ''hard'' money—that given to particular candidates. But there remains the ''problem'' of ''soft'' money—that given to parties for general political organizing and advocacy. Reformers call this a ''loophole.'' Reformers use that word to stigmatize any silence of the law that allows unregulated political expression. So now reformers want to ban ''soft'' money. But the political class will not stop there.

Its patience is sorely tried by the insufferable public, which persists in exercising its First Amendment right of association to organize in groups as different as the Sierra Club and the National Rifle Association. One reason people so organize is to collectively exercise their First Amendment right of free speech pertinent to politics. Therefore reformers want to arm the speech police with additional powers to ration the permissible amount of ''express advocacy,'' meaning

speech by independent groups that advocates the election or defeat of an identifiable candidate.

But the political class will not stop there. Consider mere issue advocacy—say, a television commercial endorsing abortion rights, mentioning no candidate and not mentioning voting, but broadcast in the context of a campaign in which two candidates differ about abortion rights. Such communications can influence the thinking of voters. Can't have that, other than on a short leash held by the government's speech police. So restriction of hard money begets restriction of soft, which begets restriction of express advocacy, which begets regulation of issue advocacy—effectively, of all civic discourse.

The political class is not sliding reluctantly down a slippery slope, it is eagerly skiing down it, extending its regulation of political speech in order to make its life less stressful and more secure. Thus is the First Amendment nibbled away, like an artichoke devoured leaf by leaf.

This is an example of what has been called ''the Latin Americanization'' of American law—the proliferation of increasingly rococo laws in attempts to enforce fundamentally flawed laws. Reformers produce such laws from the bleak, paternalistic premise that unfettered participation in politics by means of financial support of political speech is a ''problem'' that must be ''solved.''

One reason the media are complacent about such restrictions on (others') political speech is that restrictions enhance the power of the media as the filters of political speech, and as unregulated participants in a shrunken national conversation. Has the newspaper in which this column is appearing ever editorialized to the effect that restrictions on political money—restrictions on the ability to buy broadcast time and print space and other things the Supreme Court calls ''the indispensable conditions for meaningful communication''—do not restrict speech? If this newspaper ever does, ask the editors if they would accept revising the First Amendment to read:

''Congress shall make no law abridging the freedom of the press, but Congress can restrict the amount a newspaper may spend on editorial writers, reporters and newsprint.''

As Sen. Mitch McConnell, the Kentucky Republican, and others filibuster to block enlargement of the federal speech-rationing machinery, theirs is arguably the most important filibuster in American history. Its importance will be—attested by the obloquies they will receive from the herd of independent minds eager to empower the political class to extend controls over speech about itself.

Mr. HATCH. Let me just quote a couple of other paragraphs because I think this article really sums it up. I do not know how anybody could disagree with this article. I am skipping over quite a bit of it which I think is worthy of consideration by anybody, but let me just read a couple more paragraphs:

The political class is not sliding reluctantly down a slippery slope, it is eagerly skiing down it, extending its regulation of political speech in order to make its life less stressful and more secure. Thus is the First Amendment nibbled away, like an artichoke devoured leaf by leaf.

This is an example of what has been called ''the Latin Americanization'' of American law—the proliferation of increasingly rococo laws in attempts to enforce fundamentally flawed laws. Reformers produce such laws from the bleak, paternalistic premise that unfettered participation in politics by means of financial support of political speech is a ''problem'' that must be ''solved.''

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What a comment, terrific comment. And it sums it up pretty well:

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What an article. He sums it up better than anybody I know. Frankly, I commend this article to anybody who cares about free speech rights, that this bill, as modified, would eviscerate.

I don't quite agree with George Will, that this may be the most important constitutional filibuster in history, but it is certainly one of the most important. I know of others that have been, I think, equal in importance, not the least of which is the debate we had on the resignation of the President a few years ago.

MORNING BUSINESS

Mr. HATCH. Mr. President, I ask unanimous consent there be a period of morning business with Senators permitted to speak for up to 10 minutes each.

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

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business Friday, September 26, 1997, the federal debt stood at $5,387,382,191,644.62. (Five trillion, three hundred eighty-seven billion, three hundred eighty-two million, one hundred ninety-one thousand, six hundred forty-four dollars and sixty-two cents)

One year ago, September 26, 1996, the federal debt stood at $5,198,325,000,000 (Five trillion, one hundred ninety-eight billion, three hundred twenty-five million)

Twenty-five years ago, September 26, 1972, the federal debt stood at $437,507,000,000 (Four hundred thirty-seven billion, five hundred seven million) which reflects a debt increase of nearly $5 trillion—$4,949,875,191,644.62 (Four trillion, nine hundred forty-nine billion, eight hundred seventy-five million, one hundred ninety-one thousand, six hundred forty-four dollars and sixty-two cents) during the past 25 years.

WHY A PRIVATE SCHOOL VOUCHER PLAN FOR D.C. SCHOOLS IS A BAD IDEA

Mr. CHAFEE. Mr. President, tomorrow morning the Senate will vote on the creation of the first federally funded private school voucher program in the Nation.

It is no accident that this new voucher program is being debated on the D.C. appropriations bill. None of us has a constituency in the District of Columbia. We can do anything to the District, and we are unaccountable to its voters for our actions. And in recent years, Congress has done quite a bit to the District of Columbia.

Two years ago, in recognition of poor city management and extreme budgetary problems, Congress created a financial control board to help get the city back on its fiscal feet. Not quite a year ago, the control board announced the formation of an emergency management team for the city's schools. The elected school board was relieved of its authority. The superintendent was urged to resign, and a new team was established, which is headed by retired Gen. Julius Becton.

General Becton signed on for a 3-year tour of duty in D.C. schools, yet before even a full year has passed, Congress is poised to pull the rug out from under him by creating a private school voucher plan.

Supporters of private school vouchers prefer to call them school choice. But parents don't choose the schools their children will attend. Private schools select the children they will accept. This is not a luxury our public schools enjoy. Public schools are committed to providing an education to all children: To children who come to school at any time of the year, to children with disabilities, to children whose primary language is not English, to children with disciplinary problems, and to children with low IQ's.

Private schools have the ability to select the smartest, the least difficult students with the fewest challenges to overcome. Supporters of the voucher plan point out that there are a number of inner-city, parochial schools that take whatever child comes to the door. There is no doubt that parochial schools have an important role to play and are doing a good job, but that does not mean that they should receive Federal funding. It does not mean that they have taken on all of the obligations of our public schools.

I believe that it is wrong to provide Federal dollars to private or parochial schools to enable them to skim the best students from the public schools. Vouchers also would skim the students whose parents are involved in their child's education, leaving the public schools with the greatest challenges.

Supporters of the voucher plan say District of Columbia should provide choices to parents. They say District of Columbia should have charter schools. They call for partnerships between city schools and the Smithsonian Institution. The truth is that District of Columbia has all of these things. The District has public school choice. There is a charter school program at a school not six blocks from the Capitol. Down the street there is a middle school which has entered into a partnership with the Smithsonian. D.C. public schools are the only public schools in the area that provide an all day kindergarten program, and every high school in the District is a magnet school.

A lot of attention has been paid to the fact that the schools didn't open on time this year, and Congress is not without responsibility for the delay. But very little mention has been made of the rigorous standards that have been put into place in every school, here. Starting this school year, teachers, parents, and students have a clear idea of what the children should know at each grade level. Last week, students all across the District were tested in reading, math, and language arts to see what level they are at. At the end of the school year, they will be tested again, to assess their progress. The performance of teachers and principal also will be based on these assessments. The pressure is on not to let a single child slip through the cracks, and I think that is an enormous step in the right direction.

Teachers and principals are turning up the heat on parents, as well. Parents of students in D.C. public schools are signing compacts, agreeing to be full participants in their child's education. They are visiting classrooms, to see first-hand what and how their children are learning. They are becoming responsible for making sure their children do their homework, and parents are being asked to check the work and sign it. They are being asked to read to their children regularly. I ask unanimous consent that an article from the Washington Post, dated September 28, 1997, about back to school night at a local school be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. CHAFEE. Mr. President, these are improvements that will help all of the students in the District of Columbia schools, not just 3 percent of the students. Let's support what works for all of the children, not just a handful of them. That's the point of public education.

I plan to vote against the voucher plan and urge my colleagues to do the same. Let's send a clear message to General Becton and the teachers, parents, and students in D.C. schools: We support your efforts to make your local schools better for everyone.

EXHIBIT 1

[From the Washington Post, Sept. 28, 1997]

BACK TO WORK FOR SCHOOLS

(By Courtland Milloy)

''Good evening,'' W. Irene Woodard, the Watkins Elementary School principal, said melodically. The parents seated before her nodded politely.

''I said, 'Good evening,'' Woodard repeated, not so sweet as before. ''When I say, 'Good evening,' I expect you to sing.''

It was Back to School Night, and apparently I wasn't the only parent feeling somewhat demoralized by the delayed opening of D.C. public schools. No school for the first three weeks of September, and then, when it did start last week, some schools still had not received all of the necessary books and supplies.

''Don't look so dreary,'' said Channita Fraser, the Watkins PTA president. ''When you come to meetings, smile.'' She began to sing in Spanish, ''The more we get together, the happier we'll be.''

People like Woodard and Fraser made it hard for me to just sit and stew in my juices. The way they saw it, there was no time for sulking or complaining. Our children needed help, and they needed it fast.

''Because of the delay in the opening of school, we're going to need parental cooperation like never before,'' said Ellen Costello, who heads PTA fund-raising for Watkins.

To make sure it gets the resources it needs, an abundance of candy and holiday wrapping paper must be sold. Parents with the means could make donations directly to their children's classrooms, she said.

''Last year, we raised $22,000,'' Costello told the parents. ''The money was used to fix up the school library. But more is needed to purchase copy paper and make copy machine repairs. We're also trying to get water coolers for each classroom. Remember, we live in the District of Columbia, and we don't have much money.''

That notion—that we live in the District, ergo, we don't have much money—was going to take me more than one Back to School Night to get used to. The tax bite out of my paycheck said otherwise. D.C. public schools get more than $500 million a year to educate about 78,000 students. You'd think we'd have all the amenities of an elite private school.

Instead, I was told, my third-grader would be expected to take on the equivalent of a part-time job as a candy bar salesman just so his school could get money to buy supplies. But there I go being negative again.

''We had 142 students who sold something last year,'' Costello reported. ''That's only a 33 percent participation rate, and we need to raise it.''

I was particularly impressed with my child's teacher, Kimberly Sakai. She's from Hawaii. This is her first year teaching in D.C. public schools, and she has brought to the job all of the enthusiasm you'd expect of a person who doesn't know any better.

''Our class will be starting a new social studies program that focuses on D.C.,'' Sakai told parents. ''Strange how D.C. schools don't have a program that focuses exclusively on Washington. Hawaii is very big on learning about D.C. How can we bypass D.C.? We're going to get to know our community and our government and go on lots of field trips.''

Then she asked us to fork over $3 each for a subscription to a weekly children's current events magazine.

More important than raising money, however, is getting parents to support their children's teachers. To that end, we all signed a ''parent contract.'' Instead of giving parents money to escape the public school system, as a school voucher would, a parent contract pledges parents to work to improve the schools that their children already attend.

An exchange that occurred between a teacher and a parent at the meeting last week revealed the need for greater parental commitment.

Teacher: ''Each child will have a homework folder with his or her assignments written down in it, and I expect you to check it and sign it before your child returns.''

Parent, sounding distressed: ''You aren't going to assign homework every night, are you?''

Teacher: ''I'll try not to give them homework on Fridays.''

Parent, with a sigh of relief: ''Thank you.''

That parent, judging from the way she was dressed, probably had just come from work. She might have had another full-time job as a housekeeper waiting for her when she got home. Understandably, more homework for her child meant more work for her.

And yet, I would have thought that all D.C. schoolteachers—just to make up for the three-week delay—would be piling on the homework. And I wouldn't expect them to let up on Fridays either, especially for third- and fifth-graders, whose progress is being measured against national standards for the first time this year.

I could only vow that my child would have homework every night, whether his teachers assigned it or not. Somehow, the expectations for our children must be raised.

''For all of the resources and services that we have, our children are not achieving at the level that they are capable of,'' Woodard told the parents. ''We all must work harder on that. We especially need parents to enhance and extend what is going on in the classroom.

''Be sure that your children are reading a great deal of books, and be sure that they are understanding what they read.''

Sounds like homework to me.

MESSAGES FROM THE HOUSE

At 4:24 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that pursuant to the provisions of section 154 of title 2, United States Code, as amended by section 1 of Public Law 102–246, the Chair announces the Speaker's appointment of the following member on the part of the House to the Library of Congress Trust Fund Board: Mr. Wayne Berman of the District of Columbia to fill the existing vacancy thereon.

At 6:28 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 94. Joint resolution making continuing appropriations for the fiscal year 1998, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–3043. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, eleven

rules received on September 25, 1997; to the Committee on Commerce, Science, and Transportation.

EC–3044. A communication from the Perfomance Evaluation and Records Management, Federal Communication Commission, transmitting, pursuant to law, six rules received during the month of August, 1997; to the Committee on Commerce, Science, and Transportation.

EC–3045. A communication from the Perfomance Evaluation and Records Management, Federal Communication Commission, transmitting, pursuant to law, four rules received on September 8, 1997; to the Committee on Commerce, Science, and Transportation.

EC–3046. A communication from the Perfomance Evaluation and Records Management, Federal Communication Commission, transmitting, pursuant to law, two rules received on September 9, 1997; to the Committee on Commerce, Science, and Transportation.

EC–3047. A communication from the Perfomance Evaluation and Records Management, Federal Communication Commission, transmitting, pursuant to law, a rule received on September 12, 1997; to the Committee on Commerce, Science, and Transportation.

EC–3048. A communication from the Perfomance Evaluation and Records Management, Federal Communication Commission, transmitting, pursuant to law, a rule received on September 17, 1997; to the Committee on Commerce, Science, and Transportation.

EC–3049. A communication from the Perfomance Evaluation and Records Management, Federal Communication Commission, transmitting, pursuant to law, a rule received on September 19, 1997; to the Committee on Commerce, Science, and Transportation.

EC–3050. A communication from the Perfomance Evaluation and Records Management, Federal Communication Commission, transmitting, pursuant to law, a rule received on September 19, 1997; to the Committee on Commerce, Science, and Transportation.

EC–3051. A communication from the Perfomance Evaluation and Records Management, Federal Communication Commission, transmitting, pursuant to law, a rule received on September 23, 1997; to the Committee on Commerce, Science, and Transportation.

EC–3052. A communication from the Assistant Administrator for Ocean Services and Coastal Zone Management, Department of Commerce, transmitting, pursuant to law, two rules; to the Committee on Commerce, Science, and Transportation.

EC–3053. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Services, Department of Commerce, transmitting, pursuant to law, two rules; to the Committee on Commerce, Science, and Transportation.

EC–3054. A communication from the Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, five rules; to the Committee on Commerce, Science, and Transportation.

EC–3055. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Services, Department of Commerce, transmitting, pursuant to law, a rule received on August 28, 1997; to the Committee on Commerce, Science, and Transportation.

EC–3056. A communication from the Assistant Secretary for Communications and Information, Department of Commerce, transmitting, pursuant to law, the report of the Public Telecommunications Facilities Program grants for fiscal year 1997; to the Committee on Commerce, Science, and Transportation.

EC–3057. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, three rules; to the Committee on Commerce, Science, and Transportation.

EC–3058. A communication from the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, eight rules; to the Committee on Commerce, Science, and Transportation.

EC–3059. A communication from the Chair of the Advisory Council on California (Indian Policy), transmitting, pursuant to law, the report entitled ''The ACCIP Historical Overview Report: The Special Circumstances of California Indians''; to the Committee on Indian Affairs.

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. 1233. A bill to terminate the taxes imposed by the Internal Revenue Code of 1986 other than Social Security and railroad retirement-related taxes; to the Committee on Finance.

By Mr. HOLLINGS:

S. 1234. A bill to improve transportation safety, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. WYDEN:

S. 1235. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel registered as State of Oregon official number OR 766 YE; to the Committee on Commerce, Science, and Transportation.

By Mr. DORGAN:

S. 1236. A bill to amend title 23, United States Code, to provide for a national program concerning motor vehicle pursuits by law enforcement officers, and for other purposes; to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HOLLINGS:

S. 1234. A bill to improve transportation safety, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE HIGHWAY AND SURFACE TRANSPORTATION SAFETY ACT OF 1997

Mr. HOLLINGS. Mr. President, I rise to introduce the Highway and Surface Transportation Safety Act of 1997. This legislation is designed to reauthorize federal highway safety and surface transportation programs that are under the jurisdiction of the Commerce, Science, and Transportation Committee.

As the Members of this body know, the Commerce Committee has jurisdiction over Federal agencies that oversee highway safety and surface transportation policies. These agencies include the National Highway Traffic Safety Administration [NHTSA], which administers automobile safety regulations and Federal safety grant programs, such as anti-drunk-driving and seatbelt use grants; the Research and Special Projects Administration [RSPA], which assists States in responding to hazardous materials spills; the Federal Highway Administration [FHWA], which administers the truck safety programs; and the Federal Railroad Administration [FRA], which regulates rail safety. Each of these agencies, as well as the policies under their authority, is vital to ensuring that Americans are provided with the safest and most efficient transportation, including safe automobiles, highways, and public transportation systems.

In addition to preserving the security of our roadways, the measures administered by these agencies are critical to the health of our Nation's economy. The availability of the goods we consume and that are essential to our everyday lives depend on efficiently functioning transportation systems.

The participation of the Federal Government in assuring that our automobiles and roadways are safe has been affirmed overwhelmingly by the American public. A recent Lou Harris poll shows that 91 percent of Americans believe the Federal Government has a role in assuring safe highways and 94 percent believe it is important to have motor vehicle safety standards.

Our transportation and highway safety policies deserve as much attention as campaign finance reform, the popular measure of today. Yes, we must clean up the election system, but we also must clean up our roadways. NHTSA reports that every year over 41,000 Americans are killed on our Nation's highways—that is an average of 114 lives every day. In just the past 5 years alone, over 160,000 Americans have lost their lives, and more than 12 million have suffered serious injuries due to traffic accidents and road hazards—at a cost over $700 billion dollars.

Astoundingly, almost 25 percent of these traffic fatalities involve children. In 1995, over 9,000 kids were killed in auto accidents. Of course, no poll, and no economic gauge, can measure the value of losing a precious young life.

Studies, however, show that many of these accidents and fatalities are preventable. Most accidents are due to reckless behavior, such as drunk driving. According to NHTSA, alcohol-related accidents are responsible for over 40 percent of traffic fatalities. That means almost half of the tens of thousands of Americans that die every year because of traffic accidents can be saved if we can just prevent people from driving drunk. That is why I have supported measures in the past, and included provisions in this legislation, to encourage the enactment of stringent anti-drunk-driving laws.

In addition to deterring the reckless behavior of those that cause accidents, there are steps every vehicle occupant can take to enhance safety. All safety experts agree that the most simple,

and most effective, way to protect ourselves from accidental injuries is to buckle up—wear a seatbelt. During the early 1980's an active campaign was initiated by NHTSA and public safety groups to encourage the use of seatbelts. The campaign had many positive results—helping to increase seatbelt use from 11 percent in 1980 to a current use rate of 68 percent. But 68 percent is still not sufficient. To continue to save lives, we must boost the use rate, at the very least, to the 90 percent range. This is why I joined Senator MCCAIN earlier this year in sending letters to all State Governors encouraging the enactment of tougher seatbelt laws nationwide.

LEGISLATION

The legislation I am introducing is designed to address these important safety issues. The following is a summary of many of the major provisions:

Drunk driving—The bill reauthorizes NHTSA's safety grant programs, which include incentive grants to States to encourage the adoption of stringent drunk driving laws.

Seatbelt Grant Program—The bill establishes for the first time ever a formal Federal seatbelt grant program to encourage states to adopt primary seatbelt laws. Primary seatbelt laws permit police to stop persons solely for not wearing a seatbelt. The new grant program has been included in lieu of the administration's proposal which attempted to force States to adopt primary seatbelt laws by reducing their highway construction funds.

Required warnings—Vans to transport children—A provision has been included to require NHTSA to notify car dealers each year about Federal regulations that prohibit the sale of vans to schools for the transportation of students. This policy has been adopted to prevent the transport of children in less safe vehicles.

Hazardous materials transportation Reauthorization—The bill reauthorizes appropriations for assisting States in responding to hazardous materials spills.

Sanitary food transportation—The bill authorizes the transfer from the Department of Transportation to the Food and Drug Administration [FDA] the responsibility of ensuring that trucks and rail cars that transport the Nation's food supply are sanitary. This change is needed in order to take advantage of FDA's expertise in determining the cleanliness of these transports.

Rail and mass transportation anti-terrorism—The legislation increases the penalties for anyone convicted of a terrorist attack on railroads or mass transport systems and gives the Federal Bureau of Investigation [FBI] the lead role in investigating such incidents.

Rail and mass transportation safety—This legislation requires that DOT's Federal Transit Administration consult with the Federal Railroad Administration on relevant rail safety issues in making any grant or loan under its commuter railroad authority.

Boating safety—The bill extends funding for the Clean Vessel Act, and authorizes spending for State grants for recreational boating safety, vessel pump-outs, facilities for large recreational vessels, and sport fishing outreach and communications.

CONCLUSION

This legislation has been drafted from the framework of the administration's proposed highway safety bill. However, a number of changes have been made as a result of consultation with highway safety and consumer groups, such as the Advocates for Highway Safety and Public Citizens, as well as the National Association of Governors' Highway Safety Representatives, in an effort to craft the best safety bill possible. I look forward to working with Chairman MCCAIN and other committee members, in addition to the highway safety organizations, as we begin our work on the legislation.

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. 1234

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 ''Highway and Surface Transportation Safety Act of 1977''.

SEC. 2. AMENDMENT OF TITLE 49, UNITED STATES CODE; TABLE OF SECTIONS.

(a) AMENDMENT OF TITLE 49, UNITED STATES CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

(b) TABLE OF SECTIONS.—The table of sections for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Amendment of title 49, United States Code; table of sections.
Sec. 3. Awards.

Title I—Highway Safety

Sec. 101. Highway safety programs.
Sec. 102. National driver register.
Sec. 103. Authorizations of appropriations.
Sec. 104. Global environmental and safety standards for vehicles.
Sec. 105. Amendments to chapter 323 (consumer information).
Sec. 106. Amendment to chapter 329 (automobile fuel economy).
Sec. 107. Amendments to chapter 331 (theft prevention).
Sec. 108. Dealer notification program for prohibited sale of nonqualifying vehicles for use as schoolbuses.

Title II—Hazardous Materials Transportation Reauthorization

Sec. 201. Short title.
Sec. 202. Findings and purposes; definitions.
Sec. 203. Handling criteria repeal.
Sec. 204. Hazmat employee training requirements.
Sec. 205. Registration.
Sec. 206. Highway transportation of hazardous materials.
Sec. 207. Shipping paper retention.
Sec. 208. Public sector training curriculum.
Sec. 209. Planning and training grants.
Sec. 210. Special permits and exclusions.
Sec. 211. Cooperative agreements.
Sec. 212. Enforcement.
Sec. 213. Penalties.
Sec. 214. Preemption.
Sec. 215. Judicial review.
Sec. 216. Hazardous material transportation reauthorization.
Sec. 217. Authorization of appropriations.

Title III—Sanitary Food Transportation

Sec. 301. Short title.
Sec. 302. Findings.
Sec. 303. Responsibilities of the Secretary of Health and Human Services.
Sec. 304. Department of Transportation requirements.
Sec. 305. Effective date.

Title IV—Rail and Mass Transportation Anti-terrorism

Sec. 401. Short title.
Sec. 402. Purpose.
Sec. 403. Amendments to the ''wrecking trains'' statute.
Sec. 404. Terrorist attacks against mass transportation.
Sec. 405. Investigative jurisdiction.

Title V—Rail and Mass Transportation Safety

Sec. 501. Safety considerations in grants or loans to commuter railroads.
Sec. 502. Railroad accident and incident reporting.
Sec. 503. Vehicle weight limitations—mass transportation buses.

Title VI—Motor Carrier Safety

Subtitle A—State Grants and Other Commercial Vehicle Programs

Sec. 601. Statement of purpose.
Sec. 602. Grants to States.
Sec. 603. Federal share.
Sec. 604. Availability of amounts.
Sec. 605. Information systems and strategic safety initiatives.
Sec. 606. Authorization of appropriations.
Sec. 607. Conforming amendments.

Subtitle B—Motor Carrier Safety Act of 1997

Sec. 651. Short title.
Sec. 652. Safety regulations.
Sec. 653. Commercial motor vehicle operators.
Sec. 654. Penalties.
Sec. 655. International registration plan and international fuel tax agreement.
Sec. 656. Study of adequacy of parking facilities.
Sec. 657. National minimum drinking age—technical corrections.

Title VII—Research

Subtitle A—Programs and Activities

Sec. 701. Transportation research and development.
Sec. 702. Bureau of Transportation Statistics.
Sec. 703. Research and technology program.
Sec. 704. National technology deployment initiatives.

Subtitle B—Intelligent Transportation Systems

Sec. 751. Short title and findings.
Sec. 752. Definitions; conforming amendment.
Sec. 753. Scope of program.
Sec. 754. General authorities and requirements.
Sec. 755. National ITS program plan, implementation, and report to Congress.
Sec. 756. Technical, training, planning, research and operational testing project assistance.
Sec. 757. Applications of technology.
Sec. 758. Funding.

Title VIII—Boating Safety

Sec. 801. Short title.
Sec. 802. Amendment of 1950 Act.
Sec. 803. Outreach and communications programs.
Sec. 804. Clean Vessel Act funding.
Sec. 805. Boating infrastructure.

SEC. 3. AWARDS.

(a) Section 326 is amended—

(1) by adding at the end thereof the following:

''(e) For the purpose of executing the powers and duties of the Department, and as a means to encourage safety improvements by making special or periodic awards, the Secretary may provide for the honorary recognition of individuals and organizations that significantly contribute to programs, missions, or operations, including state and local governments, transportation unions, and commercial and nonprofit organizations, and pay for plaques, medals, trophies, badges, and similar items to acknowledge the contribution, including reasonable expenses of ceremony and presentation, using any appropriations or other funds available to the Department and its agencies.''; and

(2) by inserting ''**and awards**'' after ''**Gifts**'' in the section caption.

(b) The analysis of sections for chapter 3 is amended by striking the item relating to section 326 and inserting the following:

''Gifts and awards.''.

TITLE I—HIGHWAY SAFETY

SEC. 101. HIGHWAY SAFETY PROGRAMS.

(a) UNIFORM GUIDELINES.—Section 402(a) of title 23, United States Code, is amended by striking ''section 4007'' and inserting ''section 4004''.

(b) ADMINISTRATIVE REQUIREMENTS.—Section 402(b) of such title is amended—

(1) by striking the period at the end of subparagraph (A) and subparagraph (B) of paragraph (1) and inserting a semicolon;

(2) by inserting '', including Indian tribes,'' after ''subdivisions of such State'' in paragraph (1)(C);

(3) by striking the period at the end of paragraph (1)(C) and inserting a semicolon and ''and''; and

(5) by striking paragraphs (3) and (4) redesignating paragraph (5) as paragraph (3).

(c) APPORTIONMENT OF FUNDS—Section 402(c) of such title is amended by—

(1) by inserting ''the apportionment to the Secretary of the Interior shall not be less than three fourths of 1 percent of the total apportionment and'' after ''except that'' in the sixth sentence; and

(2) by striking the seventh sentence.

(d) APPLICATION IN INDIAN COUNTRY—Section 402(i) of such title is amended to read as follows:

''(i) APPLICATION IN INDIAN COUNTRY.—

''(1) IN GENERAL.—For the purpose of application of this section in Indian country, the term 'State' and 'Governor of a State' include the Secretary of the Interior and the term 'political subdivision of a State' includes an Indian tribe. Notwithstanding the provisions of subparagraph (b)(1)(C) of this section, 95 percent of the funds apportioned to the Secretary of the Interior under this section shall be expended by Indian tribes to carry out highway safety programs within their jurisdictions. The provisions of subparagraph (b)(1)(D) of this section shall be applicable to Indian tribes, except to those tribes with respect to which the Secretary determines that application of such provisions would not be practicable .

''(2) INDIAN COUNTRY DEFINED.—For the purposes of this subsection, the term 'Indian country' means—

''(A) all land within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation;

''(B) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof and whether within or without the limits of a State; and

''(C) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments.''.

''(e) RULEMAKING PROCESS.—Section 402(j) of such title is amended to read as follows:

''(j) RULEMAKING PROCESS.—The Secretary may from time to time conduct a rulemaking process to identify highway safety programs that are highly effective in reducing motor vehicle crashes, injuries and deaths. Any such rulemaking shall take into account the major role of the States in implementing such programs. When a rule promulgated in accordance with this section takes effect, States shall consider these highly effective programs when developing their highway safety programs.''.

(f) SAFETY INCENTIVE GRANTS.—Section 402 of such title is amended by striking subsection (k) and inserting the following:

''(k)(1) SAFETY INCENTIVE GRANTS: GENERAL AUTHORITY.—The Secretary shall make a grant to a State that takes specific actions to advance highway safety under subsection (l), (m), (n), or (o) of this section. A State may qualify for more than one grant and shall receive a separate grant for each subsection for which it qualifies. Such grants may only be used by recipient States to implement and enforce, as appropriate, the programs for which the grants are awarded.

''(2) MAINTENANCE OF EFFORT.—No grant may be made to a State under subsection (l) or (m) of this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate expenditures from all other sources for the specific actions for which a grant is provided at or above the average level of such expenditures in its fiscal years preceding the date of the enactment of this subsection.

''(3) MAXIMUM PERIOD OF ELIGIBILITY; FEDERAL SHARE FOR GRANTS.—Each grant under subsection (1) or (m) of this section shall be available for not more than 6 fiscal years beginning in the fiscal year after September 30, 1997, in which the State becomes eligible for the grant. The Federal share payable for any grant under subsection (l) or (m) shall not exceed—

''(A) in the first and second fiscal years in which the State receives the grant, 75 percent of the cost of implementing and enforcing, as appropriate, in such fiscal year a program adopted by the State;

''(B) in the third and fourth fiscal years in which the State receives the grant, 50 percent of the cost of implementing and enforcing, as appropriate, in such fiscal year such program; and

''(C) in the fifth and sixth fiscal years in which the State receives the grant, 25 percent of the cost of implementing and enforcing, as appropriate, in such fiscal year such program.

''(l) ALCOHOL-IMPAIRED DRIVING COUNTERMEASURERS: BASIC GRANT ELIGIBILITY.—The Secretary shall make grants to those States that adopt and implement effective programs to reduce traffic safety problems resulting from persons driving under the influence of alcohol. A State shall become eligible for one or more of three basic grants under this subsection by adopting or demonstrating the following to the satisfaction of the Secretary:

''(1) BASIC GRANT A.—At least 4 of the following:

''(A) ADMINISTRATIVE LICENSE REVOCATION.—An administrative driver's license suspension or revocation system for persons who operate motor vehicles while under the influence of alcohol which requires that—

''(i) in the case of a person who, in any 5-year period beginning after the date of enactment of this subsection, is determined on the basis of a chemical test to have been operating a motor vehicle under the influence of alcohol or is determined to have refused to submit to a test as proposed by a law enforcement officer, the State agency responsible for administering drivers' licenses, upon receiving the report of the law enforcement officer—

''(I) shall suspend the driver's license of such person for a period of not less than 90 days if such person is a first offender in such 5-year period; and

''(II) shall suspend the driver's license of such person for a period of not less than 1 year, or revoke such license, if such person is a repeat offender in such 5-year period; and

''(ii) the suspension and revocation referred to under clause (A)(i) of this subparagraph shall take effect not later than 30 days after the day on which the person refused to submit to a chemical test or received notice of having been determined to be driving under the influence of alcohol, in accordance with the State's procedures.

''(B) UNDERAGE DRINKING PROGRAM.—An effective system, as determined by the Secretary, for preventing operators of motor vehicles under age 21 from obtaining alcoholic beverages. Such system shall include the issuance of drivers' licenses to individuals under age 21 that are easily distinguishable in appearance from drivers' licenses issued to individuals age 21 years of age or older.

''(C) STOPPING MOTOR VEHICLES.—Either—

''(i) A statewide program for stopping motor vehicles on a nondiscriminatory, lawful basis for the purpose of determining whether the operators of such motor vehicles are driving while under the influence of alcohol, or

''(ii) a statewide Special Traffic Enforcement Program for impaired driving that emphasizes publicity for the program.

''(D) REPEAT OFFENDERS.—Effective sanctions for repeat offenders convicted of driving under the influence of alcohol. Such sanctions, as determined by the Secretary, may include electronic monitoring; alcohol interlocks; intensive supervision of probation; vehicle impoundment confiscation, or forfeiture; and dedication detention facilities.

''(E) GRADUATED LICENSING SYSTEM.—A three-stage graduated licensing system for young drivers that includes nighttime driving restrictions during the first 2 stages, requires all vehicle occupants to be properly restrained, and makes it unlawful for a person under age 21 to operate a motor vehicle with a blood alcohol concentration of .02 percent or greater.

''(2) BASIC GRANT B.—Both of the following:

''(A) ADMINISTRATIVE LICENSE REVOCATION.—An administrative driver's license suspension or revocation system for persons who operate motor vehicles while under the influence of alcohol which requires that—

''(i) in the case of a person who, in any 5-year period beginning after the date of enactment of this subsection, is determined on the basis of a chemical test to have been operating a motor vehicle under the influence of alcohol or is determined to have refused to submit to such a test as requested by a law enforcement officer, the State agency responsible for administering drivers' licenses, upon receiving the report of the law enforcement officer—

''(I) shall suspend the drivers' license of such person for a period of not less than 90

days if such person is a first offender in such 5-year period; and

''(II) shall suspend the driver's license of such person for a period of not less than 1 year, or revoke such license, if such person is a repeat offender in such 5-year period; and

''(ii) the suspension and revocation referred to under clause (A)(i) of this subparagraph shall take effect not later than 30 days after the day on which the person refused to submit to a chemical test or receives notice of having been determined to be driving under the influence of alcohol, in accordance with the State's procedures; and

''(B) .08 BAC PER SE LAW.—A law that provides that any person with a blood alcohol concentration of 0.08 percent or greater while operating a motor vehicle shall be deemed to be driving while intoxicated.

''(3) BASIC GRANT C.—Both of the following:

''(A) FATAL IMPAIRED DRIVER PERCENTAGE REDUCTION.—The percentage of fatally injured drivers with 0.10 percent or greater blood alcohol concentration in the State has decreased in each of the 3 most recent calendar years for which statistics for determining such percentages are available; and

''(B) FATAL IMPAIRED DRIVER PERCENTAGE COMPARISON.—The percentage of fatally injured drivers with 0.10 percent or greater blood alcohol concentration in the State has been lower than the average percentage for all States in each of such calendar years.

''(4) BASIC GRANT AMOUNT.—The amount of each basic grant under this subsection for any fiscal year shall be up to 15 percent of the amount apportioned to the State for fiscal year 1997 under section 402 of this title.

''(5) ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES: SUPPLEMENTAL GRANTS.—During the period in which a State is eligible for a basic grant under this subsection, the State shall be eligible to receive a supplemental grant in no more than 2 fiscal years of up to 5 percent of the amount apportioned to the State in fiscal year 1997 under section 402 of this title. The State may receive a separate supplemental grant for meeting each of the following criteria:

''(A) OPEN CONTAINER LAWS.—The State makes unlawful the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle located on a public highway or the right-of-way of a public highway, except—

''(i) as allowed in the passenger area, by a person (other than the driver), of any motor vehicle designed to transport more than 10 passengers (including the driver) while being used to provide charter transportation of passengers; or

''(ii) as otherwise specifically allowed by such State, with the approval of the Secretary, but in no event may the driver of such motor vehicle be allowed to possess or consume an alcoholic beverage in the passenger area.

''(B) MANDATORY BLOOD ALCOHOL CONCENTRATION TESTING PROGRAMS.—The State provides for mandatory blood alcohol concentration testing whenever a law enforcement officer has probable cause under State law to believe that a driver of a motor vehicle involved in a crash resulting in the loss of human life or, as determined by the Secretary, serious bodily injury, has committed an alcohol-related traffic offense.

''(C) VIDEO EQUIPMENT FOR DETECTION OF DRUNK DRIVERS.—The State provides for a program to acquire video equipment to be used in detecting persons who operate motor vehicles while under the influence of alcohol and in prosecuting those persons, and to train personnel in the use of that equipment.

''(D) BLOOD ALCOHOL CONCENTRATION FOR PERSONS UNDER AGE 21.—The State enacts and enforces a law providing that any person under age 21 with a blood alcohol concentration of 0.02 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated or driving under the influence of alcohol, and further provides for a minimum suspension of the person's driver's license for not less than 30 days.

''(E) SELF-SUSTAINING DRUNK DRIVING PREVENTION PROGRAM.—The State provides for a self-sustaining drunk driving prevention program under which a significant portion of the fines or surcharges collected from individuals apprehended and fined for operating a motor vehicle while under the influence of alcohol are returned to those communities which have comprehensive programs for the prevention of such operations of motor vehicles.

''(F) REDUCING DRIVING WITH A SUSPENDED LICENSE.—The State enacts and enforces a law to reduce driving with a suspended license. Such law, as determined by the Secretary, may require a ''zebra'' stripe that is clearly visible on the license plate of any motor vehicle owned and operated by a driver with a suspended license.

''(G) EFFECTIVE DWI TRACKING SYSTEM.—The State demonstrates an effective driving while intoxicated (DWI) tracking system. Such a system, as determined by the Secretary, may include data covering arrests, case prosecutions, court dispositions and sanctions, and provide for the linkage of such data and traffic records systems to appropriate jurisdictions and offices within the State.

''(H) ASESSMENT OF PERSONS CONVICTED OF ABUSE OF CONTROLLED SUBSTANCES; ASSIGNMENT OF TREATMENT FOR ALL DWI/DUI OFFENDERS.—The State provides for assessment of individuals convicted of driving while intoxicated or driving under the influence of alcohol or controlled substances, and for the assignment of appropriate treatment.

''(I) USE OF PASSIVE ALCOHOL SENSORS.—The State provides for a program to acquire passive alcohol sensors to be used by police officers in detecting persons who operate motor vehicles while under the influence of alcohol, and to train police officers in the use of that equipment.

''(J) EFFECTIVE PENALTIES FOR PROVISION OR SALE OF ALCOHOL TO PERSONS UNDER 21.—The State enacts and enforces a law that provides for effective penalties or other consequences for the sale or provision of alcoholic beverages to any individual under 21 years of age. The Secretary shall determine what penalties are effective.

''(6) DEFINITIONS.—For the purposes of this subsection, the following definitions apply:

''(A) 'Alcoholic beverage' has the meaning such term has under section 158(c) of this title.

''(B) 'Controlled substances' has the meaning such term has under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

''(C) 'Motor vehicle' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways, but does not include a vehicle operated only on a rail line.

''(D) 'Open alcoholic beverage container' means any bottle, can, or other receptacle—

''(i) which contains any amount of an alcoholic beverage; and

''(ii)(I) which is open or has a broken seal, or

''(II) the contents of which are partially removed.

''(m) STATE HIGHWAY SAFETY DATA IMPROVEMENTS.—The Secretary shall make a grant to a State that takes effective actions to improve the timeliness, accuracy, completeness, uniformity, and accessibility of the State's data needed to identify priorities within State and local highway and traffic safety programs, to evaluate the effectiveness of such efforts, and to link these State data systems, including traffic records, together and with other data systems within the State, such as systems that contain medical and economic data:

''(1) FIRST-YEAR GRANT ELIGIBILITY.—A State is eligible for a first-year grant under this subsection in a fiscal year if such State either:

''(A) Demonstrates, to the satisfaction of the Secretary, that it has—

''(i) established a Highway Safety Data and Traffic Records Coordinating Committee with a multi-disciplinary membership including the administrators, collectors, and users of such data (including the public health, injury control, and motor carrier communities) of highway safety and traffic records databases;

''(ii) completed within the preceding 5 years a highway safety data and traffic records assessment or audit of its highway safety data and traffic records system; and

''(iii) initiated the development of a multi-year highway safety data and traffic records strategic plan to be approved by the Highway Safety Data and Traffic Records Coordinating Committee that identifies and prioritizes its highway safety data and traffic records needs and goals, and that identifies performance-based measures by which progress toward those goals will be determined; or

''(B) Provides, to the satisfaction of the Secretary—

''(i) certification that it has met the provisions outlined in clauses (A)(i) and (A)(ii) of subparagraph (A) of this paragraph;

''(ii) a multi-year plan that identifies and prioritizes the State's highway safety data and traffic records needs and goals, that specifies how its incentive funds for the fiscal year will be used to address those needs and the goals of the plan, and that identifies performance-based measures by which progress toward those goals will be determined; and

''(iii) certification that the Highway Safety Data and Traffic Records Coordinating Committee continues to operate and supports the multi-year plan described in clause (B)(ii) of this subparagraph.

''(2) FIRST-YEAR GRANT AMOUNT.—The amount of a first-year grant made for State highway safety data and traffic records improvements for any fiscal year to any State eligible for such a grant under subparagraph (1)(A) of paragraph (A) of this subsection shall equal $1,000,000, subject to the availability of appropriations, and for any State eligible for such a grant under subparagraph (1)(B) of this subsection shall equal a proportional amount of the amount apportioned to the State for fiscal year 1997 under section 402 of this title, except that no State shall receive less than $250,000, subject to the availability of appropriations. The Secretary may award a grant of up to $25,000 for one year to any State that does not meet the criteria established in paragraph (1). The grant may only be used to conduct activities needed to enable that State to qualify for first-year funding to begin in the next fiscal year.

''(3) STATE HIGHWAY SAFETY DATA AND TRAFFIC RECORDS IMPROVEMENTS; SUCCEEDING-YEAR GRANTS.—A State shall be eligible for a grant in any fiscal year succeeding the first fiscal year in which the State receives a State highway safety data and traffic records grant if the State, to the satisfaction of the Secretary:

''(A) Submits or updates a multi-year plan that identifies and prioritizes the State's highway safety data and traffic records needs and goals, that specifies how its incentive funds for the fiscal year will be used to address those needs and the goals of the plan, and that identifies performance-based

measures by which progress toward those goals will be determined;

''(B) Certifies that its Highway Safety Data and Traffic Records Coordinating Committee continues to support the multi-year plan; and

''(C) Reports annually on its progress in implementing the multi-year plan.

''(4) SUCCEEDING-YEAR GRANT AMOUNTS.—The amount of a succeeding-year grant made for State highway safety data and traffic records improvements for any fiscal year to any State that is eligible for such a grant shall equal a proportional amount of the amount apportioned to the State for fiscal year 1997 under section 402 of this title, except that no State shall receive less than $225,000, subject to the availability of appropriations.''.

(g) OCCUPANT PROTECTION PROGRAM.—

(1) IN GENERAL.—Section 410 of title 23, United States Code, is amended to read as follows:

''§ 410. Safety belts and occupant protection program

''The Secretary shall make basic grants to those States that adopt and implement effective programs to reduce highway deaths and injuries resulting from persons riding unrestrained or improperly restrained in motor vehicles. A State may establish its eligibility for one or both of the grants by adopting or demonstrating the following to the satisfaction of the Secretary:

''(1) BASIC GRANT A.—At least 4 of the following:

''(A) SAFETY BELT USE LAW FOR ALL FRONT SEAT OCCUPANTS.—The State has in effect a safety belt use law that makes unlawful throughout the State the operation of a passenger motor vehicle whenever a person in the front seat of the vehicle (other than a child who is secured in a child restraint system) does not have a safety belt properly secured about the person's body.

''(B) PRIMARY SAFETY BELT USE LAW.—The State provides for primary enforcement of its safety belt use law.

''(C) CHILD PASSENGER PROTECTION LAW.—The State has in effect a law that requires minors who are riding in a passenger motor vehicle to be properly secured in a child safety seat or other appropriate restraint system.

''(D) CHILD OCCUPANT PROTECTION EDUCATION PROGRAM.—The State demonstrates implementation of a statewide comprehensive child occupant protection education program that includes education about proper seating positions for children in air bag equipped motor vehicles and instruction on how to reduce the improper use of child restraints systems. The states are to submit to the Secretary an evaluation or report on the effectiveness of the programs at least three years after receipt of the grant.

''(E) MINIMUM FINES.—The State requires a minimum fine of at least $25 for violations of its safety belt use law and a minimum fine of at least $25 for violations of its child passenger protection law.

''(F) SPECIAL TRAFFIC ENFORCEMENT PROGRAM.—The State demonstrates implementation of a statewide Special Traffic Enforcement Program for occupant protection that emphasizes publicity for the program.

''(2) BASIC GRANT B.—Both of the following:

''(A) STATE SAFETY BELT USE RATE.—The State demonstrates a statewide safety belt use rate in both front outboard seating positions in all passenger motor vehicles of 80 percent or higher in each of the first 3 years a grant under this paragraph is received, and of 85 percent or higher in each of the fourth, fifth, and sixth years a grant under this paragraph is received.

''(B) SURVEY METHOD.—The State follows safety belt use survey methods which conform to guidelines issued by the Secretary ensuring that such measurements are accurate and representative.

''(3) BASIC GRANT AMOUNT.—The amount of each basic grant for which a State qualifies under this subsection for any fiscal year shall equal up to 20 percent of the amount apportioned to the State for fiscal year 1997 under section 402 of this title.

''(4) OCCUPANT PROTECTION PROGRAM: SUPPLEMENTAL GRANTS.—During the period in which a State is eligible for a basic grant under this subsection, the State shall be eligible to receive a supplemental grant in a fiscal year of up to 5 percent of the amount apportioned to the State in fiscal year 1997 under section 402 of this title. The State may receive a separate supplemental grant for meeting each of the following criteria:

''(A) PENALTY POINTS AGAINST A DRIVER'S LICENSE FOR VIOLATIONS OF CHILD PASSENGER PROTECTION REQUIREMENTS.—The State has in effect a law that requires the imposition of penalty points against a driver's license for violations of child passenger protection requirements.

''(B) ELIMINATION OF NON-MEDICAL EXEMPTIONS TO SAFETY BELT AND CHILD PASSENGER PROTECTION LAWS.—The State has in effect safety belt and child passenger protection laws that contain no nonmedical exemptions.

''(C) SAFETY BELT USE IN REAR SEATS.—The State has in effect a law that requires safety belt use by all rear-seat passengers in all passenger motor vehicles with a rear seat.

''(5) DEFINITIONS.—As used in this subsection—

''(A) 'Child safety seat' means any device except safety belts, designed for use in a motor vehicle to restrain, seat, or position children who weighs 50 pounds or less.

''(B) 'Motor vehicle' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways, but does not include a vehicle operated only on a rail line.

''(C) 'Multipurpose passenger vehicle' means a motor vehicle with motive power (except a trailer), designed to carry not more than 10 individuals, that is constructed either on a truck chassis or with special features for occasional off-road operation.

''(D) 'Passenger car' means a motor vehicle with motive power (except a multipurpose passenger vehicle, motorcycle, or trailer) designed to carry not more than 10 individuals.

''(E) 'Passenger motor vehicle' means a passenger car or a multipurpose passenger motor vehicle.

''(F) 'Safety belt' means—

''(i) with respect to open-body passenger vehicles, including convertibles, an occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and

''(ii) with respect to other passenger vehicles, an occupant restraint system consisting of integrated lap and shoulder belts.''.

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 4 of that chapter is amended by striking the item relating to section 410 and inserting the following:

''410. Safety belts and occupant protection program''.

(h) DRUGGED DRIVER RESEARCH AND DEMONSTRATION PROGRAM.—Section 403(b) of title 23, United State Code, is amended—

(1) by inserting ''(1)'' before ''In addition'';

(2) by striking ''is authorized to'' and inserting ''shall'';

(3) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B); and

(4) by inserting after subparagraph (B), as redesignated, the following:

''(C) Measures that may deter drugged driving.''.

SEC. 102. NATIONAL DRIVER REGISTER.

(a) TRANSFER OF SELECTED FUNCTIONS TO NON-FEDERAL MANAGEMENT.—Section 30302 is amended by adding at the end thereof the following:

''(e) TRANSFER OF SELECTED FUNCTIONS TO NON-FEDERAL MANAGEMENT.—(1) The Secretary may enter into an agreement with an organization that represents the interests of the States to manage, administer, and operate the National Driver Register's computer timeshare and user assistance functions. If the Secretary decides to enter into such an agreement, the Secretary shall ensure that the management of these functions is compatible with this chapter and the regulations issued to implement this chapter.

''(2) Any transfer of the National Driver Register's computer timeshare and user assistance functions to an organization that represents the interests of the States shall begin only after a determination is made by the Secretary that all States are participating in the National Driver Register's 'Problem Driver Pointer System' (the system used by the Register to effect the exchange of motor vehicle driving records), and that the system is functioning properly.

''(3) The agreement entered into under this subsection shall include a provision for a transition period sufficient to allow the States to make the budgetary and legislative changes they may need to pay fees charged by the organization representing their interests for their use of the National Driver Register's computer timeshare and user assistance functions. During this transition period, the Secretary (through the National Highway Traffic Safety Administration) shall continue to fund these transferred functions.

''(4) The total of the fees charged by the organization representing the interests of the States in any fiscal year for the use of the National Driver Register's computer timeshare and user assistance functions shall not exceed the total cost to the organization for performing these functions in such fiscal year.

''(5) Nothing in this subsection shall be construed to diminish, limit, or otherwise affect the authority of the Secretary to carry out this chapter.''.

(b) ACCESS TO REGISTER INFORMATION.—Section 30305(b) is amended by—

(1) by striking ''request.'' in paragraph (2) and inserting the following: ''request, unless the information is about a revocation or suspension still in effect on the date of the request'';

(2) by inserting after paragraph (6) the following:

''(7) The head of a Federal department or agency that issues motor vehicle operator's licenses may request the chief driver licensing official of a State to obtain information under subsection (a) of this section about an individual applicant for a motor vehicle operator's license from such department or agency. The department or agency may receive the information, provided it transmits to the Secretary a report regarding any individual who is denied a motor vehicle operator's license by that department or agency for cause; whose motor vehicle operator's license is revoked, suspended or canceled by that department or agency for cause; or about whom the department or agency has been notified of a conviction of any of the motor vehicle-related offenses or comparable offenses listed in subsection 30304(a)(3) and over whom the department or agency has licensing authority. The report shall contain the information specified in subsection 30304(b).

''(8) The head of a Federal department or agency authorized to receive information regarding an individual from the Register under this section may request and receive such information from the Secretary.'';

(3) by redesignating paragraphs (7) and (8) as paragraphs (9) and (10); and

(4) by striking ''paragraph (2)'' in paragraph (10), as redesignated, and inserting ''subsection (a) of this section''.

SEC. 103. AUTHORIZATIONS OF APPROPRIATIONS.

(a) HIGHWAY SAFETY PROGRAMS.—The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) CONSOLIDATED STATE HIGHWAY SAFETY PROGRAMS.—

(A) For carrying out the State and Community Highway Safety Program under section 402 of title 23, United States Code, by the National Highway Traffic Safety Administration, except for the incentive programs under subsections (l) and (m) of that section, $142,700,000 for fiscal year 1998, and $166,700 for each of fiscal years 1999, 2000, 2001, and 2002, and $171,034,000 for fiscal year 2003.

(B) To carry out the alcohol-impaired driving countermeasures incentive grant provisions of subsection (l) of section 402 of title 23, United States Code, by the National Highway Traffic Safety Administration, $35,000,000 for fiscal year 1998, $39,000,000 for each of fiscal years 1999, 2000, and 2001, $46,000,000 for fiscal year 2002, and $49,000,000 for fiscal year 2003. Amounts made available to carry out subsection (l) are authorized to remain available until expended, provided that, in each fiscal year the Secretary may reallocate any amounts remaining available under subsections (l) and (m) of section 402 of title 23, United States Code, as necessary to ensure, to the maximum extent possible, that States may receive the maximum incentive funding for which they are eligible under these programs.

(C) To carry out the occupant protection program incentive grant provisions of section 410 of title 23, United States Code, by the National Highway Traffic Safety Administration, $20,000,000 for fiscal year 1998, $22,000,000 for each of fiscal years 1999, 2000, and 2001, $24,000,000 for fiscal year 2002, and $23,312,000 for fiscal year 2003. Amounts made available to carry out subsection (m) are authorized to remain available until expended, provided that, in each fiscal year the Secretary may reallocate any amounts remaining available under subsections (l) and (m) to subsections (l), (n), and (o) of section 402 of title 23, United States Code, as necessary to ensure, to the maximum extent possible, that States may receive the maximum incentive funding for which they are eligible under these programs.

(D) To carry our the State highway safety data improvements incentive grant provisions of subsection (n) of title 23, United States Code, by the National Highway Traffic Safety Administration, $12,000,000 for each of fiscal years 1998, 1999, 2000, and 2001. Amounts made available to carry out subsection (n) are authorized to remain available until expended.

(2) NHTSA OPERATIONS AND RESEARCH.—For carrying out the functions of the Secretary, by the National Highway Traffic Safety Administration, for traffic and highway safety under (A) section 403 of title 23, United States Code (Highway Safety Research and Development), (B) Chapter 301 of Title 49, United States Code (Motor Vehicle Safety), and (C) Part C of Subtitle VI of Title 49, United States Code (Information, Standards, and Requirements), there are authorized to be appropriated $147,500,000, for each of fiscal years 1998, 1999, 2000, 2001, and 2002, and $15,335,000 for fiscal year 2003.

(E) To carry out the drugged driving research and demonstration programs of section 403(b)(1) of title 23, United States Code, by the National Highway Traffic Safety Administration, $2,500,000 for each of fiscal years 1999, 2000, 2001, and 2002, and $1,000,000 for fiscal year 2003.

(3) NATIONAL DRIVER REGISTER.—For carrying out chapter 303 (National Driver Register) of title 49, United States Code, by the National Highway Traffic Safety Administration, there are authorized to be appropriated under section 30308(a) of such chapter $2,300,000 for each of fiscal years 1998, 1999, 2000, 2001, and 2002, and $2,360,000 for fiscal year 2003.

SEC. 104. GLOBAL ENVIRONMENTAL AND SAFETY STANDARDS FOR VEHICLES.

(a) DEVELOPMENT OF A GLOBAL REGISTER.—The Secretary of Transportation (hereinafter in this section referred to as the ''Secretary'') and the Administrator of the Environmental Protection Agency (hereinafter in this section referred to as the ''Administrator'') may participate in the development of an international compendium of national motor vehicle standards, including both safety and environmental standards.

(b) PROMOTION OF INTERNATIONAL COOPERATIVE PROGRAMS.—The Secretary or Administrator may participate in activities to promote international cooperative programs for conducting research, development, demonstration projects, training, and other forms of technology transfer and exchange, including safety conferences, seminars, and expositions, to enhance international motor vehicle safety, and provide technical assistance to other countries relating to their adoption of United States Federal standards for vehicles. This effort shall not reduce or diminish the Secretary's or Administrator's obligation to conduct research on issues of vehicle safety, environmental protection, and testing relevant to the operation of vehicles in the United States.

(c) INTERNATIONAL HARMONIZATION OF SAFETY AND ENVIRONMENTAL REGULATION OF VEHICLES.—

(1) IN GENERAL.—The Secretary and the Administrator may participate in international negotiations (including working parties, other international bodies, and panels of experts) and may agree to harmonized rules for vehicular safety and environmental pollution if the United States position to be taken in such an international negotiation is developed in accordance with paragraphs (2), (3), and (4).

(2) ADOPTION OF HIGHER GLOBAL STANDARDS.—The Secretary or Administrator may adopt the global standard if the Secretary or Administrator determines that—

(A) in light of the Secretary's or Administrator's determination under both subparagraphs (B) and (C), the harmonized standard provides an overall higher level of safety performance or environmental protection than the comparable United States standard;

(B) the harmonized standard or any portion of the standard provides a unique or higher level of safety or environmental performance than the comparable United States standard;

(C) the comparable United States standard or any portion thereof does not provide a unique or higher level of safety or environmental performance not contained in the harmonized standard;

(D) it is adopted through a rulemaking procedure conducted in accordance with the provisions of chapters 5 and 7 of title 5, United States Code, relating to rulemaking; and

(E) the requirements of subsections (d) and (e) are met.

(3) ACTUAL BENEFITS TO BE WEIGHTED.—In making the determinations under paragraph (2), the Secretary or the Administrator shall take into account the overall safety and environmental benefits that will accrue to users under real-world driving conditions from adoption of a harmonized standard.

(4) RETENTION OF HIGHER DOMESTIC STANDARDS.—Any standard adopted by the Secretary or the Administrator under paragraph (2) shall retain those portions of the comparable United States standard determined by the Secretary or the Administrator, under paragraph (2)(C), to provide unique practices or levels of safety performance or environmental protection not contained in the global standard.

(d) GENERAL REQUIREMENTS.—

(1) PUBLIC DISCLOSURE OF ALL MATTER.—Notwithstanding any provision of law, any documentation, proposal, negotiating document, internal discussion memorandum, meeting notes, correspondence (including electronic mail), and submissions from the private sector in connection with such negotiations received by the Secretary or the Administrator shall be made available to the public through a docket published by the Department of Transportation or the Environmental Protection Agency.

(2) NOTICE OF MEETINGS; PUBLIC COMMENT.—Not less than 90 days before any bilateral or multilateral harmonization meeting attended by the Secretary or the Administrator (or their delegates) is scheduled to be held, the Secretary or the Administrator, or both, as appropriate—

(A) shall publish notice of the purpose of the meeting in the Federal Register under the heading ''Harmonization and Equivalence''; and

(B) shall establish a public docket number and hold a hearing in accordance with the provisions of chapter 5 of title 5, United States Code, on the subject matter of the meeting.

(e) WORLD TRADE ORGANIZATION ACTION FORECLOSED.—Before the United States may enter into any international agreement or agree to any standard-setting procedure, the agreement shall provide that any existing or future State standard or future United States Federal standard that is higher, more stringent, or more rigorous than the standard to be established by that agreement or procedure—

(1) may not be challenged before the World Trade Organization or any other international organization on the basis of a higher level of protection or its means of implementation; or

(2) shall contain the following clause, and other necessary safeguards: ''any domestic standard providing a higher level of protection is not actionable before the World Trade Organization or other international organization on the basis of its level of protection or its means of implementation''.

(f) USE OF INTERNATIONAL STANDARDS IN DOMESTIC PROCEEDINGS.—In any domestic proceeding, any agreement or standard setting procedure (arrived at or being negotiated) shall not be cited or used by the United States as a rationale for opposing efforts to provide for a greater or different level of protection.

SEC. 105. AMENDMENTS TO CHAPTER 323 (CONSUMER INFORMATION).

Section 32302 is amended by striking subsection (c).

SEC. 106. AMENDMENT TO CHAPTER 329 (AUTOMOBILE FUEL ECONOMY).

Section 32907(a)(2) is amended to read as follows:

''(2) A manufacturer shall submit a report under paragraph (1) of this subsection during the 30 days before the beginning of each model year.''.

SEC. 107. AMENDMENTS TO CHAPTER 331 (THEFT PREVENTION).

Section 33104(a)(6) is repealed.

SEC. 108 DEALER NOTIFICATION PROGRAM FOR PROHIBITED SALE OF NONQUALIFYING VEHICLES FOR USE AS SCHOOLBUSES.

Section 30112 is amended by adding at the end thereof the following:

''(c) NOTIFICATION PROGRAM FOR DEALERS CONCERNING SALES OF VEHICLES AS SCHOOLBUSES.—Not later than September 1, 1998, the Secretary shall develop and implement a program to notify dealers and distributors in the United States that subsection (a) prohibits the sale or delivery of any vehicle for use as a schoolbus (as that term is defined in section 30125(a)(1) of this title) that does not meet the standards prescribed under section 30125(b) of this title.''.

TITLE II—HAZARDOUS MATERIALS TRANSPORTATION REAUTHORIZATION

SEC. 201. SHORT TITLE.

This title may be cited as the ''Hazardous Materials Transportation Safety Reauthorization Act of 1997''.

SEC. 202. FINDINGS AND PURPOSES; DEFINITIONS.

(a) FINDINGS AND PURPOSES.—Section 5101 is amended to read as follows:

''§ 5101. Findings and purposes

''(a) FINDINGS.—The Congress finds with respect to hazardous materials transportation that—

''(1) approximately 4 billion tons of regulated hazardous materials are transported each year and that approximately 500,000 movements of hazardous materials occur each day, according to the Department of Transportation estimates;

''(2) accidents involving the release of hazardous materials are a serious threat to public health and safety;

''(3) many States and localities have enacted laws and regulations that vary from Federal laws and regulations pertaining to the transportation of hazardous materials, thereby creating the potential for unreasonable hazards in other jurisdictions and confounding shippers and carriers that attempt to comply with multiple and conflicting registration, permitting, routings, notification, loading, unloading, incidental storage, and other regulatory requirements;

''(4) because of the potential risks of life, property and the environment posed by unintentional releases of hazardous materials, consistency in laws and regulations governing the transportation of hazardous materials, including loading, unloading, and incidental storage, is necessary and desirable;

''(5) in order to achieve greater uniformity and to promote the public health, welfare, and safety at all levels, Federal standards for regulating the transportation of hazardous materials in intrastate, interstate, and foreign commerce are necessary and desirable;

''(6) in order to provide reasonable, adequate, and cost-effective protection from the risks posed by the transportation of hazardous materials, a network of adequately trained State and local emergency response personnel is required;

''(7) the movement of hazardous materials in commerce is necessary and desirable to maintain economic vitality and meet consumer demands, and shall be conducted in a safe and efficient manner; and

''(8) primary authority for the regulation of such transportation should be consolidated in the Department of Transportation to ensure the safe and efficient movement of hazardous materials in commerce.

''(9) emergency response personnel have a continuing need for training on responses to releases of hazardous materials in transportation and small business have a continuing need for training on compliance with hazardous materials regulations.

''(b) PURPOSES.—The purposes of this chapter are—

''(1) to ensure the safe and efficient transportation of hazardous materials in intrastate, interstate, and foreign commerce, including the loading, unloading, and incidental storage of hazardous material;

''(2) to provide the Secretary with preemption authority to achieve uniform regulation of hazardous material transportation, to eliminate inconsistent rules that apply differently from Federal rules, to ensure efficient movement of hazardous materials in commerce, and to promote the national health, welfare, and safety; and

''(3) to ensure adequate training of hazardous materials emergency responders, including small businesses involved in hazardous materials transportation.''.

(b) DEFINITIONS.—Section 5102 is amended by—

(1) by striking paragraph (1) and inserting the following:

''(1) 'commerce' means trade or transportation in the jurisdiction of the United States—

''(A) between a place in a State and a place outside of the State;

''(B) that affects trade or transportation between a place in a State and a place outside of the State; or

''(C) on a United States-registered aircraft.'';

(2) by striking paragraphs (3) and (4) and inserting the following:

''(3) 'hazmat employee' means an individual who—

''(A) is—

''(i) employed by a hazmat employer,

''(ii) self-employed, or

''(iii) an owner-operator of a motor vehicle; and

''(B) during the course of employment—

''(i) loads, unloads, or handles hazardous material;

''(ii) manufactures, reconditions, or tests containers, drums, or other packagings represented as qualified for use in transporting hazardous material;

''(iii) performs any function pertaining to the offering of hazardous material for transportation;

''(iv) is responsible for the safety of transporting hazardous material; or

''(v) operates a vehicle used to transport hazardous material.

''(4) 'hazmat employer' means a person who—

''(A) either—

''(i) is self-employed,

''(ii) is an owner-operator of a motor vehicle, or

''(iii) has at least one employee; and

''(B) performs a function, or uses at least one employee, in connection with—

''(i) transporting hazardous material in commerce;

''(ii) causing hazardous material to be transported in commerce, or

''(iii) manufacturing, reconditioning, or testing containers, drums, or other packagings represented as qualified for use in transporting hazardous material.'';

(3) by striking ''title.'' in paragraph (7) and inserting ''title, except that a freight forwarder is included only if performing a function related to highway transportation'';

(4) by redesignating paragraphs (9) through (13) as paragraphs (12) through (16);

(5) by inserting after paragraph (8) the following;

''(9) 'out-of-service order' means a mandate that an aircraft, vessel, motor vehicle, train, other vehicle, or a part of any of these, not be moved until specified conditions have been met.

''(10) 'package' or 'outside package' means a packaging plus its contents.

''(11) 'packaging' means a receptacle and any other components or materials necessary for the receptacle to perform its containment function in conformance with the minimum packaging requirements established by the Secretary of Transportation.''; and

(6) by striking ''or transporting hazardous material to further a commercial enterprise;'' in paragraph 12(A), as redesignated by paragraph (4) of this subsection, and inserting a comma and ''transporting hazardous material to further a commercial enterprise, or manufacturing, reconditioning, or testing containers, drums, or other packagings represented as qualified for use in transporting hazardous material''.

(c) CLERICAL AMENDMENT.—The chapter analysis of chapter 51 is amended by striking the item relating to section 5101 and inserting the following:

''5101. Findings and purposes''.

SEC. 203. HANDLING CRITERIA REPEAL.

Section 5106 is repealed and the chapter analysis of chapter 51 is amended by striking the item relating to that section.

SEC. 204. HAZMAT EMPLOYEE TRAINING REQUIREMENTS.

Section 5107(f)(2) is amended by striking ''and sections 5106, 5108(a)–(g)(1) and (h), and''.

SEC. 205. REGISTRATION.

Section 5108 is amended by—

(1) by striking subsection (b)(1)(C) and inserting the following:

''(C) each State in which the person carries out any of the activities.'';

(2) by striking subsection (c) and inserting the following:

''(c) FILING SCHEDULE.—Each person required to file a registration statement under subsection (a) of this section shall file that statement annually in accordance with regulations issued by the Secretary.'';

(3) by striking ''552(f)'' in subsection (f) and inserting ''552(b)''; and

(4) by striking ''may'' in subsection (g)(1) and inserting ''shall''.

(5) by amending §5108(I)(2)(B) by adding ''an INDIAN TRIBE'' after ''STATE,''

SEC. 206. HIGHWAY TRANSPORTATION OF HAZARDOUS MATERIALS.

(a) IN GENERAL.—Section 5109 is amended to read as follows:

''§ 5109. Hazardous materials pilot program

''(a) GENERAL.—The Secretary of Transportation shall implement a pilot program to evaluate the use of automated carrier assessment programs for carriers of certain hazardous materials.

''(b) HAZARDOUS MATERIALS COVERED.—The Secretary shall determine the hazardous materials to be covered by the pilot program. The Secretary may limit materials to—

''(1) class 1.1, 1.2, or 1.3 explosives;

''(2) liquefied natural gas;

''(3) hazardous materials the Secretary designates as extremely toxic by inhalation;

''(4) a highway route controlled quantity of radioactive material, as defined by the Secretary; or

''(5) any other hazardous material designated by the Secretary under section 5103(a) of this title.''.

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 51 is amended by striking the item relating to section 5109 and inserting the following:

''5109. Hazardous materials pilot program''.

SEC. 207. SHIPPING PAPER RETENTION.

Section 5110(e) is amended by striking the first sentence and inserting ''After expiration of the requirement in subsection (c) of this section, the person who provided the shipping paper and the carrier required to maintain it under subsection (a) of this section shall retain the paper or an electronic image thereof, for a period of 1 year after the shipping paper was provided to the carrier, to be accessible through their respective principal places of business.''.

SEC. 208. PUBLIC SECTOR TRAINING CURRICULUM.

Section 5115 is amended by—

(1) by striking ''DEVELOPMENT AND UPDATING.—Not later than November 16, 1992, in'' in subsection (a) and inserting ''UPDATING.—In'';

(2) by striking ''develop and'' in the first sentence of subsection (a);

(3) by striking the second sentence of subsection (a);

(4) by striking ''developed'' in the first sentence of subsection (b);

(5) by inserting ''or involving an alternative fuel vehicle'' after ''material'' in subparagraphs (A) and (B) of subsection (b)(1); and

(6) by striking subsection (d) and inserting the following:

''(d) DISTRIBUTION AND PUBLICATION.—With the national response team, the Secretary of Transportation may publish a list of programs that use a course developed under this section for training public sector employees to respond to an accident or incident involving the transportation of hazardous material.''.

SEC. 209. PLANNING AND TRAINING GRANTS.

Section 5116 is amended by—

(1) by striking ''of'' in the second sentence of subsection (e) and inserting ''received by'';

(2) by striking subsection (f) and inserting the following:

''(f) MONITORING AND TECHNICAL ASSISTANCE.—The Secretary of Transportation shall monitor public sector emergency response planning and training for an accident or incident involving hazardous material. Considering the results of the monitoring, the Secretary shall provide technical assistance to a State, political subdivision of a State, or Indian tribe for carrying out emergency response training and planning for an accident or incident involving hazardous material and shall coordinate the assistance using the existing coordinating mechanisms of the National Response Team for Oil and Hazardous Substances and, for radioactive material, the Federal Radiological Preparedness Coordinating Committee.''; and

(3) by adding at the end thereof the following:

''(l) SMALL BUSINESSES.—The Secretary may authorize a State or Indian tribe receiving a grant under this section to use up to 25 percent of the amount of the grant to assist small businesses in complying with regulations issued under this chapter.''.

SEC. 210 SPECIAL PERMITS AND EXCLUSIONS.

(a) Section 5117 is amended by—

(1) by striking the section caption and inserting the following:

''§ 5117. Special permits and exclusions'';

(2) by striking ''exemption'' each place it appears and inserting ''special permit'';

(3) by inserting ''authorizing variances'' after ''special permit'' the first place it appears; and

(4) by striking ''2'' and inserting ''4'' in subsection (a)(2).

(b) The chapter analysis for chapter 51 is amended by striking the item related to section 5117 and inserting the following:

''5117. Special permits and exclusions''.

SEC. 211. COOPERATIVE AGREEMENTS.

Section 5121, as amended by section 211(a), is further amended by adding at the end thereof the following:

''(c) AUTHORITY FOR COOPERATIVE AGREEMENTS.—To carry out this chapter, the Secretary may enter into grants, cooperative agreements, and other transactions with a person, agency or instrumentality of the United States, a unit of State or local government, an Indian tribe, a foreign government (in coordination with the State Department), an educational institution, or other entity to further the objectives of this chapter. The objectives of this chapter include the conduct of research, development, demonstration, risk assessment, emergency response planning and training activities.''.

SEC. 212. ENFORCEMENT.

Section 5122, as amended by section 211(b), is further amended by—

(1) by inserting ''inspect,'' after ''may'' in the first sentence of subsection (a);

(2) by striking the last sentence of subsection (a) and inserting: ''Except as provided in subsection (e) of this section, the Secretary shall provide notice and an opportunity for a hearing prior to issuing an order requiring compliance with this chapter or a regulation, order, special permit, or approval issued under this chapter.'';

(2) by redesignating subsections (d) and (e) as subsections (f) and (g), and inserting after subsection (c) the following:

''(d) OTHER AUTHORITY.—During inspections and investigations, officers, employees, or agents of the Secretary may—

''(1) open and examine the contents of a package offered for, or in, transportation when—

''(A) the package is marked, labeled, certified, placarded, or otherwise represented as containing a hazardous material, or

''(B) there is an objectively reasonable and articulable belief that the package may contain a hazardous material;

''(2) take a sample, sufficient for analysis, of material marked or represented as a hazardous material or for which there is an objectively reasonable and articulable belief that the material may be a hazardous material, and analyze that material;

''(3) when there is an objectively reasonable and articulable belief that an imminent hazard may exist, prevent the further transportation of the material until the hazardous qualities of that material have been determined; and

''(4) when safety might otherwise be compromised, authorize properly qualified personnel to conduct the examination, sampling, or analysis of a material.

''(e) EMERGENCY ORDERS.—

''(1) If, through testing, inspection, investigation, or research carried out under this chapter, the Secretary decides that an unsafe condition or practice, or a combination of them, causes an emergency situation involving a hazard of death, personal injury, or significant harm to the environment, the Secretary may immediately issue or impose restrictions, prohibitions, recalls, or out-of-service orders, without notice or the opportunity for a hearing, that may be necessary to abate the situation.

''(2) The Secretary's action under this subsection must be in a written order describing the condition or practice, or combination of them, that causes the emergency situation; stating the restrictions, prohibitions, recalls, or out-of-service orders being issued or imposed; and prescribing standards and procedures for obtaining relief from the order.

''(3) After taking action under this subsection, the Secretary shall provide an opportunity for review of that action under section 554 of title 5.

''(4) If a petition for review is filed and the review is not completed by the end of the 30-day period beginning on the date the petition was filed, the action will cease to be effective at the end of that period unless the Secretary determines in writing that the emergency situation still exists.''.

SEC. 213. PENALTIES.

(a) Section 5123(a)(1) is amended by striking the first sentence and inserting the following: ''A person that knowingly violates this chapter or a regulation, order, special permit, or approval issued under this chapter is liable to the United States Government for a civil penalty of at least $250 but not more than $27,500 for each violation.''.

(b) Section 5123(c)(2) is amended to read as follows:

''(2) with respect to the violator, the degree of culpability, any good-faith efforts to comply with the applicable requirements, any history of prior violations, any economic benefit resulting from the violation, the ability to pay, and any effect on the ability to continue to do business; and''.

(c) Section 5124 is amended to read as follows:

§ 5124. Criminal penalty

''(a) IN GENERAL.—A person knowingly violating section 5104(b) of this title or willfully violating this chapter or a regulation, order, special permit, or approval issued under this chapter, shall be fined under title 18, imprisoned for not more than 5 years, or both.

''(b) AGGRAVATED VIOLATIONS.—A person knowingly violating section 5104(b) of this title or willfully violating this chapter or a regulation, order, special permit, or approval issued under this chapter, and thereby causing the release of hazardous material, shall be fined under title 18, imprisoned for not more than 20 years, or both.''.

SEC. 214. PREEMPTION.

(a) REQUIREMENTS CONTRARY TO PURPOSES OF CHAPTER.—Section 5125(a)(2) is amended by inserting a comma and ''the purposes of this chapter,'' after ''this chapter'' the first place it appears.

(b) DEADWOOD.—Section 5125(b)(2) is amended by striking ''prescribes after November 16, 1990.'' and inserting ''prescribes.''.

(c) Add § 5125(h) as Follows: ''RELATIONSHIP TO OTHER LAW.—No preemption authority established by subsection (a), (b), (c) or (g) of this section, or section 5119(a) of this chapter, shall be construed to limit or be limited by any other preemption authority of this section or chapter.''

SEC. 215. JUDICIAL REVIEW.

(a) Chapter 51 is amended by redesignating section 5127 as section 5128, and by inserting after section 5126 the following new section:

§ 5127. Judicial review

''(a) FILING AND VENUE.—Except as provided in section 20114(c) of this title, a person disclosing a substantial interest in a final order issued, under the authority of section 5122 or 5123 of this title, by the Secretary of Transportation, the Administrators of the Research and Special Programs Administration, the Federal Aviation Administration, or the Federal Highway Administration, or the Commandant of the United States Coast Guard ('modal Administrator'), with respect to the duties and powers designated to be carried out by the Secretary under this chapter, may apply for review in the United States Court of Appeals for the District of Columbia or in the court of appeals for the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not more than 60 days after the order is issued. The court may allow the petition to be filed after the 60th day only if there are reasonable grounds for not filing by the 60th day.

''(b) JUDICIAL PROCEDURES.—When a petition is filed under subsection (a) of this section, the clerk of the court immediately shall send a copy of the petition to the Secretary or the modal Administrator, as appropriate. The Secretary or the modal Administrator shall file with the court a record of any proceeding in which the order was issued, as provided in section 2112 of title 28.

''(c) AUTHORITY OF COURT.—When the petition is sent to the Secretary or the modal Administrator, the court has exclusive jurisdiction to affirm, amend, modify, or set aside any part of the order and may order the Secretary or the modal Administrator to conduct further proceedings. After reasonable notice to the Secretary or the modal

Administrator, the court may grant interim relief by staying the order or taking other appropriate action when good cause for its action exists. Findings of fact by the Secretary or the modal Administrator, if supported by substantial evidence, are conclusive.

''(d) REQUIREMENT FOR PRIOR OBJECTION.—In reviewing a final order under this section, the court may consider an objection to a final order of the Secretary or the modal Administrator only if the objection was made in the course of a proceeding or review conducted by the Secretary, the modal Administrator, or an administrative law judge, or if there was a reasonable ground for not making the objection in the proceeding.

''(e) SUPREME COURT REVIEW.—A decision by a court under this section may be reviewed only by the Supreme Court under section 1254 of title 28, United States Code.''.

(b) The chapter analysis for chapter 51 is amended by striking the item related to section 5127 and inserting the following:

''5127. Judicial review.''.

''5128. Authorization of appropriations.''.

SEC. 216. HAZARDOUS MATERIAL TRANSPORTATION REAUTHORIZATION.

(a) IN GENERAL.—Chapter 51, as amended by section 216 of this Act, is amended by redesignating section 5128 as section 5129 and by inserting after section 5127 the following:

§ 5128. High risk hazardous material; motor carrier safety study

''(a) STUDY.—The Secretary of Transportation shall conduct a study—

''(1) to determine the safety benefits and administrative efficiency of implementing a Federal permit program for high risk hazardous material carriers;

''(2) to identify and evaluate alternative regulatory methods and procedures that may improve the safety of high risk hazardous material carriers and shippers;

''(3) to examine the safety benefits of increased monitoring of high risk hazardous material carriers, and the costs, benefits, and procedures of existing State permit programs;

''(4) to make such recommendations as may be appropriate for the improvement of uniformity among existing State permit programs; and

''(5) to assess the potential of advanced technologies for improving the assessment of high risk hazardous material carriers' compliance with motor carrier safety regulations.

''(b) TIMEFRAME.—The Secretary shall begin the study required by subsection (a) within 6 months after the date of enactment of the Surface Transportation Safety Act of 1997 and complete it within 30 months.

''(c) REPORT.—The Secretary shall report the findings of the study required by subsection (a), together with such recommendations as may be appropriate, within 36 months after the date of enactment of that Act.''.

(b) SECTION 5109 REGULATIONS TO REFLECT STUDY FINDINGS.—Section 5109(h) is amended by striking ''not later than November 16, 1991.'' and inserting ''based upon the findings of the study required by section 5128(a).''.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 51, as amended by section 216, is amended by striking the item relating to section 5128 and inserting the following:

''5128. High risk hazardous material; motor carrier safety study

''5129. Authorization of appropriations''.

SEC. 217. AUTHORIZATION OF APPROPRIATIONS.

Section 5129, as redesignated, is amended—

(1) by striking subsection (a) and inserting the following:

''(a) GENERAL.—Not more than $15,492,000 may be appropriated to the Secretary of Transportation for fiscal year 1998, and such sums as may be necessary for fiscal years 1999, 2000, 2001, 2002, and 2003, to carry out this chapter (except sections 5107(e), 5108(g)(2), 5113, 5115, 5116, and 5119).'';

(2) by striking subsections (c) and (d) and inserting the following:

''(c) TRAINING CURRICULUM,—Not more than $200,000 is available to the Secretary of Transportation from the account established under section 5116(i) of this title for each of the fiscal years ending September 30, 1999–2003, to carry out section 5115 of this title.

''(d) PLANNING AND TRAINING.—

(1) Not more than $2,444,000 is available to the Secretary of Transportation from the account established under section 5116(i) of this title for the fiscal year ending September 30, 1998, and such sums as may be necessary for fiscal years 1999–2003, to carry out section 5116(a) of this title.

''(2) Not more than $3,666,000 is available to the Secretary of Transportation from the account established under section 5116(i) of this title for the fiscal year ending September 30, 1998, and such sums as may be necessary for fiscal years 1999–2003, to carry out section 5116(b) of this title.

''(3) Not more than $600,000 is available to the Secretary of Transportation from the account established under section 5116(i) of this title for the fiscal year ending September 30, 1998, and such sums as may be necessary for fiscal years 1999–2003, to carry out section 5116(f) of this title.''; and

(3) striking subsection (e) and inserting the following:

''(e) UNIFORM FORMS AND PROCEDURES.—Not more than $250,000 may be appropriated to the Secretary of Transportation for each of fiscal years 1998, 1999, and 2000 for making grants under section 5119(c).''.

TITLE III—SANITARY FOOD TRANSPORTATION

SEC. 301. SHORT TITLE.

This title may be cited as the ''Sanitary Food Transportation Act of 1997''.

SEC. 302. FINDINGS.

Congress finds that—

(1) the Department of Transportation, the Department of Agriculture, and the Food and Drug Administration in the Department of Health and Human Services have consulted about how best to ensure that food is not adulterated as a result of the conditions under which it is transported. As a result of these consultations, the agencies have confirmed that steps to ensure the safety of food are more efficient if taken by the agencies directly charged with the responsibility for food safety;

(2) the Secretary of Agriculture has ample authority under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), and the Egg Products Inspection Act (21 U.S.C. 1031 et seq.), to inspect and regulate continuously the transportation of meat, poultry, and eggs in commerce for use in human food, has exercised the statutory authority in a diligent manner so as to prevent the transportation of unwholesome or adulterated meat, poultry, and egg products in commerce, and does not need additional enforcement authority to regulate the transportation of meat, poultry, and egg products in commerce;

(3) certain statutory changes are necessary to provide the Secretary of Health and Human Services with the authority necessary to ensure that food, other than that regulated by the Secretary of Agriculture, will not be rendered adulterated in transportation;

(4) the appropriate role for the Secretary of Transportation is to provide assistance concerning the transportation aspects of food safety; and

(5) therefore, amendment of chapter 57 of title 49, United States Code, and the transfer of certain authorities to the Secretary of Health and Human Services, is appropriate.

SEC. 303. RESPONSIBILITIES OF THE SECRETARY OF HEALTH AND HUMAN SERVICES.

(a) UNSANITARY TRANSPORT DEEMED ADULTERATION.—Section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342) is amended by adding at the end the following:

''(h) If it is transported under conditions that are not in compliance with the sanitary transportation practices prescribed by the Secretary under section 414.''.

(b) SANITARY TRANSPORTATION REQUIREMENTS.—Chapter IV of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341 et seq.) is amended by adding at the end the following:

''SEC. 414. SANITARY TRANSPORTATION OF FOOD.

''(a) SANITARY TRANSPORTATION PRACTICES.—The Secretary shall establish by regulation sanitary transportation practices which shippers, carriers, receivers, and other persons engaged in the transportation of food shall be required to follow to ensure that the food is not transported under conditions that may render it adulterated, including such practices as the Secretary may find appropriate relating to—

''(1) sanitation;

''(2) packaging, isolation, and other protective measures;

''(3) limitations on the use of vehicles;

''(4) information to be disclosed—

''(A) to a carrier by a person arranging for the transport of food, and

''(B) to a manufacturer or other persons arranging for the transport of food by a carrier or other person furnishing a tank or bulk vehicle for the transport of food; and

''(5) recordkeeping.

''(b) LIST OF UNACCEPTABLE NONFOOD PRODUCT.—The Secretary, by publication in the Federal Register, may establish and periodically amend—

''(1) a list of nonfood products that the Secretary determines may, if shipped in a tank or bulk vehicle, render adulterated food transported subsequently in such vehicle; and

''(2) a list of nonfood products that the Secretary determines may, if shipped in a motor or rail vehicle (other than a tank or bulk vehicle), render adulterated food transported simultaneously or subsequently in such vehicle.

''(c) WAIVER AUTHORITY.—

''(1) IN GENERAL.—The Secretary may waive all or part of this section, or any requirement under this section, with respect to any class of persons, of vehicles, of food, or of nonfood products, if the Secretary determines that such waiver—

''(A) will not result in the transportation of food under conditions that would be unsafe for human or animal health; and

''(B) will not be contrary to the public interest or this Act.

''(2) PUBLICATION.—The Secretary shall publish in the Federal Register any waiver and the reasons for the waiver.

''(d) PREEMPTION.—

''(1) IN GENERAL.—No State or political subdivision of a State may directly or indirectly establish or continue in effect, as to any food in interstate commerce, any authority or requirement concerning that transportation of food that is not identical to the requirement of this section.

''(2) EFFECTIVE DATE.—The provisions of this subsection apply only with respect to transportation occurring on or after the effective date of regulations prescribed under subsection (a).

''(e) ASSISTANCE OF OTHER AGENCIES.—The Secretary of Transportation, the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, and the heads of other Federal agencies, as appropriate, shall provide assistance upon request, to the extent resources are available, to the Secretary of Health and Human Services for the purposes of carrying out this section.

''(f) DEFINITIONS.—For purposes of this section—

''(1) The term 'transportation' means any movement of property in commerce by motor vehicle or rail vehicle.

''(2) The term 'tank or bulk vehicle' includes any vehicle in which food is shipped in bulk and in which the food comes directly into contact with the vehicle, including tank trucks, hopper trucks, rail tank cars, hopper cars, cargo tanks, portable tanks, freight containers, or hopper bins.''.

''(c) INSPECTION OF TRANSPORTATION RECORDS.—

''(1) AMENDMENT OF CHAPTER VII.—Chapter VII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371 et seq.) is amended by inserting after section 703 the following new section:

''SEC. 703A. FOOD TRANSPORTATION RECORDS.

''Shippers, carriers by motor vehicle or rail vehicle, and other persons subject to section 414 shall, upon request of an officer or employee duly designated by the Secretary, permit such officer or employee, at reasonable times, to have access to and to copy all records that the Secretary requires them to make or retain under section 414(a)(5) of this Act.''.

''(2) CONFORMING AMENDMENT.—The second proviso of section 703 of the Act (21 U.S.C. 373) is amended by inserting '', unless otherwise explicitly provided,'' after ''That''.

(d) PROHIBITED ACTS.—1

(1) AMENDMENT OF SECTION 301(C).—Section 301(c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(e)) is amended by—

(A) by striking ''or 703'' and inserting '', 703, or 703A''; and

(B) by inserting ''414,'' before ''505(i)''.

(2) UNSAFE FOOD TRANSPORTATION.—Section 301 of the Act (21 U.S.C. 331) is further amended by—

(A) by redesignating subsection (u) as subsection (v); and

(B) by adding at the end the following new subsection:

''(w) The failure, by a shipper, carrier, receiver, or any other person engaged in the transportation of food, to comply with the sanitary transportation practices prescribed by the Secretary under section 414.''.

SEC. 304. DEPARTMENT OF TRANSPORTATION REQUIREMENTS.

Chapter 57 relating to sanitary food transportation, is amended to read as follows:

''CHAPTER 57—SANITARY FOOD TRANSPORTATION

''Sec.
''5701. Findings.
''5702. Food transportation safety inspections.

''§ 5701. Findings

''Congress finds that—

''(1) the United States public is entitled to receive food and other consumer products that are not made unsafe because of certain transportation practices;

''(2) The United States public is threatened by the transportation of products potentially harmful to consumers in motor vehicles and rail vehicles that are used to transport food and other consumer products; and

''(3) the risks to consumers by those transportation practices are unnecessary and those practices must be ended.

''§ 5702. Food transportation safety inspections

''(a) INSPECTION PROCEDURES.—

''(1) The Secretary of Transportation, in consultation with the Secretaries of Health and Human Services and Agriculture, shall establish procedures to be used in performing transportation safety inspections for the purpose of identifying suspected incidents of contamination or adulteration of food that may violate regulations issued under section 414 of the Federal Food, Drug, and Cosmetic Act and shall train personnel of the Department of Transportation in the appropriate use of such procedures.

''(2) The procedures established under paragraph (1) of this subsection shall apply, at a minimum, to the Department of Transportation personnel who perform commercial motor vehicle and railroad safety inspections.

''(b) NOTIFICATION OF SECRETARIES OF HEALTH AND HUMAN SERVICES AND AGRICULTURE.—The Secretary of Transportation shall promptly notify the Secretary of Health and Human Services or the Secretary of Agriculture, as applicable, of any instances of potential food contamination or adulteration of a food identified during transportation safety inspections.

''(c) USE OF STATE EMPLOYEES.—The Secretary of Transportation may carry out notification under subsection (b) by transmittal of reports of inspections conducted in accordance with such procedures by State employees using funds authorized to be appropriated under sections 31102 through 31104 of this title.''.

SEC. 305. EFFECTIVE DATE.

Unless otherwise specified, the provisions of this title take effect on October 1, 1997.

TITLE IV—RAIL AND MASS TRANSPORTATION ANTI-TERRORISM

SEC. 401. SHORT TITLE.

This title may be cited as the ''Transportation Anti-Terrorism Act of 1997''.

SEC. 402. PURPOSE.

The purpose of this title is to protect the passengers and employees of railroad carriers and mass transportation systems and the movement of freight by railroad from terrorist attacks.

SEC. 403. AMENDMENTS TO THE ''WRECKING TRAINS'' STATUTE.

(a) Section 1992 of title 18, United States Code, is amended to read as follows:

''§ 1992. Terrorist attacks against railroads

''(a) GENERAL PROHIBITIONS.—Whoever willfully—

''(1) wrecks, derails, set fire to, or disables any train, locomotive, motor unit, or freight or passenger car used, operated, or employed by a railroad carrier;

''(2) brings, carries, possesses, places or causes to be placed any destructive substance, or destructive device in, upon, or near any train, locomotive, motor unit, or freight or passenger car used, operated, or employed by a railroad carrier, without previously obtaining the permission of the carrier, and with intent to endanger the safety of any passenger or employee of the carrier, or with a reckless disregard for the safety of human life;

''(3) sets fire to, or places any destructive substance, or destructive device in, upon or near, or undermines any tunnel, bridge, viaduct, trestle, track, signal, station, depot, warehouse, terminal, or any other way, structure, property, or appurtenance used in the operation of, or in support of the operation of, a railroad carrier, or otherwise makes any such tunnel, bridge, viaduct, trestle, track, station, depot, warehouse, terminal, or any other way, structure, property, or appurtenance unworkable or unusable or hazardous to work or use, knowing or having reason to know such activity would likely derail, disable, or wreck a train, locomotive, motor unit, or freight or passenger car used, operated, or employed by a railroad carrier;

''(4) removes appurtenances from, damages, or otherwise impairs the operation of any railroad signal system, including a train control system, centralized dispatching system, or highway-railroad grade crossing warning signal on a railroad line used, operated, or employed by a railroad carrier;

''(5) interferes with, disables or incapacitates any locomotive engineer, conductor, or other person while they are operating or maintaining a train, locomotive, motor unit, or freight or passenger car used, operated, or employed by a railroad carrier, with intent to endanger the safety of any passenger or employee of the carrier, or with a reckless disregard for the safety of human life;

''(6) commits an act intended to cause death or serious bodily injury to an employee or passenger of a railroad carrier while on the property of the carrier;

''(7) causes the release of a hazardous material being transported by a rail freight car, with the intent to endanger the safety of any person, or with a reckless disregard for the safety of human life;

''(8) conveys or causes to be conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by this subsection; or

''(9) attempts, threatens, or conspires to do any of the aforesaid acts, shall be fined under this title or imprisoned not more than twenty years, or both, if such act is committed, or in the case of a threat or conspiracy such act would be committed, within the United States on, against, or affecting a railroad carrier engaged in or affecting interstate or foreign commerce, or if in the course of committing such acts, that person travels or communicates across a State line in order to commit such acts, or transports materials across a State line in aid of the commission of such acts; Provided however, that whoever is convicted of any crime prohibited by this subsection shall be:

''(A) imprisoned for not less than thirty years or for life if the railroad train involved carried high-level radioactive waste or spent nuclear fuel at the time of the offense;

''(B) imprisoned for life if the railroad train involved was carrying passengers at the time of the offense; and

''(C) imprisoned for life or sentenced to death if the offense has resulted in the death of any person.

''(b) PROHIBITIONS ON THE USE OF FIREARMS AND DANGEROUS WEAPONS.—

''(1) Except as provided in paragraph (4), whoever knowingly possesses or causes to be present any firearm or other dangerous weapon on board a passenger train of a railroad carrier, or attempts to do so, shall be fined under this title or imprisoned not more than one year, or both, if such act is committed on a railroad carrier that is engaged in or affecting interstate or foreign commerce, of if in the course of committing such act, that person travels or communicates across a State line in order to commit such act, or transports materials across a State line in aid of the commission of such act.

''(2) Whoever, with intent that a firearm or other dangerous weapon be used in the commission of a crime, knowingly possesses or causes to be present such firearm or dangerous weapon on board a passenger train or in a passenger terminal facility of a railroad carrier, or attempts to do so, shall be fined under this title or imprisoned not more than 5 years, or both, if such act is committed on a railroad carrier that is engaged in or affecting interstate or foreign commerce, or if in the course of committing such act, that person travels or communicates across a

State line in order to commit such act, or transports materials across a State line in aid of the commission of such act.

''(3) A person who kills or attempts to kill a person in the course of a violation of paragraphs (1) or (2), or in the course of an attack on a passenger train or a passenger terminal facility of a railroad carrier involving the use of a firearm or other dangerous weapon, shall be punished as provided in sections 1111, 1112, and 1113 of this title.

''(4) Paragraph (1) shall not apply to:

''(A) the possession of a firearm or other dangerous weapon by an officer, agent, or employee of the United States, a State, or a political subdivision thereof, while engaged in the lawful performance of official duties, who is authorized by law to engage in the transportation of people accused or convicted of crimes, or supervise the prevention, detection, investigation, or prosecution of any violation of law;

''(B) the possession of a firearm or other dangerous weapon by an officer, agent, or employee of the United States, a State, or a political subdivision thereof, while off duty, if such possession is authorized by law;

''(C) the possession of a firearm or other dangerous weapon by a Federal official or a member of the Armed Forces is such possession is authorized by law; or

''(D) an individual transporting a firearm on board a railroad passenger train (except a loaded firearm) in baggage not accessible to any passenger on board the train, if the railroad carrier was informed of the presence of the weapon prior to the firearm being placed on board the train.

''(c) PROHIBITION AGAINST PROPELLING OBJECTS.—Whoever willfully or recklessly throws, shoots, or propels a rock, stone, brick, or piece of iron, steel, or other metal or any deadly or dangerous object or destructive substance at any locomotive or car of a train, knowing or having reason to know such activity would likely cause personal injury, shall be fined under this title or imprisoned for not more than 5 years, or both, if such act is committed on or against a railroad carrier engaged in or affecting interstate or foreign commerce, or if in the course of committing such act, that person travels or communicates across a State line in order to commit such act, or transports materials across a State line in aid of the commission of such act. Whoever is convicted of any crime prohibited by this subsection shall also be subject to imprisonment for not more than twenty years if the offense has resulted in the death of any person.

''(d) DEFINITIONS.—In this section—

''(1) 'dangerous device' has the meaning given to that term in section 921(a)(4) of this title;

''(2) 'dangerous weapon'' has the meaning given to that term in section 930 of this title;

''(3) 'destructive substance'' has the meaning given to that term in section 31 of this title, except that (A) the term 'radioactive device' does not include any radioactive device or material used solely for medical, industrial, research, or other peaceful purposes, and (B) 'destructive substance' includes any radioactive device or material that can be used to cause a harm listed in subsection (a) and that is not in use solely for medical, industrial, research, or other peaceful purposes;

''(4) 'firearm' has the meaning given to that term in section 921 of this title;

''(5) 'hazardous material' has the meaning given to that term in section 5102(2) of title 49, United States Code;

''(6) 'high-level radioactive waste' has the meaning given to that term in section 10101(12) of title 42, United States Code;

''(7) 'railroad' has the meaning given to that term in section 20102(1) of title 49, United States Code;

''(8) 'railroad carrier' has the meaning given to that term in section 20102(2) of title 49, United States Code;

''(9) 'serious bodily injury' has the meaning given to that term in section 1365 of this title;

''(10) 'spent nuclear fuel' has the meaning given to that term in section 10101(23) of title 42, United States Code; and

''(11) 'State' has the meaning given to that term in section 2266 of this title.''.

(b) In the analysis of chapter 97 of title 18, United States Code, item ''1992'' is amended to read:

''1992. Terrorist attacks against railroads''.

SEC. 404. TERRORIST ATTACKS AGAINST MASS TRANSPORTATION.

(a) Chapter 97 of title 18, United States Code, is amended by adding at the end thereof the following new section:

''§ 1994. Terrorist attacks against mass transportation

''(a) GENERAL PROHIBITIONS.—Whoever willfully—

''(1) wrecks, derails, sets fire to, or disables a mass transportation vehicle or vessel;

''(2) places or causes to be placed any destructive substance in, upon or near a mass transportation vehicle or vessel, without previously obtaining the permission of the mass transportation provider, and with intent to endanger the safety of any passenger or employee of the mass transportation provider, or with a reckless disregard for the safety of human life;

''(3) sets fire to, or places any destructive substance in, upon, or near any garage, terminal, structure, supply, or facility used in the operation of, or in support of the operation of, a mass transportation vehicle, knowing or having reason to know such activity would likely derail, disable, or wreck a mass transportation vehicle used, operated, or employed by a mass transportation provider;

''(4) removes appurtenances from, damages, or otherwise impairs the operation of a mass transportation signal system, including a train control system, centralized dispatching system, or rail grade cross warning signal;

''(5) interferes with, disables or incapacitates any driver or person while they are employed in operating or maintaining a mass transportation vehicle or vessel, with intent to endanger the safety of any passenger or employee of the mass transportation provider, or with a reckless disregard for the safety of human life;

''(6) commits an act intended to cause death or serious bodily injury to an employee or passenger of a mass transportation provider on the property of a mass transportation provider;

''(7) conveys or causes to be conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by this subsection; or

''(8) attempts, threatens, or conspires to do any of the aforesaid acts—shall be fined under this title or imprisoned not more than twenty years, or both, if such act is committed, or in the case of a threat or conspiracy such act would be committed, within the United States on, against, or affecting a mass transportation provider engaged in or affecting interstate or foreign commerce, or if in the course of committing such act, that person travels or communicates across a State line in order to commit such act, or transports materials across a State line in aid of the commission of such act. Whoever is convicted of a crime prohibited by this section shall also be subject to imprisonment for life if the mass transportation vehicle or vessel was carrying a passenger at the time of the offense, and imprisonment for life or sentenced to death if the offense has resulted in the death of any person.

''(b) PROHIBITION ON THE USE OF FIREARMS AND DANGEROUS WEAPONS.—

''(1) Except as provided in paragraph (4), whoever knowingly possesses or causes to be present any firearm or other dangerous weapon on board a mass transportation vehicle or vessel, or attempts to do so, shall be fined under this title or imprisoned not more than one year, or both, if such act is committed on a mass transportation provider engaged in or affecting interstate or foreign commerce, or if in the course of committing such act, that person travels or communicates across a State line in order to commit such act, or transports materials across a State line in aid of the commission of such act.

''(2) Whoever, with intent that a firearm or other dangerous weapon be used in the commission of a crime, knowingly possesses or causes to be present such firearm or dangerous weapon on board a mass transportation vehicle or vessel, or in a mass transportation passenger terminal facility, or attempts to do so, shall be fined under this title, or imprisoned not more than 5 years, or both, if such act is committed on a mass transportation provider engaged in or affecting interstate or foreign commerce, or if in the course of committing such act, that person travels or communicates across a State line in order to commit such act, or transports materials across a State line in aid of the commission of such act.

''(3) A person who kills or attempts to kill a person in the course of a violation of paragraphs (1) or (2), or in the course of an attack on a mass transportation vehicle or vessel, or a mass transportation passenger terminal facility involving the use of a firearm or other dangerous weapon, shall be punished as provided in sections 1111, 1112, and 1113 of this title.

''(4) Paragraph (1) shall not apply to:

''(A) the possession of a firearm or other dangerous weapon by an officer, agent, or employee of the United States, a State, or a political subdivision thereof, while engaged in the lawful performance of official duties, who is authorized by law to engage in the transportation of people accused or convicted of crimes, or supervise the prevention, detection, investigation, or prosecution of any violation of law;

''(B) the possession of a firearm or other dangerous weapon by an officer, agent, or employee of the United States, a State, or a political subdivision thereof, while off duty, if such possession is authorized by law;

''(C) the possession of a firearm or other dangerous weapon by a Federal official or a member of the Armed Forces if such possession is authorized by law; or

''(D) an individual transporting a firearm on board a mass transportation vehicle or vessel (except a loaded firearm) in baggage not accessible to any passenger on board the vehicle or vessel, if the mass transportation provider was informed of the presence of the weapon prior to the firearm being placed on board the vehicle or vessel.

''(c) PROHIBITION AGAINST PROPELLING OBJECTS.—Whoever willfully or recklessly throws, shoots, or propels a rock, stone, brick, or piece of iron, steel, or other metal or any deadly or dangerous object or destructive substance at any mass transportation vehicle or vessel, knowing or having reason to know such activity would likely cause personal injury, shall be fined under this title or imprisoned for not more than 5 years, or both, if such act is committed on or against a mass transportation provider engaged in or substantially affecting interstate

or foreign commerce, or if in the course of committing such acts, that person travels or communicates across a State line in order to commit such acts, or transports materials across a State line in aid of the commission of such acts. Whoever is convicted of any crime prohibited by this subsection shall also be subject to imprisonment for not more than twenty years if the offense has resulted in the death of any person.

''(d) DEFINITIONS.—In this section—

''(1) 'dangerous device' has the meaning given to that term in section 921(a)(4) of this title;

''(2) 'dangerous weapon' has the meaning given to that term in section 930 of this title;

''(3) 'destructive substance' has the meaning given to that term in section 31 of this title, except that (A) the term 'radioactive device' does not include any radioactive device or material used solely for medical, industrial, research, or other peaceful purposes, and (B) 'destructive substance' includes any radioactive device or material that can be used to cause a harm listed in subsection (a) and that is not in use solely for medical, industrial, research, or other peaceful purposes;

''(4) 'firearm' has the meaning given to that term in section 921 of this title;

''(5) 'mass transportation' has the meaning given to that term in section 5302(a)(7) of title 49, United States Code, except that the term shall include schoolbus, charter, and sightseeing transportation;

''(6) 'serious bodily injury' has the meaning given to that term in section 1365 of this title; and

''(7) 'State' has the meaning given to that term in section 2266 of this title.''.

(b) The analysis of chapter 97 of title 18, United States Code, is amended by adding at the end thereof:

''1994. Terrorist attacks against mass transportation.''.

SEC. 405. INVESTIGATIVE JURISDICTION.

The Federal Bureau of Investigation shall lead the investigation of all offenses under sections 1192 and 1994 of title 18, United States Code. The Federal Bureau of Investigation shall cooperate with the National Transportation Safety Board and with the Department of Transportation in safety investigations by these agencies, and with the Treasury Department's Bureau of Alcohol, Tobacco and Firearms concerning an investigation regarding the possession of firearms and explosives.

TITLE V—RAIL AND MASS TRANSPORTATION SAFETY

SEC. 501. SAFETY CONSIDERATIONS IN GRANTS OR LOANS TO COMMUTER RAILROADS.

Section 5329 is amended by adding at the end the following:

''(c) COMMUTER RAILROAD SAFETY CONSIDERATIONS.—In making a grant or loan under this chapter that concerns a railroad subject to the Secretary's railroad safety jurisdiction under section 20102 of this title, the Federal Transit Administrator shall consult with the Federal Railroad Administrator concerning relevant safety issues. The Secretary may use appropriate authority under this chapter, including the authority to prescribe particular terms or covenants under section 5334 of this title, to address any safety issues identified in the project supported by the loan or grant.''.

SEC. 502. RAILROAD ACCIDENT AND INCIDENT REPORTING.

Section 20901(a) is amended to read as follows:

''(a) GENERAL REQUIREMENTS.—On a periodic basis as specified by the Secretary of Transportation, a railroad carrier shall file a report with the Secretary on all accidents and incidents resulting in injury or death to an individual or damage to equipment or a roadbed arising from the carrier's operations during that period. The report shall state the nature, cause, and circumstances of each reported accident or incident. If a railroad carrier assigns human error as a cause, the report shall include, at the option of each employee whose error is alleged, a statement by the employee explaining any factors the employee alleges contributed to the accident or incident.''.

SEC. 503. VEHICLE WEIGHT LIMITATIONS—MASS TRANSPORTATION BUSES.

Section 1023(h)(1) of the Intermodal Surface Transportation Efficiency Act of 1991, as amended (23 U.S.C. 127 note), is amended by striking ''the date on which'' and all that follows through ''1995'' and inserting ''January 1, 2003''.

TITLE VI—MOTOR CARRIER SAFETY

SUBTITLE A—STATE GRANTS AND OTHER COMMERCIAL VEHICLE PROGRAMS

SEC. 601. STATEMENT OF PURPOSE.

Chapter 311 is amended—

(1) by inserting before section 31101 the following:

''§ 31100. Purpose

''The purposes of this subchapter are—

''(1) to improve commercial motor vehicle and driver safety;

''(2) to facilitate efforts by the Secretary, States, and other political jurisdictions, working in partnership, to focus their resources on strategic safety investments;

''(3) to increase administrative flexibility;

''(4) to strengthen enforcement activities;

''(5) to invest in activities related to areas of the greatest crash reduction;

''(6) to identify high risk carriers and drivers; and

''(7) to improve information and analysis systems.''; and

(2) by inserting before the item relating to section 31101 in the chapter analysis for chapter 311 the following:

''§ 31100. Purposes''.

SEC. 602. GRANTS TO STATES.

(a) PERFORMANCE-BASED GRANTS.—Section 31102 is amended—

(1) by inserting ''improving motor carrier safety and'' in subsection (a) after ''programs for''; and

(2) by striking ''adopt and assume responsibility for enforcing'' in the first sentence of paragraph (b)(1) and inserting ''assume responsibility for improving motor carrier safety and to adopt and enforce''.

(b) HAZARDOUS MATERIALS.—Section 31102 is amended—

(1) by inserting a comma and ''hazardous materials transportation safety,'' after ''commercial motor vehicle safety'' in subsection (a); and

(2) by inserting a comma and ''hazardous materials transportation safety,'' in the first sentence of subsection (b) after ''commercial motor vehicle safety''.

(c) CONTENTS OF STATE PLANS.—Section 31102(b)(1) is amended—

(1) by redesignating subparagraphs (A) through (Q) as subparagraphs (B) through (R), respectively;

(2) by inserting before subparagraph (B), as redesignated, the following:

''(A) implements performance-based activities by fiscal year 2003;''

(3) by inserting ''(1)'' in subparagraph (K), as redesignated, after ''(c)''; and

(4) by striking subparagraphs (L) and (M), as redesignated, and inserting the following:

''(L) ensures consistent, effective, and reasonable sanctions;

''(M) ensures that the State agency will coordinate the plan, data collection, and information systems with the State highway safety programs under title 23;

(5) by striking subparagraph (O), as redesignated;

(6) by striking ''activities—'' in subparagraph (P), as redesignated, and inserting ''activities in support of national priorities and performance goals including—'';

(7) by striking ''to remove'' in clause (i) of subparagraph (P), as redesignated, and inserting ''activities aimed at removing'';

(8) by striking ''to provide'' in clause (ii) of subparagraph (P), as redesignated, and inserting ''activities aimed at providing'';

(9) by inserting ''and'' after the semicolon in clause (ii) of subparagraph (P), as redesignated;

(10) by striking clauses (iii) and (iv) of subparagraph (P), as redesignated;

(11) by inserting after clause (ii) of subparagraph (P), as redesignated, the following:

''(iii) interdiction activities affecting the transportation of controlled substances by commercial motor vehicle drivers and training on appropriate strategies for carrying out those interdiction activities.''; and

(12) by striking subparagraph (Q), as redesignated, and redesignating subparagraph (R), as redesignated, as subparagraph (Q).

SEC. 603. FEDERAL SHARE.

Section 31103 is amended—

(1) by inserting before ''The Secretary of Transportation'' the following:

''(a) COMMERCIAL MOTOR VEHICLE SAFETY PROGRAMS AND ENFORCEMENT.—''

(2) by inserting ''improve commercial motor vehicle safety and'' in the first sentence before ''enforce''; and

(3) by adding at the end the following:

''(b) OTHER ACTIVITIES.—The Secretary may reimburse State agencies, local governments, or other persons up to 100 percent for those activities identified in 31104(f)(2).''.

SEC. 604. AVAILABILITY OF AMOUNTS.

(a) IN GENERAL.—Section 31104(a) is amended to read as follows:

''(a) GENERAL.—Subject to section 9503(c)(1) of the Internal Revenue Code of 1986 (26 U.S.C. 9503(c)(1)), there are available from the Highway Trust Fund (except the Mass Transit Account) for the Secretary of Transportation to incur obligations to carry out section 31102 of this title, not more than $83,000,000 for each of the fiscal years ending September 30, 1998, 1999, 2000, 2001, 2002, and 2003.''.

(b) AVAILABILITY AND REALLOCATION.—Section 31104(b)(2) is amended to read as follows:

''(2) Amounts made available under section 4002(e)(1) and (2) of the Intermodal Surface Transportation Efficiency Act of 1991 before October 1, 1996, that are not obligated on October 1, 1997, are available for obligation under paragraph (1) of this subsection.''.

(c) ALLOCATION CRITERIA.—Section 31104(f) is amended to read as follows:

''(f) ALLOCATION CRITERIA AND ELIGIBILITY.—

''(1) On October 1 of each fiscal year or as soon after that date as practicable, the Secretary, after making the deduction described in subsection (e) of this section, shall allocate, under criteria the Secretary prescribes through regulation, the amounts available for that fiscal year among the States with plans approved under section 31102 of this title.

''(2) The Secretary may designate up to 12 percent of such amounts to reimburse States for border commercial motor vehicle safety programs and enforcement and other high priority activities and projects. These amounts may be allocated by the Secretary to State agencies and local governments, that use trained and qualified officers and employees, and to other persons, in coordination with State motor vehicle safety agencies, for the improvement of commercial motor vehicle safety.''.

(d) OTHER AMENDMENTS.—

(1) Section 31104 is amended by striking subsection (g) and redesignating subsection (h) as subsection (g).

(2) Section 31104(j) is amended by striking ''tolerance'' in the first sentence.

(3) Section 31104 is amended by striking subsection (i) and redesignating subsection (j) as subsection (h).

SEC. 605. INFORMATION SYSTEMS AND STRATEGIC SAFETY INITIATIVES.

Section 31106 is amended to read as follows:

''§ 31106. Information Systems and Strategic Safety Initiatives.

''(a) INFORMATION SYSTEMS.—

''(1) IN GENERAL.—The Secretary is authorized to establish motor carrier information systems and data analysis programs to support motor carrier regulatory and enforcement activities required under this title. In cooperation with the States, the information systems shall be coordinated into a network providing identification of motor carriers and drivers, registration and licensing tracing, and motor carrier and driver safety performance. The Secretary shall develop and maintain data analysis capacity and programs to provide the means to develop strategies to address safety problems and to use data analysis to measure the effectiveness of these strategies and related programs; to determine the cost effectiveness of State and Federal safety compliance, enforcement programs, and other countermeasures; to evaluate the safety fitness of motor carriers and drivers; to identify and collect necessary data; and to adapt, improve, and incorporate other information and information systems as deemed appropriate by the Secretary.

''(2) PERFORMANCE AND REGISTRATION INFORMATION SYSTEM MANAGEMENT.—

''(A) The Secretary may include as part of the information system authorized under paragraph (1), an information system, to be called the Performance and Registration Information System Management, to serve as a clearinghouse and repository of information related to State registration and licensing of commercial motor vehicles and the safety system of the commercial motor vehicle registrants or the motor carriers operating the vehicles. The Secretary may include in the system information on the safety fitness of each of the motor carriers and registrants and other information the Secretary considers appropriate, including information on vehicle, driver, and motor carrier safety performance.

''(B) The Secretary may prescribe technical and operational standards to ensure—

''(i) uniform, timely and accurate information collection and reporting by the States necessary to carry out this system;

''(ii) uniform State and Federal procedures and policies necessary to operate the Commercial Vehicle Information System; and

''(iii) the availability and reliability of the information to the States and the Secretary from the information system.

''(C) The system shall link the Federal motor carrier safety systems with State driver and commercial vehicle registration and licensing systems, and shall be designed—

''(i) to enable a State, when issuing license plates or throughout the registration period for a commercial motor vehicle, to determine, through the use of the information system, the safety fitness of the registrant or motor carrier;

''(ii) to allow a State to decide, in cooperation with the Secretary, the types of sanctions that may be imposed on the registrant or motor carrier, or the types of conditions or limitations that may be imposed on the operations of the registrant or motor carrier that will ensure the safety fitness of the registrant or motor carrier;

''(iii) to monitor the safety fitness of the registrant or motor carrier during the registration period; and

''(iv) to require the State, as a condition of participation in the system, to implement uniform policies, procedures, and standards, and to possess or seek authority to impose commercial motor vehicle registration sanctions on the basis of a Federal safety fitness determination.

''(D) Of the amounts available for expenditure under this section, not more than $6,000,000 in each of fiscal years 1998, 1999, 2000, 2001, 2002, and 2003 may be made available to carry out paragraph (a)(2) of this section. The Secretary may authorize the operation of the information system by contract, through an agreement with one or more States, or by designating, after consultation with the States, a third party that represents the interests of the States.

''(b) COMMERCIAL MOTOR VEHICLE DRIVER SAFETY PROGRAM.—The Secretary is authorized to establish a program focusing on improving commercial motor vehicle driver safety. The objectives of the program shall include—

''(1) enhancing the exchange of driver licensing information among the States and among the States, the Federal Government, and foreign countries;

''(2) providing information to the judicial system on the commercial motor vehicle driver licensing program; and

''(3) evaluating any aspect of driver performance and safety as deemed appropriate by the Secretary.

''(c) COOPERATIVE AGREEMENTS, GRANTS, AND CONTRACTS.—The Secretary may carry out this section either independently or in cooperation with other Federal departments, agencies, and instrumentalities, or by making grants to and entering into contracts and cooperative agreements with States, localities, associations, institutions, corporations (profit or nonprofit) or other persons.''.

SEC. 606. AUTHORIZATION OF APPROPRIATIONS.

Section 31107 is amended to read as follows:

''§ 31107. Authorization of appropriations for information systems and strategic safety initiatives.

''(a) GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary to incur obligations to carry out section 31106 of this title the sum of $17 million for each of the fiscal years 1998, 1999, 2000, 2001, 2002, and 2003. The amounts made available under this subsection shall remain available until expended.

''(b) CONTRACT AUTHORITY.—Approval by the Secretary of a grant under this section imposes upon the United States Government a contractual obligation for payment of the Government's share of costs incurred in carrying out the objectives of the grant.''.

SEC. 607. CONFORMING AMENDMENTS.

The chapter analysis for chapter 311 is amended—

(1) by striking the heading for subchapter I and inserting the following:

''SUBCHAPTER I. STATE GRANTS AND OTHER COMMERCIAL MOTOR VEHICLE PROGRAMS.'';

and

(2) by striking the items relating to sections 31106 and 31107 and inserting the following:

''31106. Information Systems and Strategic Safety Initiatives

''31107. Authorization of Appropriations for Information Systems and Strategic Safety Initiatives.''.

SUBTITLE B—MOTOR CARRIER SAFETY ACT OF 1997

SEC. 651. SHORT TITLE.

This subtitle may be cited as the ''Motor Carrier Safety Act of 1997''.

SEC. 652. SAFETY REGULATIONS.

(a) REPEAL OF REVIEW PANEL.—Subchapter III of chapter 311 is amended—

(1) by striking sections 31134 and 31140; and

(2) by striking the items relating to sections 31134 and 31140 in the chapter analysis for that chapter.

(b) REVIEW PROCEDURE.—

(1) IN GENERAL.—Section 31141 is amended—

(A) by striking subsection (b) and redesignating subsections (c), (d), (e), (f), (g), and (h) as subsections (b), (c), (d), (e), (f), and (g), respectively;

(B) by striking so much subsection (b), as redesignated, as precedes paragraph (2) and inserting the following:

''(b) REVIEW AND DECISIONS BY THE SECRETARY.—

''(1) The Secretary shall review the laws and regulations on commercial motor vehicle safety in effect in each State, and decide—

''(A) whether the State law or regulation—

''(i) has the same effect as a regulation prescribed by the Secretary under section 31136 of this title;

''(ii) is less stringent than that regulation; or

''(iii) is additional to or more stringent than that regulation; and

''(B) for each State law or regulation which is additional to or more stringent than the regulation prescribed by the Secretary, whether—

''(i) the State law or regulation has no safety benefit;

''(ii) the State law or regulation is incompatible with the regulation prescribed by the Secretary under section 31136 of this title; or

''(iii) enforcement of the State law or regulation would cause an unreasonable burden on interstate commerce.'';

(C) by striking paragraph (5) of subsection (b)(5), as redesignated, and inserting the following:

''(5) In deciding under paragraph (4) of this subsection whether a State law or regulation will cause an unreasonable burden on interstate commerce, the Secretary may consider the effect on interstate commerce of implementation of all similar laws and regulations of other States.'';

(D) by striking subsections (d) and (e), as redesignated, and inserting the following:

''(d) WRITTEN NOTICE OF DECISIONS.—The Secretary shall give written notice of the decision under subsection (b) of this section to the State concerned.''; and

(E) by redesignating subsections (f) and (g), as redesignated, as subsections (e) and (f), respectively.

(2) CONFORMING CHANGES.—

(A) The caption of section 31141 of such title is amended to read as follows:

''§ 31141. Preemption of State laws and regulations''.

(B) The chapter analysis of chapter 311 of such title is amended by striking the item relating to section 31141 and inserting the following:

''31141. Preemption of State laws and regulations''.

(c) INSPECTION OF VEHICLES.—

(1) Section 31142 is amended—

(A) by striking ''part 393 of title 49, Code of Federal Regulations'' in subsection (a) and inserting ''regulations issued pursuant to section 31135 of this title''; and

(B) by striking subsection (c)(1)(C) and inserting the following:

''(C) prevent a State from participating in the activities of a voluntary group of States enforcing a program for inspection of commercial motor vehicles; or''.

(2) Subchapter IV of chapter 311 is amended—

(A) by striking sections 31161 and 31162; and

(B) by striking the items relating to sections 31161 and 31162 in the chapter analysis for that chapter.

(3) Section 31102(b)(1) is amended—

(A) by striking ''and'' at the end of subparagraph (P);

(B) by striking ''thereunder.'' in subparagraph (Q) and inserting ''thereunder; and''; and

(C) by adding at the end thereof the following:

''(R) provides that the State will establish a program: (i) to ensure the proper and timely correction of commercial motor vehicle safety violations noted during an inspection carried out with funds authorized under section 31104 of this title; and (ii) to ensure that information is exchanged among the States in a timely manner.''.

(d) SAFETY FITNESS OF OWNERS AND OPERATORS.—Section 31144 is amended to read as follows:

''§ 31142. Safety fitness of owners and operators

''(a) PROCEDURE.—The Secretary of Transportation shall maintain in regulation a procedure for determining the safety fitness of owners and operators of commercial motor vehicles, including persons seeking new or additional operating authority as motor carriers under section 13902 of this title. The procedure shall include—

''(1) specific initial and continuing requirements to be met by the owners, operators, and other persons to demonstrate safety fitness;

''(2) a means of deciding whether the owners, operators, or other persons meet the safety requirements under paragraph (1) of this subsection; and

''(3) specific time deadlines for action by the Secretary in making fitness decisions.

''(b) PROHIBITED TRANSPORTATION.—Except as provided in sections 521(b)(5)(A) and 5113 of this title, a motor carrier that fails to meet the safety fitness requirements established under subsection (a) of this section may not operate in interstate commerce beginning on the 61st day after the date of the determination by the Secretary that the motor carrier fails to meet the safety fitness requirements and until the motor carrier meets the safety fitness requirements. The Secretary may, for good cause shown, provide a carrier with up to an additional 60 days to meet the safety fitness requirements.

''(c) RATING REVIEW.—The Secretary shall review the factors that resulted in a motor carrier failing to meet the safety fitness requirements not later than 45 days after the motor carrier requests a review.

''(d) GOVERNMENT USE PROHIBITED.—A department, agency, or instrumentality of the United States Government may not use a motor carrier that does not meet the safety fitness requirements.

''(e) PUBLIC AVAILABILITY; UPDATING OF FITNESS DETERMINATIONS.—The Secretary shall amend the motor carrier safety regulations in subchapter B of chapter III of title 49, Code of Federal Regulations, to establish a system to make readily available to the public, and to update periodically, the safety fitness determinations of motor carriers made by the Secretary.

''(f) PENALTIES.—The Secretary shall prescribe regulations setting penalties for violations of this section consistent with section 521 of this title.''.

(e) SAFETY FITNESS OF PASSENGER AND HAZARDOUS MATERIAL CARRIERS.—

(1) IN GENERAL.—Section 5113 is amended—

(A) by striking subsection (a) and inserting the following:

''(a) PROHIBITED TRANSPORTATION.—

''(1) A motor carrier that fails to meet the safety fitness requirements established under subsection 31144(a) of this title may not operate a commercial motor vehicle (as defined in section 31132 of this title)—

''(A) to transport hazardous material for which placarding of a motor vehicle is required under regulations prescribed under this chapter; or

''(B) to transport more than 15 individuals.

''(2) The prohibition in paragraph (1) of this subsection applies beginning on the 46th day after the date on which the Secretary determines that a motor carrier fails to meet the safety fitness requirements and applies until the motor carrier meets the safety fitness requirements.'';

(B) by striking ''RATING'' in the caption of subsection (b) and inserting ''FITNESS'';

(C) by striking ''receiving and unsatisfactory rating'' in subsection (b) and inserting 'failing to meet the safety fitness requirements'';

(D) by striking ''has an unsatisfactory rating from the Secretary'' in subsection (c) and inserting ''failed to meet the safety fitness requirements''; and

(E) by striking ''RATINGS'' in the caption of subsection (d) and inserting ''Fitness Determination'';

(F) by striking '', in consultation with the Interstate Commerce Commission,'' in subsection section (d); and

(G) by striking ''ratings of motor carriers that have unsatisfactory ratings from'' in subsection (d) and inserting ''fitness determinations of motor carriers made by''.

(2) CONFORMING AMENDMENTS.—

(A) The caption of section 5113 of such chapter is amended to read as follows:

''§ 5113. Safety fitness of passenger and hazardous material carriers''.

(B) The chapter analysis for such chapter is amended by striking the item relating to section 5113 and inserting the following:

''5113. Safety fitness of passenger and hazardous material carriers''.

(f) DEFINITIONS.—

(1) Section 31101(1) is amended—

(A) by inserting ''or gross vehicle weight, whichever is greater,'' after ''rating'' in subparagraph (A);

(ii) by striking ''10,000'' and inserting ''10,001'';

(B) by striking ''10'' in subparagraph (B) and inserting ''15''; and

(C) by inserting ''and transported in a quantity requiring placarding under regulations prescribed by the Secretary under section 5103'' after ''title'' in subparagraph (C).

(2) Section 31132 is amended—

(A) by inserting ''or gross vehicle weight, whichever is greater,'' after ''rating'' in paragraph (1)(A); and

(B) by adding at the end of paragraph (3) the following:

''For purposes of this paragraph, the term 'business affecting interstate commerce' means a business employing a commercial motor vehicle in interstate commerce and includes all operations of the business in intrastate commerce which use vehicles otherwise defined as commercial motor vehicles under paragraph (1) of this section.''.

(g) MINIMUM FINANCIAL RESPONSIBILITY FOR TRANSPORTING PETROLEUM PRODUCTS.—Section 31139(c)(2)(A)(i) is amended by inserting ''or petroleum products classified as hazardous materials'' after ''Administrator)''.

(h) EMPLOYEE PROTECTIONS.—Section 31105 is amended—

(1) by adding at the end of subsection (d) the following: ''An employee may also independently bring a civil action to enforce an order issued under subsection (b) of this section in the district court of the United States for the judicial circuit in which the violation occurred.''; and

(2) by adding at the end thereof the following:

''(e) ATTENDANCE AND TESTIMONY OF WITNESSES AND PRODUCTION OF EVIDENCE; ENFORCEMENT OF SUBPOENA.—In carrying out the authority under this section, the Secretary may require the attendance and testimony of witnesses and the production of evidence under oath. Witnesses shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In cases of failure or refusal by any person to obey such an order, any district court of the United States for the jurisdiction in which such person is found, resides, or transacts business, shall have jurisdiction to issue, upon application by the Secretary, an order requiring such person to appear and produce evidence and to give testimony relating to the matter under investigation or in question. Any failure to obey such order of the court may be punished by said court as a contempt thereof.''.

SEC. 653. COMMERCIAL MOTOR VEHICLE OPERATORS.

(a) REPEAL OF OBSOLETE GRANT PROGRAMS.—Chapter 313 is amended—

(1) by striking sections 31312 and 31313; and

(2) by striking the items relating to sections 31312 and 31313 in the chapter analysis for that chapter.

(b) COMMERCIAL DRIVER'S LICENSE REQUIREMENT.—

(1) IN GENERAL.—Section 31302 is amended to read as follows:

''§ 31302. Commercial driver's license requirement

''No individual shall operate a commercial motor vehicle without a commercial driver's license issued according to section 31308 of this title.''.

(2) CONFORMING AMENDMENTS—

(A) The chapter analysis for that chapter is amended by striking the item relating to section 31302 and inserting the following:

''31302. Commercial driver's license requirement''.

(B) Section 31305(a) is amended by redesignating paragraphs (2) through (8) as paragraphs (3) through (9), respectively, and by inserting after paragraph (1) the following:

''(2) may establish performance based testing and licensing standards that more accurately measure and reflect an individual's knowledge and skills as an operator;''.

(c) COMMERCIAL DRIVER'S LICENSE INFORMATION SYSTEM.—Section 31309 is amended—

(1) by striking ''make an agreement under subsection (b) of this section for the operation of, or establish under subsection (c) of this section,'' in subsection (a) and inserting ''maintain'';

(2) by striking subsections (b) and (c) and redesignating subsections (d), (e), and (f) as subsections (b), (c), and (d) respectively;

(3) by striking ''Not later than December 31, 1990, the'' in paragraph (2) of subsection (b), as redesignated, and inserting ''The''; and

(4) by striking ''shall'' in paragraph (2) of subsection (b), and redesignated, and inserting ''may'';

(5) by inserting after the caption of subsection (c), as designated, the following: ''Information about a driver in the information system may be made available under the following circumstances:''; and

(5) by starting a new paragraph with ''(1) On request'' and indenting the paragraph 2 ems from the lefthand margin.

(d) REQUIREMENTS FOR STATE PARTICIPATION.—Section 31311(a) is amended—

(1) by striking ''31310(b)–(e)'' in paragraph (15) and inserting ''31310(b)–(e), and (g)(1)(A) and (2)'';

(2) by striking paragraph (17); and

(3) by redesignating paragraph (18) as paragraph (17).

(e) WITHHOLDING AMOUNTS FOR STATE NONCOMPLIANCE.—Section 31314 is amended—

(1) by striking ''(2), (5), and (6)'' and inserting ''(3), and (5)''; and

(2) by striking ''1992'' in subsections (a) and (b) and inserting ''1995'';

(3) by striking paragraph (1) of subsection (c);

(4) by striking ''(2)'' in subsection (c)(2);

(5) by striking subsection (d); and

(6) by redesignating subsection (e) as subsection 9d).

(f) COMMERCIAL MOTOR VEHICLE DEFINED.—Section 31301 is amended—

(1) by inserting ''or gross vehicle weight, whichever is greater,'' after ''rating'' each place it appears in paragraph (4)(A); and

(2) by inserting ''is'' in paragraph (4)(C)(ii) before ''transporting'' each place it appears and before ''not otherwise''.

(g) SAFETY PERFORMANCE HISTORY OF NEW DRIVERS; LIMITATION ON LIABILITY.—

''(1) IN GENERAL.—Chapter 5 is amended by adding at the end thereof the following:

§ 508. Safety performance history of new drivers; limitation on liability

''(a) LIMITATION ON LIABILITY.—No action or proceeding for defamation, invasion of privacy, or interference with a contract that is based on the furnishing or use of safety performance records in accordance with regulations issued by the Secretary may be brought against—

''(1) a motor carrier requesting the safety performance records of an individual under consideration for employment as a commercial motor vehicle driver as required by and in accordance with regulations issued by the Secretary;

''(2) a person who has complied with such a request; or

''(3) the agents or insurers of a person described in paragraph (1) or (2) of this subsection.

''(b) RESTRICTIONS.—

''(1) Subsection (a) does not apply unless—

''(A) the motor carrier requesting the safety performance records at issue, the person complying with such a request, and their agents have taken all precautions reasonably necessary to ensure the accuracy of the records and have fully complied with the regulations issued by the Secretary in using and furnishing the records, including the requirement that the individual who is the subject of the records be afforded a reasonable opportunity to review and comment on the records;

''(B) the motor carrier requesting the safety performance records, the person complying with such a request, their agents, and their insurers, have taken all precautions reasonably necessary to protect the privacy of the individual who is the subject of the records, including protecting the records from disclosure to any person, except for their insurers, not directly involved in forwarding the records or deciding whether to hire that individual; and

''(C) the motor carrier requesting the safety performance records have used those records only to assess the safety performance of the individual who is the subject of those records in deciding whether to hire that individual.

''(2) Subsection (a) does not apply to persons who knowingly furnish false information.

''(c) PREEMPTION OF STATE AND LOCAL LAW.—No State or political subdivision thereof may enact, prescribe, issue, continue in effect, or enforce any law (including any regulation, standard, or other provision having the force and effect of law) that prohibits, penalizes, or imposes liability for furnishing or using safety performance records in accordance with regulations issued by the Secretary.''.

(2) CONFORMING AMENDMENT.—The chapter analysis for that chapter is amended by inserting after the item relating to section 507 the following:

''508. Safety performance history of new drivers; limitation on liability''.

SEC. 654. PENALTIES.

(a) NOTIFICATION OF VIOLATIONS AND ENFORCEMENT PROCEDURES.—Section 521(b)(1) is amended—

(1) by inserting: ''with the exception of reporting and recordkeeping violations,'' in the first sentence of subparagraph (A) after ''under any of those provisions,'';

(2) by striking ''fix a reasonable time for abatement of the violation,'' in the third sentence of subparagraph (A);

(3) by striking ''(A)'' in subparagraph (A); and

(4) by striking subparagraph (B).

(b) CIVIL PENALTIES.—Section 521(b)(2) is amended—

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

''(A) IN GENERAL.—Except as otherwise provided in this subsection, any person who is determined by the Secretary, after notice and opportunity for a hearing, to have committed an act which is a violation of regulations issued by the Secretary under subchapter III of chapter 311 (except sections 31137 and 31138) or section 31502 of this title shall be liable to the United States for a civil penalty in an amount not to exceed $10,000 for each offense. Notwithstanding any other provision of this section (except subparagraph (C)), no civil penalty shall be assessed under this section against an employee for a violation in an amount exceeding $2,500.'';

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(3) by inserting after subparagraph (A) the following:

''(B) RECORDKEEPING AND REPORTING VIOLATIONS.—

''(i) A person required to make a report to the Secretary, answer a question, or make, prepare, or preserve a record under section 504 of this title or under any regulation issued by the Secretary pursuant to subchapter III of chapter 311 (except sections 31137 and 31138) or section 31502 of this title about transportation by motor carrier, motor carrier of migrant workers, or motor private carrier, or an officer, agent, or employee of that person, who—

''(I) does not make that report;

''(II) does not specifically, completely, and truthfully answer that question in 30 days from the date the Secretary requires the question to be answered; or

''(III) does not make, prepare, or preserve that record in the form and manner prescribed by the Secretary,

shall be liable to the United States for a civil penalty in an amount not to exceed $500 for each offense, and each day of the violation shall constitute a separate offense, except that the total of all civil penalties assessed against any violator for all offenses related to any single violation shall not exceed $5,000.

''(ii) Any such person, or an officer, agent, or employee of that person, who—

''(I) knowingly falsifies, destroys, mutilates, or changes a required report or record;

''(II) knowingly files a false report with the Secretary;

''(III) knowingly makes or causes or permits to be made a false or incomplete entry in that record about an operation or business fact or transaction; or

''(IV) knowingly makes, prepares, or preserves a record in violation of a regulation or order of the Secretary,

shall be liable to the United States for a civil penalty in an amount not to exceed $5,000 for each violation, provided that any such action can be shown to have misrepresented a fact that constitutes a violation other than a reporting or recordkeeping violation.''.

(c) PENALTY FOR AIDING AND ABETTING.—

(1) IN GENERAL.—Chapter 5 is amended by adding at the end thereof the following:

''§ 527. Aiding and abetting

''A person who knowingly aids, abets, counsels, commands, induces, or procures a violation of a regulation or order issued by the Secretary under chapter 311 or section 31502 of this title shall be subject to civil and criminal penalties under this chapter to the same extent as the motor carrier or driver who commits a violation.''.

(2) Conforming amendment.—The chapter analysis for that chapter is amended by inserting after the item relating to section 526 the following:

''527. Aiding and abetting''.

(d) AUTHORITY TO INVESTIGATE.—Section 506(a) is amended—

(1) by inserting '', freight forwarder, shipper, broker, consignee, or other person'' after ''motor private carrier'';

(2) by striking ''or'' after ''migrant workers''; and

(3) by striking the last sentence.

(e) ENFORCEMENT.—Section 507(a)(2) is amended—

(1) by inserting '', shipper, broker, consignee, or other person'' after ''freight forwarder''; and

(2) by striking ''or'' after ''motor private carrier''.

(f) CONFORMING AMENDMENTS.—

(1) Section 503(a) is amended by striking ''(except a motor contract carrier)''.

(2) Section 522 is amended—

(A) by striking ''(a)'' in subsection (a); and

(B) by striking subsection (b).

SEC. 655. INTERNATIONAL REGISTRATION PLAN AND INTERNATIONAL FUEL TAX AGREEMENT.

Chapter 317 is amended—

(1) by striking sections 31702, 31703, and 31708; and

(2) by striking the items relating to sections 31702, 31703, and 31708 in the chapter analysis for that chapter.

SEC. 656. STUDY OF ADEQUACY OF PARKING FACILITIES.

The Secretary shall conduct a study to determine the location and quantity of parking facilities at commercial truck stops and travel plazas and public rest areas that could be used by motor carriers to comply with Federal hours-of-service rules. The study shall include an inventory of current facilities serving the National Highway System, analyze where shortages exist or are projected to exist, and propose a plan to reduce the shortages. The study may be carried out in cooperation with research entities representing the motor carrier and travel plaza industry.

SEC. 657. NATIONAL MINIMUM DRINKING AGE—TECHNICAL CORRECTIONS.

Section 158 of title 23, United States Code, is amended—

(1) by striking ''104(b)(2), 104(b)(5), and 104(b)(6)'' each place it appears in subsection (a) and inserting ''104(b)(3), and 104(b)(5)(B)''; and

(2) by striking subsection (b) and inserting the following:

''(b) AVAILABILITY OF WITHHELD FUNDS.—No funds withheld under this section from apportionment to any State after September 31, 1988, shall be available for apportionment to such State.''.

TITLE VII—RESEARCH

SUBTITLE A—PROGRAMS AND ACTIVITIES

SEC. 701. TRANSPORTATION RESEARCH AND DEVELOPMENT.

Subtitle III is amended by adding a new chapter 52 to read as follows:

''CHAPTER 52—RESEARCH AND DEVELOPMENT
''SUBCHAPTER I—GENERAL AND ADMINISTRATIVE
''Sec.
''5201. Transactional authority.
''5202. Reliance on competition.
''5203. Authorizations.
''SUBCHAPTER II—PLANNING
''5221. Planning.
''5222. Implementation.
''SUBCHAPTER III—ADVANCED TRANSPORTATION RESEARCH AND DEVELOPMENT PROGRAMS
''5231. Intermodal transportation research and development program.
''SUBCHAPTER IV—PROFESSIONAL CAPACITY BUILDING
''5241. National university transportation centers.

''SUBCHAPTER I—GENERAL AND ADMINISTRATIVE

''§ 5201. Transactional authority

''To carry out this chapter, the Secretary of Transportation may enter into contracts, grants, cooperative agreements, and other transactions with any person, agency, or instrumentality of the United States, any unit of State or local government, any educational institution, and any other entity to further the objectives of this chapter.

''§ 5202. Reliance on competition

''The Secretary of Transportation may award grants or contracts to university transportation centers established through competition under section 5241 of this title without further competition. A noncompetitive award authorized by this section must be for transportation research, development, education or training consistent with the strategic plan approved as part of the selection process for the center.

''§ 5203. Authorizations

''(a) There is available from the Highway Trust Fund, other than the Mass Transit Account, for the Secretary of Transportation $10,000,000 for fiscal year 1998, $15,000,000 for fiscal year 1999, $20,000,000 for fiscal year 2000, $25,000,000, for fiscal year 2001, $30,000,000 for fiscal year 2002, and $35,000,000 for fiscal year 2003, to carry out subchapters II and III of this chapter.

''(b) CONTRACT AUTHORITY AND AVAILABILITY OF FUNDS.—Funds authorized by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that any Federal share of the cost of any activity under subchapters II and III of this chapter shall be in accordance with the provision of those subchapters, and such funds shall remain available for obligation for a period of 2 years after the last day of the fiscal year for which such funds are authorized.

''SUBCHAPTER II—PLANNING

''§ 5221. Planning

''(a) AUTHORITY.—The Secretary of Transportation shall establish a strategic planning process to determine national transportation research and technology priorities, coordinate Federal transportation research and technology activities, and measure the impact of these research and technology investments on the performance of the national transportation system.

''(b) CRITERIA.—In developing strategic plans for intermodal, multimodal, and modal research and technology, the Secretary shall consider the need to:

''(1) Coordinate and link Federal, regional, state, and metropolitan planning activities;

''(2) Ensure that standard-setting in transportation is compatible with the concept of a seamless transportation system;

''(3) Encourage innovation;

''(4) Identify and facilitate initiatives and partnerships to deploy advanced technology with the potential for improving transportation systems over ten years;

''(5) Identify core research to support the Nation's long-term transportation technology and system needs, including safety;

''(6) Ensure the Nation's ability to compete on a global basis; and

''(7) Provide a means of assessing the impact of Federal research and technology investments on the performance of the Nation's transportation system.

''§ 5222. Implementation

''In implementing section 5221, the Secretary of Transportation shall adopt such policies and procedures as appropriate—

''(1) to provide for consultation among the Administrators of the operating administrations of the Department and other Federal officials with responsibility for research important to national transportation needs;

''(2) to promote the maximum exchange of information on transportation-related research and development activities among the operating elements of the Department, other Federal departments and agencies, state and local governments, colleges and universities, industry and other private and public sector organizations engaged in such activities;

''(3) to ensure that the Department's research and development programs do not duplicate other Federal research and development programs;

''(4) to ensure that the Department's research and development activities make appropriate use of the talents, skills, and abilities residing at the Federal laboratories and leverage, to the extent practical, the research capabilities of institutions of higher education and private industry; and

''(5) to validate the scientific and technical assumptions underlying the Department's research and technology plans.

''SUBCHAPTER III—ADVANCED TRANSPORTATION RESEARCH AND DEVELOPMENT PROGRAMS

''§ 5231. Intermodal transportation research and development program

''(a) ESTABLISHMENT.—The Secretary of Transportation shall establish a program to be known as the 'Intermodal Transportation Research and Development Program'.

''(b) PURPOSES.—The purposes of the Intermodal Transportation Research and Development Program are to—

''(1) enhance the capabilities of Federal agencies in meeting national transportation needs as defined by their missions through support for basic and applied research and development impacting the various modes of transportation including research and development in safety, security, mobility, energy and environment, information and physical infrastructure, and industrial design;

''(2) identify and apply innovative research performed by the Government, academia and the private sector to the intermodal and multimodal transportation research, development, and deployment needs of the Department and the Nation's transportation enterprise;

''(3) identify and leverage research, technologies, and other information developed by the Government for national defense and non-defense purposes for the benefit of public, commercial and defense transportation sectors; and

''(4) share information, analytical and research capabilities among Federal, state and local governments, colleges and universities, and private organizations to advance their transportation research, development and deployment needs.

''SUBCHAPTER IV—PROFESSIONAL CAPACITY BUILDING

''§ 5241. National university transportation centers

''(a) REGIONALLY-BASED CENTERS.—The Secretary of Transportation shall make grants to nonprofit institutions of higher learning to establish and operate one university transportation center in each of the ten (10) United States Government regions that comprise the Standard Federal Regional Boundary System.

''(b) OTHER CENTERS.—The Secretary may make grants to non-profit institutions of higher learning to establish and operate up to ten other university transportation centers to address transportation management, research and development, with special attention to increasing the number of highly skilled minority individuals and women entering the transportation workforce; transportation and industrial productivity; rural transportation; advanced transportation technology; international transportation policy studies; transportation infrastructure technology; urban transportation research; transportation and the environment; surface transportation safety; or such other national transportation issues designated by the Secretary.

''(c) SELECTION CRITERIA.—A nonprofit institution of higher learning interested in receiving a grant under this section shall submit an application to the Secretary in the way and containing the information the Secretary prescribes. The Secretary shall select each recipient through a competitive process on the basis of the following:

''(1) for regionally-based centers, the location of the center within the Federal Region to be served;

''(2) the demonstrated research and extension resources available to the recipient to carry out this section;

''(3) the capability of the recipient to provide leadership in making national and regional contributions to the solution of immediate and long-range transportation problems;

''(4) the recipient's establishment of a surface transportation program encompassing several modes of transportation;

''(5) the recipient's demonstrated commitment of at least $200,000 in regularly budgeted institutional amounts each year to support ongoing transportation research and education programs;

''(6) the recipient's demonstrated ability to disseminate results of transportation research and education programs through a statewide or region-wide continuing education program; and

''(7) the strategic plan the recipient proposes to carry out under the grant.

''(d) OBJECTIVES.—Each university transportation center shall conduct:

''(1) basic and applied research, the products of which are judged by peers or other experts in the field to advance the body of knowledge in transportation;

''(2) an education program that includes multi-disciplinary course work and participation in research; and

''(3) an ongoing program of technology transfer that makes research results available to potential users in a form that can be implemented, utilized or otherwise applied.

''(e) MAINTENANCE OF EFFORT.—Before making a grant under this section, the Secretary may require the recipient to make an agreement with the Secretary to ensure that the recipient will maintain total expenditures from all other sources to establish and operate a university transportation center and related research activities at a level at least equal to the average level of those expenditures in its 2 fiscal years prior to award of a grant under this section.

''(f) FEDERAL SHARE.—A grant under this section is for 50 percent of the cost of establishing and operating the university transportation center and related research activities the recipient carries out. The non-Federal share may include funds provided to a recipient under section 5307 or 5311 of this title.

''(g) PROGRAM COORDINATION.—The Secretary shall provide for coordinating research, education, training, and technology transfer activities that grant recipients carry out under this section, the dissemination of the results of the research, and the establishment and operation of a clearinghouse. At least annually, the Secretary shall review and evaluate programs the grant recipients carry out. The Secretary may use not more than one percent of amounts made available from Government sources to carry out this subsection.

''(h) AMOUNTS AVAILABLE FOR TECHNOLOGY TRANSFER ACTIVITIES.—At least 5 percent of the amounts made available to carry out this section in a fiscal year are available to carry out technology transfer activities.

''(i) LIMITTION OF AVAILABILITY OF FUNDS.—Funds made available to carry out this program remain available for obligation for a period of 2 years after the last day of the fiscal year for which such funds are authorized.''.

SEC. 702. BUREAU OF TRANSPORTATION STATISTICS.

(a) Section 111(b)(4) is amended by striking the second sentence.

(b) Section 111(c)(1) is amended—

(1) by striking ''and'' after the semicolon in subparagraph (J);

(2) by striking ''system.'' in subparagraph (K) and inserting ''system' and''; and

(3) by adding at the end of the following:

''(L) transportation-related variables influencing global competitiveness.''.

(c) Section 111(c)(2) is amended—

(1) by striking ''national transportation system'' in the first sentence and inserting ''nation's transportation systems'';

(2) by striking subparagraph (A) and inserting the following:

''(A) be coordinated with efforts to measure outputs and outcomes of the Department of Transportation and the nation's transportation systems under the Government Performance and Results Act;''; and

(3) by inserting a comma and ''made relevant to the States and metropolitan planning organizations,'' after ''accuracy'' in subparagraph (C).

(d) Section 111(c)(3) is amended by adding at the end the following: ''The Bureau shall review and report to the Secretary of Transportation on the sources and reliability of the statistics proposed by the modal administrations to measure outputs and outcomes as required by the Government Performance and Results Act, and shall undertake such other reviews of the sources and reliability of other data collected by the modal administrations as shall be requested by the Secretary.''.

(e) Section 111(c) is amended by adding at the end the following:

''(7) SUPPORTING TRANSPORTATION DECISION MAKING.—Ensuring that the statistics compiled under paragraph (1) of this subsection are relevant for transportation decisions by Federal, State, and local governments, transportation-related associations, private business, and consumers.''.

(f) Section 111 is amended—

(1) by redesignating subsections (d), (e) and (f) as subsections (h), (i) and (j), respectively;

(2) by striking subsection (g); and

(3) by inserting after subsection (c) the following:

''(d) INTERMODAL TRANSPORTATION DATA BASE.—The Director shall establish and maintain an Intermodal Transportation Data Base, in consultation with the Assistant Secretaries and operating Administrations of the Department. This data base shall be suitable for analyses conducted by the Federal Government, the States, and metropolitan planning organizations. The data base shall include but not be limited to—

''(1) information on the volumes and patterns of movement of goods, including local, interregional, and international movements, by all modes of transportation and intermodal combinations, and by relevant classification;

''(2) information on the volumes and patterns of movement of people, including local, interregional, and international movements, by all modes of transportation and intermodal combinations, and by relevant classification; and

''(3) information on the location and connectivity of transportation facilities and services and a national accounting of expenditures and capital stocks on each mode of transportation and intermodal combinations.

''(e) NATIONAL TRANSPORTATION LIBRARY.—The Director shall establish and maintain the National Transportation Library, containing a collection of statistical and other information needed for transportation decision making at the Federal, State, and local levels. The Bureau shall facilitate and promote access to the Library, with the goal of improving the ability of the transportation community to share information and the Bureau to make statistics readily accessible under paragraph (c)(5) of this section. The Bureau shall work with other transportation libraries and other transportation information providers, both public and private, to achieve this goal.

''(f) NATIONAL TRANSPORTATION ATLAS DATA BASE.—The Director shall develop and maintain geo-spatial data bases depicting transportation networks; flows of people, goods, vehicles, and craft over those networks; and social, economic, and environmental conditions affecting or affected by those networks. These data based shall be able to support intermodal network analysis.

''(g) RESEARCH AND DEVELOPMENT GRANTS.—The Secretary may make grants to, or enter into cooperative agreements of contracts with, public and nonprofit private entities (including, but not limited to, State Departments of Transportation, metropolitan planning organizations, Transportation Research Centers, and universities) for—

''(1) the investigation of the subjects listed in subsection (c)(1) of this section and for research and development of new methods of data collection, management, integration, dissemination, interpretation, and analysis;

''(2) development of electronic clearinghouses of transportation data and related information, as part of the National Transportation Library under subsection (e) of this section; and

''(3) development and improvement of methods for sharing geographic data, in support of the National Transportation Atlas Data Base under subsection (f) and the National Spatial Data Infrastructure.''.

(g) Section 111(i), as redesignated, is amended to read as follows:

''(i) PROHIBITION ON CERTAIN DISCLOSURES.—

''(1) An officer or employee of the Bureau may not—

''(A) make any publication in which the data furnished by a person under paragraph (c)(2) can be identified;

''(B) use the information furnished under the provisions of paragraph (c)(2) of this section for a non-statistical purpose; or

''(C) permit anyone other than the individuals authorized by the Director to examine individual reports furnished under paragraph (c)(2) of this section.

''(2) No department, bureau, agency, officer, or employee of the United States except the Director of the Bureau of Transportation Statistics in carrying out the purpose of this section, shall require, for any reason, copies of reports which have been filed under paragraph (c)(2) with the Bureau of Transportation Statistics or retained by any individual respondent. Copies of such reports which have been so retained or filed with the Bureau or any of its employees, contractors, or agents shall be immune from legal process, and shall not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding. This paragraph shall only apply to individually identifiable data.

''(3) In a case in which the Bureau is authorized by statute to collect data or information for nonstatistical purposes, the Director shall clearly distinguish the collection of such data or information by rule and on the collection instrument to inform a respondent requested or required to supply the data or information of the nonstatistical purposes.''.

(h) Section 111(j), as redesignated, is amended by striking ''On or before January 1, 1994, and annually thereafter, the'' and inserting ''The''.

(i) Section 111 is amended by adding at the end the following:

''(k) DATA PRODUCT SALES PROCEEDS.—Notwithstanding section 3302 of title 31, United States Code, funds received by the Bureau of Transportation Statistics from the sale of data products may be credited to the Highway Trust Fund (other than the Mass Transit Account) for the purpose of reimbursing the Bureau for such expenses.

''(l)(1) FUNDING.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account), $31,000,000 for each of fiscal years 1998, 1999, 2000, 2001, 2002 and 2003 to carry out this section, provided that amounts for activities under subsection (g) of this section may not exceed $500,000 per year. Amounts made available under this subsection shall remain available for a period of 3 years.

''(2) CONTRACT AUTHORITY.—Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.''.

(j) CONFORMING AMENDMENT.—Section 5503 is amended by striking subsection (d) and redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively.

SEC. 703. RESEARCH AND TECHNOLOGY PROGRAM.

(a) Section 307 of title 23, United States Code, is amended to read as follows:

§ 307 Research and planning

''(a) FINDINGS; GENERAL AUTHORITY; AND COLLABORATIVE AGREEMENTS.—

''(1) FINDINGS.—The Congress finds that—

''(A) Results of research, technology transfer, studies, and activities have demonstrated that continued and increased efforts to provide for technical innovation must be a cornerstone in the foundation as the transportation community moves into the next century.

''(B) A strong Federal transportation research and technology program is recognized as essential to ensure that innovation is developed and incorporated into the multi-billion dollar infrastructure program.

''(C) Technology advancement is essential to support the Nation's infrastructure needs and, in turn, its ability to continue to participate successfully in a global marketplace and economy.

''(2) AUTHORITY OF THE SECRETARY.—

''(A) IN GENERAL.—The Secretary shall engage in research, development, and technology transfer activities with respect to motor carrier transportation and all phases of highway planning and development (including construction, operation, modernization, development, design, maintenance, safety, financing, and traffic conditions) and the effect thereon of State laws and may test, develop, or assist in testing and developing any material, invention, patented article, or process.

''(B) COOPERATION, GRANTS, AND CONTRACTS.—The Secretary may carry out this section either independently or in cooperation with other Federal departments, agencies, and instrumentalities or by making grants to, or entering into contracts, cooperative agreements, and other transactions with, the National Academy of Sciences, the American Association of State Highway and Transportation Officials, or any State agency, authority, association, institution, corporation (profit or nonprofit), organization, or person.

''(C) TECHNICAL INNOVATION.—The Secretary shall develop and administer programs to facilitate application of the products of research and technical innovations that will improve the safety, efficiency, and effectiveness of the highway system.

''(D) FUNDS.—

''(i) IN GENERAL.—Except where specifically noted otherwise in other sections of chapter 3, the funds necessary to carry out this subsection shall be taken by the Secretary out of administrative funds deducted pursuant to section 104(a) of this title and such funds as may be deposited by any cooperating organization or person in a special account of the Treasury of the United States established for such purposes, and such funds shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

''(ii) USE OF FUNDS.—The Secretary shall use funds available to carry out this section to develop, administer, communicate, and achieve the use of products of the research, development, and technology transfer programs, and to otherwise interact with partners and users in the planning and dissemination of results.

''(3) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

''(A) IN GENERAL.—For the purposes of encouraging innovative solutions to surface transportation problems and stimulating the marketing of new technology by private industry, the Secretary is authorized to undertake, on a cost-shared basis, collaborative research and development with non-Federal entities, including State and local governments, foreign governments, colleges and universities, corporations, institutions, partnerships, sole proprietorships, and trade associations that are incorporated or established under the laws of any State.

''(B) AGREEMENTS.—In carrying out this paragraph, the Secretary may enter into cooperative research and development agreements, as such term is defined under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a).

''(C) FEDERAL SHARE.—The Federal share payable on account of activities carried out under a cooperative research and development agreement entered into under this paragraph shall not exceed 50 percent of the total cost of such activities; except that, if there is substantial public interest or benefit, the Secretary may approve a higher Federal share. All costs directly incurred by the non-Federal partners, including personnel, travel, and hardware development costs, shall be treated as part of the non-Federal share of the cost of such activities for purposes of the preceding sentence.

''(D) UTILIZATION OF TECHNOLOGY.—The research, development, or utilization of any technology pursuant to a cooperative research and development agreement entered into under this paragraph, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wydler Technology Innovation Act of 1980.

''(E) FUNDS.—The funds necessary to carry out this paragraph shall be taken by the Secretary out of administrative funds deducted pursuant to section 104(a) of this title and such funds as may be deposited by any cooperating organization or person in a special account of the Treasury of the United States established for such purposes.

''(4) Waiver of advertising requirements.—The provisions of section 3709 of the Revised Statutes (41 U.S.C. 5) shall not be applicable to contracts or agreements entered into under this chapter.

''(b) MANDATORY CONTENTS OF PROGRAM.—The Secretary shall include in the surface transportation research, development, and technology transfer programs under this subsection and as specified elsewhere in this title—

''(1) a coordinated long-term program of research for the development, use, and dissemination of performance indicators to measure the performance of the surface transportation system of the United States, including indicators for productivity, efficiency, energy use, air quality, congestion, safety, maintenance, and other factors which reflect the overall performance of such system.

''(2) a program to strengthen and expand surface transportation infrastructure research, development, and technology transfer, including, as a minimum, the following elements:

''(A) Methods and materials for improving the durability of surface transportation infrastructure facilities and extending the life of bridge structures, including new and innovative technologies to reduce corrosion.

''(B) Expansion of the Department of Transportation's inspection and mobile nondestructive examination capabilities, including consideration of the use of high energy field radiography for more thorough and more frequent inspection of bridge structures as well as added support to State, local, and tribal highway departments.

''(C) A research and development program directed toward the reduction of costs associated with the construction of highways and mass transmit systems.

''(D) A surface transportation research program to develop nondestructive evaluation equipment for use with existing infrastructure facilities and for next generation infrastructure facilities that utilize advanced materials.

''(E) Information technology including appropriate computer programs to collect and analyze data on the status of the existing infrastructure facilities for enhancing management, growth, and capacity; and dynamic simulation models of surface transportation systems for predicting capacity, safety, and infrastructure durability problems, for evaluating planned research projects, and for testing the strengths and weaknesses of proposed revisions in surface transportation operations programs.

''(F) New innovative technologies to enhance and facilitate field construction and rehabilitation techniques for minimizing disruption during repair and maintenance of existing structures.

''(G) Initiatives to improve the Nation's ability to respond to emergencies and natural disasters, and to enhance national defense mobility.

''(c) As used in this chapter the term 'safety' includes, but is not limited to, highway safety systems, research, and development relating to vehicle, highway, and driver characteristics, accident investigations, communications, emergency medical care, and transportation of the injured.''.

SEC. 704. NATIONAL TECHNOLOGY DEPLOYMENT INITIATIVES.

(a) IN GENERAL.—Chapter 3 of title 23, United States Code, is amended—

(1) by striking section 321; and

(2) by amending section 326 to read as follows:

§ 326. National technology deployment initiatives program

''(a) ESTABLISHMENT.—The Secretary shall develop and administer a National Technology Deployment Initiatives program for the purpose of significantly expanding the adoption of innovative technologies by the surface transportation community.

''(b) DEPLOYMENT GOALS.—The Secretary shall establish a limited number of goals for the program carried out under this section. Each of the goals and the program developed to achieve the goals shall be designed to provide tangible benefits in the areas of transportation system efficiency, safety, reliability, service life, environmental protection, and sustainability. For each of these goals, the Secretary, in cooperation with representatives of the transportation community such as the States, local government, the private sector, and academia, shall access domestic and international technology to develop strategies and initiatives to achieve the goal, including technical assistance in deploying technology, and mechanisms for sharing information among program participants. Goals to be addressed may include:

''(1) Reduced delay and improved safety within construction and maintenance work areas.

''(2) Extended life of the current infrastructure.

''(3) Increased system durability and life, including applications of high performance materials.

''(4) Improved safety of driving at night and other periods of reduced visibility.

''(5) Support and enhancement of the environment with use of innovative technologies.

''(6) Support of community-oriented transportation and sustainable development.

''(7) Minimized transportation system closures, constraints, and delay caused by snow and ice.

''(c) FUNDING.—There are authorized to be appropriated, out of the Highway Trust Fund (other than the Mass Transit Account), $56,000,000 for each of fiscal years 1998, 1999, and 2000; and $84,000,000 for each of fiscal years 2001, 2002, and 2003 to carry out this section. Where appropriate to achieve the goals outlined above, the Secretary may further allocate such funds to States for their use.

''(d) LEVERAGING OF RESOURCES.—The Secretary shall give preference to projects that leverage Federal funds against significant resources from other sources, public or private.

''(e) CONTRACT AUTHORITY.—Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of this title; except that the Federal share of the cost of any activity under this section shall be determined by the Secretary and such funds shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the funds are authorized. After providing notice and an opportunity for comment, the Secretary may waive, in whole or in part, application of any provision of this title, if the Secretary determines that such waiver is not contrary to the public interest and will advance the

technology development nationwide. Any waiver under this section shall be published in the Federal Register, together with reasons for such waiver.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 is amended—

(1) striking the item relating to section 321; and

(2) striking the item relating to section 326 and inserting the following:

''326. National technology deployment initiatives program''.

SUBTITLE B—INTELLIGENT TRANSPORTATION SYSTEMS ACT OF 1997

SEC. 751. SHORT TITLE AND FINDINGS.

(a) SHORT TITLE.—This subtitle may be cited as the ''Intelligent Transportation Systems Act of 1997''.

(b) FINDINGS.—The Congress finds that the research and tests conducted under the Intelligent Transportation Systems Act of 1991 demonstrated the potential benefit and readiness of Intelligent Transportation Systems to enhance the safety and efficiency of surface transportation operations in a variety of ways.

(c) PURPOSE.—The purpose of this subtitle is to provide for the accelerated deployment of proven technologies and concepts, while also increasing the Federal commitment to improving surface transportation safety through aggressive, long-range research, development, testing, and promotion of crash avoidance technologies and systems in cooperation with industry.

SEC. 752. DEFINITIONS; CONFORMING AMENDMENT.

(a) For the purposes of this subtitle, the following definitions apply:

(1) ADVANCED RURAL TRANSPORTATION SYSTEMS.—The term ''Advanced Rural Transportation Systems'' means the construction, or acquisition, and operation of ITS predominantly outside of metropolitan areas, and including public lands such as National Parks, monuments, and recreation areas, for the purposes of providing—

(A) traveler safety and security advisories and warnings;

(B) emergency ''Mayday'' services to notify public safety and emergency response organizations of travelers in need of emergency services;

(C) tourism and traveler information services;

(D) public mobility services to improve the efficiency and accessibility of rural transit service;

(E) enhanced rural transit fleet operations and management;

(F) improved highway operations and maintenance through the rapid detection of severe weather conditions, hazardous road and bridge conditions, and imminent danger to construction and maintenance crews from errant vehicles in work zones; and

(G) Commercial Vehicle Operations (CVO) user services.

(2) CVISN.—The term ''Commercial Vehicle Information Systems and Networks'' means the information systems and communications networks that support CVO.

(3) CVO.—The term ''Commercial Vehicle Operations'' means motor carrier operations and motor vehicle regulatory activities associated with the commercial movement of goods, including hazardous materials, and passengers. Public sector CVO activities include the issuance of operating credentials, motor vehicle and fuel tax administration, and roadside safety and border crossing inspection and regulatory compliance operations.

(4) INTELLIGENT TRANSPORTATION INFRASTRUCTURE.—The term ''Intelligent Transportation Infrastructure'' means the initial construction or acquisition of fully integrated public sector ITS components as defined by the Secretary, including traffic signal control systems, freeway management systems, incident management systems, transit management systems, regional multi-modal traveler information systems, emergency management services, electronic toll collection systems, electronic fare payment systems, ITS-based railroad grade crossing safety systems, roadway weather information and prediction systems, advanced rural transportation systems, and commercial vehicle information systems and networks.

(5) INTELLIGENT TRANSPORTATION SYSTEMS.—The term ''intelligent transportation systems'' means the development or application of electronics, communications, or information processing (including advanced traffic management systems, commercial vehicle operations, advanced traveler information systems, commercial and advanced vehicle control systems, advanced public transportation systems, satellite vehicle tracking systems, and advanced vehicle communications systems) used singly or in combination to improve the efficiency and safety of surface transportation systems.

(6) ITS COLLISION AVOIDANCE SYSTEMS.—The term ''ITS Collision Avoidance Systems'' means an intelligent transportation system that assists vehicle operators to avoid collisions that would otherwise occur.

(7) NATIONAL ARCHITECTURE.—The term ''National Architecture'' means the common framework for interoperability adopted by the Secretary, and which defines the functions associated with ITS user services, the physical entities or subsystems within which such functions reside, the data interfaces and information flows between physical subsystems, and the communications requirements association with information flows.

(8) NATIONAL ITS PROGRAM PLAN.—The term ''National ITS Program Plan'' means the March 1995 First Edition of the National ITS Program Plan jointly developed by the U.S. Department of Transportation and the Intelligent Transportation Society of America, and subsequent revisions issued by the Secretary pursuant to section 755(a)(1).

(9) STATE.—The term ''State'' has the meaning such term has under section 101 of title 23, United States Code.

(b) NATIONAL HIGHWAY SYSTEM.—The undesignated paragraph in section 101(a) of title 23, United States Code, relating to the National Highway System is amended by inserting after ''title'' the following: ''and the Intelligent Transportation Infrastructure associated with such system.''.

SEC. 753. SCOPE OF PROGRAM.

(a) SCOPE.—Subject to the provisions of this subtitle, the Secretary shall conduct an ongoing program to research, develop, and operationally test intelligent transportation systems and advance Nation-wide deployment of such systems as a component of the Nation's surface transportation systems.

(b) GOALS.—The goals of the program to be carried out under this subtitle shall include, but not be limited to:

(1) the widespread planning, implementation and operation of integrated intermodal, interoperable intelligent transportation infrastructure, in conjunction with corresponding private sector systems and products, to enhance the capacity, efficiency, and safety of surface transportation, using the authorities provided under sections 103, 119, 133, 134, 135, 149, and 402 of title 23, and sections 31102, 5307, and 5309 of title 49, United States Code;

(2) the protection and enhancement of the natural environment and communities affected by surface transportation, with special emphasis on assisting the efforts of the States to attain air quality goals established pursuant to the Clean Air Act, while addressing the transportation demands of an expanding economy;

(3) the enhancement of safe operation of the Nation's surface transportation systems with a particular emphasis on aspects of intelligent transportation systems that will decrease the number and severity of collisions and identification of aspects of such systems that may degrade safety, and on in-vehicle systems that bring about a significant reduction in the deaths and injuries by helping prevent collisions that would otherwise occur;

(4) the enhancement of surface transportation operational and transactional efficiencies to allow existing facilities to be used to meet a significant portion of future transportation needs, and to reduce regulatory, financial, and other transaction costs to public agencies and system users;

(5) research, development, investigation, documentation, and promotion of intelligent transportation systems and the public sector organizational capabilities needed to perform or manage the planning, implementation, and operation of intelligent transportation infrastructure in the United States, using authorities provided under section 307 of title 23, United States Code, and sections 111, 112, 301, 30168, 31106, 5312, 5337, and 20108 of title 49, United States Code;

(6) the enhancement of the economic efficiency of surface transportation systems to improve America's competitive position in the global economy;

(7) the enhancement of public accessibility to activities, goods, and services, through the preservation, improvement and expansion of surface transportation system capabilities, operational efficiency, and intermodal connections;

(8) the development of a technology base and necessary standards and protocols for intelligent transportation systems; and

(9) the improvement of the Nation's ability to respond to emergencies and natural disasters, and the enhancement of national defense mobility.

SEC. 754. GENERAL AUTHORITIES AND REQUIREMENTS.

(a) COOPERATION.—In carrying out the program under this subtitle, the Secretary shall foster enhanced operations and management of the Nation's surface transportation systems, strive to achieve the widespread deployment of intelligent transportation systems, and continue to advance emerging technologies, in cooperation with State and local governments and the United States private sector. As appropriate, in carrying out the program under this subtitle, the Secretary shall consult with the Secretary of Commerce, the Secretary of the Treasury, the Administrator of the Environmental Protection Agency, the Director of the National Science Foundation, and the heads of other interested Federal departments and agencies and shall maximize the involvement of the United States private sector, colleges and universities, including Historically Black Colleges and Universities and other Minority Institutions of Higher Education, and State and local governments in all aspects of the program, including design, conduct (including operations and maintenance), evaluation, and financial or in-kind participation.

(b) STANDARDS.—The Secretary shall develop, implement, and maintain a National Architecture and supporting standards and protocols to promote the widespread use and evaluation of intelligent transportation systems technology as a component of the Nation's surface transportation systems. To the extent practicable, such standards and protocols shall promote interoperability among

intelligent transportation systems technologies implemented throughout the States. In carrying out this subsection, the Secretary may use the services of such existing standards-setting organizations as the Secretary determines appropriate. The Secretary shall consult with the Secretary of Commerce, the Secretary of Defense, and the Federal Communications Commission, and take all actions the Secretary deems necessary to secure the necessary spectrum for the near-term establishment of a dedicated short-range vehicle to wayside wireless standard.

(c) EVALUATION.—The Secretary shall prescribe guidelines and requirements for the independent evaluation of field and related operational tests carried out pursuant to section 756, including provisions to ensure the objectivity and independence of the evaluator needed to avoid any real or apparent conflict of interest or potential influence on the outcome by parties to such tests or any other formal evaluation conducted under this subtitle. Any survey, questionnaire, or interview which the Secretary considers necessary to carry out the evaluation of such tests or program assessment activities under this subtitle shall not be subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

(d) INFORMATION CLEARINGHOUSE.—

(1) CLEARINGHOUSE.—The Secretary shall establish and maintain a repository for technical and safety data collected as a result of federally sponsored projects carried out pursuant to this subtitle and shall make, upon request, such information (except for proprietary information and data) readily available to all users of the repository at an appropriate cost.

(2) DELEGATION OF AUTHORITY.—The Secretary may delegate the responsibility of the Secretary under this subsection, with continuing oversight by the Secretary, to an appropriate entity not within the Department of Transportation. If the Secretary delegates such responsibility, the entity to which such responsibility is delegated shall be eligible for Federal assistance under this subtitle.

(e) ADVISORY COMMITTEES.—The Secretary may utilize one or more advisory committees in carrying out this subtitle. Any advisory committee so utilized shall be subject to the Federal Advisory Committee Act. Funding provided for any such committee shall be available from moneys appropriated for advisory committees as specified in relevant appropriations acts and from funds allocated for research, development, and implementation activities in connection with the intelligent transportation systems program under this subtitle.

(f) AUTHORITY TO USE FUNDS.—Each State and eligible local entity is authorized to use funds provided under this subtitle or under section 1030 of the National Economic Crossroads Transportation Efficiency Act of 1997, sections 103, 119, 133, 149, and 402, of title 23, and sections 31102, 5307, 5309, 5310, and 5311 of title 49, United States Code, in accordance with the provisions of each of these sections, for implementation, modernization, and operational purposes in connection with intelligent transportation infrastructure and systems.

(g) CONFORMITY WITH STANDARDS.—the Secretary shall ensure that the implementation of intelligent transportation systems using funds authorized under this subtitle conform to the National Architecture and ITS standards and protocols, developed under subsection (b), except for projects using funds authorized for specific research objectives in the National ITS Program Plan under section 755 of this subtitle.

(h) LIFE-CYCLE COST ANALYSIS.—The Secretary shall require an analysis of the life-cycle costs of each project using Federal funds referenced in subsection (f) of this section, and those authorized in section 757 of this subtitle, for operations and maintenance of ITS elements, where the total initial capital costs of the ITS elements exceeds $3 million.

(i) PROCUREMENT METHODS.—To meet the need for effective implementation of ITS projects, the Secretary shall develop appropriate technical assistance and guidance to assist State and local agencies in evaluating and selecting appropriate methods of procurement for ITS projects, including innovative and nontraditional methods of procurement.

SEC. 755. NATIONAL ITS PROGRAM PLAN, IMPLEMENTATION, AND REPORT TO CONGRESS.

(a) NATIONAL ITS PROGRAM PLAN.—

(1) UPDATES.—The Secretary shall maintain and update the National ITS Program Plan as necessary.

(2) SCOPE.—The plan shall—

(A) specify the goals, objectives, and milestones for the deployment of intelligent transportation infrastructure in the context of major metropolitan areas, smaller metropolitan and rural areas, and commercial vehicle information systems and networks, and how specific programs and projects relate to the goals, objectives, and milestones, including consideration of the 5-, 10-, and 20-year timeframes for the goals and objectives;

(B) establish a course of action necessary to achieve the program's goals and objectives;

(C) provide for the evolutionary development of standards and protocols to promote and ensure interoperability in the implementation of intelligent transportation systems technologies; and

(D) establish a cooperative process with State and local governments for determining desired surface transportation system performance levels and development of plans for national incorporation of specific ITS capabilities into surface transportation systems.

(b) DEMONSTRATION AND EVALUATION OF INTELLIGENT VEHICLE SYSTEMS.—The Secretary shall conduct research and development activities for the purpose of demonstrating integrated intelligent vehicle systems. Such research shall include state-of-the-art preproduction systems and shall integrate collision avoidance, in-vehicle information, and other safety related systems. Development work shall incorporate human factors research findings to improve situational awareness of drivers and ensure success of the man-machine relationship. This program shall build on the technologies developed as part of the NHTSA Crash Avoidance and FHWA Automated Highway System programs and shall be conducted in cooperation with private industry, educational institutions, and other interested parties.

(c) IMPLEMENTATION REPORTS.—

(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act, and biennially thereafter, the Secretary shall submit to Congress a report on implementation of the National ITS Program Plan under subsection (a) of this section.

(2) SCOPE OF IMPLEMENTATION REPORTS.—In preparing reports under this subsection, the Secretary shall—

(A) summarize the status of intelligent transportation infrastructure deployment progress;

(B) analyze the possible and actual accomplishments of ITS projects in achieving congestion, safety, environmental, and energy conservation goals and objectives;

(C) assess nontechnical problems and constraints identified, including the inability to secure suitable spectrum allocations to implement a national or international dedicated short range vehicle to wayside communication standard; and

(D) include, if appropriate, any recommendations of the Secretary for legislation or modification to the National ITS Program Plan developed under subsection (a).

SEC. 756. TECHNICAL, TRAINING, PLANNING, RESEARCH AND OPERATIONAL TESTING PROJECT ASSISTANCE.

(a) TECHNICAL ASSISTANCE, TRAINING, AND INFORMATION.—The Secretary may provide planning and technical assistance, training, and information to State and local governments seeking to implement, operate, maintain, and evaluate ITS technologies and services.

(b) PLANNING ASSISTANCE.—The Secretary may make available financial assistance under this section to support adequate consideration of transportation system management and operations, including intelligent transportation systems and technologies, within metropolitan and statewide transportation processes. Such financial assistance shall be made available at such time, in such amounts and subject to such conditions as the Secretary may determine. The Secretary shall develop appropriate technical assistance to support the consideration of operations and management issues within metropolitan and statewide transportation planning.

(c) ELIGIBILITY OF CERTAIN ENTITIES.—Any commercial vehicle regulatory agency and any interagency traffic, transportation, or incident management entity, including independent public authorities or agencies, contracted by a State or local transportation agency for the planning, system development, evaluation, implementation, or operation of intelligent transportation infrastructure, including commercial vehicle information systems and networks, within a designated area or along a specific corridor are eligible to receive Federal assistance under this subtitle.

(d) RESEARCH AND OPERATIONAL TESTING PROJECTS.—The Secretary may provide funding to Federal agencies and make grants to non-Federal entities, including State and local governments, universities, including Historically Black Colleges and Universities and other Minority Institutions of Higher Education, and other persons, for research and operational tests relating to intelligent transportation systems. In deciding which projects to fund under this subsection, the Secretary shall—

(1) give the highest priority to those projects that will—

(A) contribute to the goals and objectives specified in the National ITS Program Plan developed under section 755 of this subtitle;

(B) minimize the relative percentage and amount of Federal contributions under this subtitle to total project costs;

(C) validate and accelerate the establishment and widespread conformance with the National Architecture and related standards and protocols;

(D) enhance traffic safety through accelerating the deployment of ITS collision avoidance products through the combined efforts of the Federal Government and industry;

(E) demonstrate innovative arrangements for multi-agency and/or private sector participation in the cooperative financing of the deployment and/or operation of intelligent transportation systems; and

(F) validate the effectiveness of integrated, intelligent transportation systems and infrastructure in enhancing the safety and efficiency of surface transportation within metropolitan and rural areas;

(2) seek to fund operational tests that advance the current state of knowledge in direct support of national ITS research and

technology objectives as defined in the National ITS Program Plan under section 755 of this subtitle, and

(3) require that operational tests utilizing Federal funds under this subtitle have a written evaluation of the intelligent transportation systems technologies investigated and of the results of the investigation which is consistent with the guidelines developed under section 754(c) of this subtitle.

SEC. 757. APPLICATIONS OF TECHNOLOGY.

(a) INTELLIGENT TRANSPORTATION INFRASTRUCTURE DEPLOYMENT INCENTIVES PROGRAM.—The Secretary shall conduct a program to promote the deployment of regionally integrated, intermodal intelligent transportation systems and, through financial and technical assistance under this subtitle, shall assist in the development and implementation of such systems, leveraging to the maximum extent funding from other sources. In metropolitan areas, funding provided under this subtitle shall primarily support activities which integrate existing intelligent transportation infrastructure elements or those implemented with other sources of public or private funding. For commercial vehicle projects and projects outside metropolitan areas, funding provided under this subtitle may also be used for installation of intelligent transportation infrastructure elements.

(b) PRIORITIES.—In providing funding for projects under this section, the Secretary shall allocate not less than 25 percent of the funds made available to carry out this section to eligible State or local entities for the implementation of commercial vehicle information systems and networks, and international border crossing improvements (in accordance with the requirements of this section and section 1030 of the National Economic Crossroads Transportation Efficiency Act of 1997), in support of public sector CVO activities nationwide, and not less than 10 percent for other intelligent transportation infrastructure deployment activities outside of metropolitan areas. In accordance with the National ITS Program Plan under section 755 of this subtitle, the Secretary shall provide incentives for the deployment of integrated applications of intermodal intelligent transportation infrastructure and system technologies so as to—

(1) stimulate sufficient deployment to validate and accelerate the establishment of national ITS standards and protocols;

(2) realize the benefits of regionally integrated, intermodal deployment of intelligent transportation infrastructure and commercial vehicle operations, including electronic border crossing applications; and

(3) motivate innovative approaches to overcoming non-technical constraints or impediments to deployment.

(c) PROJECT SELECTION.—To be selected for funding under this section, a project shall—

(1) contribute to national deployment goals and objectives outlined in the National ITS Program Plan under section 755 of this subtitle;

(2) demonstrate a strong commitment to cooperation among agencies, jurisdictions, and the private sector, as evidenced by signed Memorandums of Understanding that clearly define the responsibilities and relation of all parties to a partnership arrangement, including institutional relationships, and financial agreements needed to support deployment, and commitment to the criteria provided in paragraphs (3) through (7) of this subsection;

(3) demonstrate commitment to a comprehensive plan of fully integrated ITS deployment in accordance with the national ITS architecture and established ITS standards and protocols;

(4) be part of approved plans and programs developed under applicable statewide and metropolitan transportation planning processes and applicable State air quality implementation plans at the time Federal funds are sought;

(5) be instrumental in catalyzing corresponding public or private ITS investments and that minimize the relative percentage and amount of Federal contributions under this section to total project costs;

(6) include a sound financial approach to ensuring continued, long-term operations and maintenance without continued reliance on Federal funding under this subtitle, along with documented evidence of fiscal capacity and commitment from anticipated public and private sources; and

(7) demonstrate technical capacity for effective operations and maintenance or commitment to acquiring necessary skills.

(d) FUNDING RESTRICTIONS AND LIMITATIONS.—Funding eligibility under this section for intelligent transportation infrastructure projects in metropolitan areas shall be limited to items necessary to integrate intelligent transportation system elements either deployed or to be deployed by various implementing public and private agencies and organizations. Annual awards shall be limited to $15,000,000 per metropolitan area, $2,000,000 per rural project, and $5,000,000 per CVISN project, provided that no more than $35,000,000 shall be awarded annually within any State.

SEC. 758. FUNDING.

(a) INTELLIGENT TRANSPORTATION INFRASTRUCTURE DEPLOYMENT INCENTIVES PROGRAM.—There is authorized to be appropriated to the Secretary for carrying out section 757 of this subtitle, out of the Highway Trust Fund (other than the Mass Transit Account), $100,000,000 for each of fiscal years 1998, 1999, 2000, 2001, 2002, and 2003. In addition to amounts made available by subsection (b) of this section, any amounts authorized by this subsection and not allocated by the Secretary for carrying out section 757 of this subtitle may be used by the Secretary for carrying out other activities authorized under this subtitle.

(b) ITS RESEARCH AND PROGRAM SUPPORT ACTIVITIES.—There is authorized to be appropriated to the Secretary for carrying out multi-year research and technology development initiatives under this subtitle (other than section 757), out of the Highway Trust Fund (other than the Mass Transit Account), $96,000,000 for each of fiscal years 1998, 1999, and 2000, and $130,000,000 for each of fiscal years 2001, 2002, and 2003.

(c) FEDERAL SHARE PAYABLE.—

(1) For activities funded under subsection (a) of this section, the Federal share payable from the sums authorized under subsection (a) shall not exceed 50 percent of the costs thereof, and the total Federal share payable from all eligible sources (including subsection (a)) shall not exceed 80 percent of the costs thereof.

(2) For activities funded under subsection (b) of this section, unless the Secretary determines otherwise, the Federal share payable on account of such activities shall not exceed 80 percent of the costs thereof.

(3) For long range activities undertaken in partnership with private entities for the purposes of section 755(b) of this subtitle, the Federal share payable on account of such activities shall not exceed 50 percent of the costs thereof.

(4) The Secretary shall seek maximum participation in the funding of such activities under this subtitle from other public and private sources, and shall minimize the use of funds provided under this subtitle for the construction or long-term acquisition of buildings and grounds.

(d) APPLICABILITY OF TITLE 23.—Funds authorized by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any activity under this section shall be determined in accordance with this section, and such funds shall remain available for obligation for a period of 3 years after the last day of the fiscal years for which the funds are authorized.

TITLE VIII—BOATING SAFETY

SEC. 801. SHORT TITLE.

This Act may be cited as the ''Sportfishing and Boating Improvement Act of 1997''.

SEC. 802. AMENDMENT OF 1950 ACT.

Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision of the 1950 Act, the reference shall be considered to be made to a section or other provision of the Act entitled ''An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes,'' approved August 9, 1950 (16 U.S.C. 777 et seq.).

SEC. 803. OUTREACH AND COMMUNICATIONS PROGRAMS.

(a) DEFINITIONS.—Section 2 of the 1950 Act (16 U.S.C. 777a) is amended—

(1) by indenting the left margin of so much of the text as precedes ''(a)'' by 2 ems;

(2) by inserting ''For purposes of this Act—'' after the section caption;

(3) by striking ''For the purpose of this Act the'' in the first paragraph and inserting ''(1) the'';

(4) by indenting the left margin of so much of the text as follows ''include—'' by 4 ems;

(5) by striking ''(a)'', ''(b)'', ''(c)'', and ''(d)'' and inserting ''(A)'', ''(B)'', ''(C)'', and ''(D)'', respectively;

(6) by striking ''department.'' and inserting ''department;''; and

(7) by adding at the end thereof the following:

''(2) the term 'outreach and communications program' means a program to improve communication with anglers, boaters, and the general public regarding angling and boating opportunities, to reduce barriers to participation in these activities, to advance adoption of sound fishing and boating practices, to promote conservation and the responsible use of the nation's aquatic resources, and to further safety in fishing and boating; and

''(3) the term 'aquatic resource education program' means a program designated to enhance the public's understanding of aquatic resources and sport-fishing, and to promote the development of responsible attitudes and ethics toward the aquatic environment.''.

(b) FUNDING FOR OUTREACH AND COMMUNICATIONS PROGRAM.—Section 4 of the 1950 Act (16 U.S.C. 777c) is amended—

(1) by redesignating subsections (c, (d), and (e) as subsections (d), (e), and (f);

(2) by inserting after subsection (b) the following:

''(c) NATIONAL OUTREACH AND COMMUNICATIONS FUND.—

''(1) ESTABLISHMENT.—There is established on the books of the Treasury a fund to be known as the 'National Outreach and Communications Fund'.

''(2) CREDITS.—There shall be credited to the Fund—

''(A) out of the balance of each such annual appropriation remaining after the distribution and use under subsections (a) and (b), respectively, the sum of—

''(i) $5,000,000 for the fiscal year 1998;

''(ii) $6,000,000 for fiscal year 1999;

''(iii) $7,000,000 for fiscal year 2000;

''(iv) $8,000,000 for fiscal year 2001; and

''(v) $10,000,000 for fiscal year 2002; and

''(B) amounts allocated to it under subsection (d).

''(3) CARRYFORWARD.—Amounts credited to the fund under paragraph (2) shall remain available for 2 fiscal years after the fiscal year in which credited. Amounts credited to the fund under that paragraph that are unobligated by the Secretary of the Interior more than 2 years after the fiscal year in which credited shall be available to the Secretary under subsection (e).'';

(4) by inserting a comma and ''for an outreach and communications program'' after ''Act'' in subsection (d), as so redesignated;

(5) by striking ''subsections (a) and (b),'' in subsection (d), as so redesignated, ''subsections (a), (b), and (c),'';

(6) by adding at the end of subsection (d), as so redesignated, the following: ''Of the sum available to the Secretary of the Interior under this subsection for any fiscal year, not more than $2,500,000 is authorized to be allocated to the National Outreach and Communications Fund. No funds available to the Secretary under this subsection may be used to replace funding traditionally provided through general appropriations, nor for any purposes except those purposes authorized by this Act. The Secretary shall publish a detailed accounting of the projects, programs, and activities funded under this subsection annually in the Federal Register.''; and

(7) by striking ''subsections (a), (b), and (c),'' in subsection (e), as so redesignated, and inserting ''subsections (a), (b), (c), and (d),''.

(c) INCREASE IN STATE ALLOCATION.—Section 8 of the 1950 Act (16 U.S.C. 777g) is amended—

(1) by striking ''12½ percentum'' each place it appears in subsection (b) and inserting ''15 percent'';

(2) by striking ''10 percentum'' in subsection (c) and inserting ''15 percent'';

(3) by inserting ''and communications'' in subsection (c) after ''outreach''; and

(4) by redesignating subsection (d) as subsection (f); and by inserting after subsection (c) the following:

''(d) NATIONAL OUTREACH AND COMMUNICATIONS PROGRAM.—

''(1) IMPLEMENTATION.—Within 1 year after the date of enactment of the Sportfishing and Boating Improvement Act of 1997, the Secretary of the Interior shall develop and implement, in cooperation and consultation with the Sport Fishing and Boating Partnership Council, a national plan for outreach and communications.

''(2) CONTENT.—The plan shall provide—

''(A) guidance, including guidance on the development of an administrative process and funding priorities, for outreach and communications programs; and

''(B) for the establishment of a national program.

''(3) SECRETARY MAY MATCH OR FUND PROGRAMS.—Under the plan, the Secretary may obligate amounts from the National Outreach and Communications Fund under section 4(c) of this Act—

''(A) to make grants to any State or private entity to pay all or any portion of the cost of carrying out any outreach or communications program under the plan; or

''(B) to fund contracts with States or private entities to carry out such a program.

''(4) REVIEW.—The plan shall be reviewed periodically, but not less frequently than once every 3 years.

''(e) STATE OUTREACH AND COMMUNICATIONS PROGRAM.—Within 12 months after the completion of the national plan under subsection (d)(1), a State shall develop a plan for an outreach and communications program and submit it to the Secretary. In developing the plan, a State shall—

''(1) review the national plan developed under subsection (d);

''(2) consult with anglers, boaters, the sportfishing and boating industries, and the general public; and

''(3) establish priorities for the State outreach and communications program proposed for implementation.''.

SEC. 804. CLEAN VESSEL ACT FUNDING.

Section 4(b) of the 1950 Act (16 U.S.C. 777c(b)) is amended to read as follows:

''(b) USE OF BALANCE AFTER DISTRIBUTION.—

''(1) FISCAL YEAR 1998.—For fiscal year 1998, of the balance remaining after making the distribution under subsection (a), an amount equal to $51,000,000 shall be used as follows:

''(A) $31,000,000 for fiscal year 1998 shall be transferred to the Secretary of Transportation and shall be expended for State recreational boating safety programs under section 13106 of title 46, United States Code;

''(B) $10,000,000 shall be available for each fiscal year to the Secretary of the Interior for 3 years for obligation for qualified projects under section 5604(c) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note); and

''(C) $10,000,000 shall be available for each fiscal year to the Secretary of the Interior for 3 years for obligation for qualified projects under section (5)(d) of the Sportfishing and Boating Improvement Act of 1997.

''(2) FISCAL YEARS 1999–2003.—For each of fiscal years 1999 through 2003, the balance of each annual appropriation remaining after making the distribution under subsection (a), an amount equal to $84,000,000, reduced by 82 percent of the amount appropriated for that fiscal year from the Boat Safety Account of the Aquatic Resources Trust Fund established by section 9504 of the Internal Revenue Code of 1986 (26 U.S.C. 9504) to carry out the purposes of section 13106(a) of title 46, United States Code, shall be used as follows:

''(A) $10,000,000 shall be available for each fiscal year to the Secretary of the Interior for 3 years for obligation for qualified projects under section 5604(c) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note);

''(B) $10,000,000 shall be available for each fiscal year to the Secretary of the Interior for 3 years for obligation for qualified projects under section (5)(d) of the Sportfishing and Boating Improvement Act of 1997; and

''(C) the balance shall be transferred for each such fiscal year to the Secretary of Transportation and shall be expended for State recreational boating safety programs under section 13106 of title 46, United States Code.

''(3) Amounts available under subparagraphs (A) and (B) of paragraph (1) and paragraph (2) that are unobligated by the Secretary of the Interior after 3 years shall be transferred to the Secretary of Transportation and shall be expended for State recreational boating safety programs under section 13106(a) of title 46, United States Code.''.

SEC. 805. BOATING INFRASTRUCTURE.

(a) PURPOSE.—The purpose of this section is to provide funds to States for the development and maintenance of public facilities for transient nontrailerable recreational vessels.

(b) SURVEY.—Section 8 of the 1950 Act (16 U.S.C. 777g), as amended by section 803, is amended by adding at the end thereof the following:

''(g) SURVEYS.—

''(1) NATIONAL FRAMEWORK.—Within 6 months after the date of enactment of the Sportfishing and Boating Improvement Act of 1997, the Secretary, in consultation with the States, shall adopt a national framework for a public boat access needs assessment which may be used by States to conduct surveys to determine the adequacy, number, location, and quality of facilities providing access to recreational waters for all sizes of recreational boats.

''(2) STATE SURVEYS.—Within 18 months after such date of enactment, each State that agrees to conduct a public boat access needs survey following the recommended national framework shall report its findings to the Secretary for use in the development of a comprehensive national assessment of recreational boat access needs and facilities.

''(3) EXCEPTION.—Paragraph (2) does not apply to a State if, within 18 months after such date of enactment, the Secretary certifies that the State has developed and is implementing a plan that ensures there are and will be public boat access adequate to meet the needs of recreational boaters on its waters.

''(4) FUNDING.—A State that conducts a public boat access needs survey under paragraph (2) may fund the costs of conducting that assessment out of amounts allocated to it as funding dedicated to motorboat access to recreational waters under subsection (b)(1) of this section.''.

(c) PLAN.—Within 6 months after submitting a survey to the Secretary under section 8(g) of the Act entitled ''An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes,'' approved August 9, 1950 (16 U.S.C. 777g(g)), as added by subsection (b) of this section, a State may develop and submit to the Secretary a plan for the construction, renovation, and maintenance of public facilities, and access to those facilities, for transient nontrailerable recreational vessels to meet the needs of nontrailerable recreational vessels operating on navigable waters in the State.

(d) GRANT PROGRAM.—

(1) MATCHING GRANTS.—The Secretary of the Interior shall obligate amounts made available under section 4(b)(1)(C) of the Act entitled ''An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes,'' approved August 9, 1950 (16 U.S.C. 777c(b)(1)(C)) to make grants to any State to pay not more than 75 percent of the cost to a State of constructing, renovating, or maintaining public facilities for transient nontrailerable recreational vessels.

(2) PRIORITIES.—In awarding grants under paragraph (1), the Secretary shall give priority to projects that—

(A) consist of the construction, renovation, or maintenance of public facilities for transient nontrailerable recreational vessels in accordance with a plan submitted by a State under subsection (c);

(B) provide for public/private partnership efforts to develop, maintain, and operate facilities for transient nontrailerable recreational vessels; and

(C) propose innovative ways to increase the availability of facilities for transient nontrailerable recreational vessels.

(e) DEFINITIONS.—For purposes of this section, the term—

(1) ''nontrailerable recreational vessel'' means a recreational vessel 26 feet in length or longer—

(A) operated primarily for pleasure; or

(B) leased, rented, or chartered to another for the latter's pleasure;

(2) ''public facilities for transient nontrailerable recreational vessels'' includes mooring buoys, daydocks, navigational aids, seasonal slips, or similar structure located on navigable waters, that are available to the general public and designed for temporary use by nontrailerable recreational vessels; and

(4) ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto

Rico, Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

(f) EFFECTIVE DATE.—This section shall take effect on October 1, 1997.

SEC. 806. BOAT SAFETY FUNDS.

(a) IN GENERAL.—Section 13106 of title 46, United States Code, is amended—

(1) by striking the first sentence of subsection (a)(1) and inserting the following: ''Subject to paragraph (2) and subsection (c), the Secretary shall expend in each fiscal year for State recreational boating safety programs, under contracts with States under this chapter, an amount equal to the sum of (A) the amount appropriated from the Boat Safety Account for that fiscal year and (B) the amount transferred to the Secretary under section 4(b)(1) of the Act of August 9, 1950 (16 U.S.C. 777c(b)(1)).''; and

(2) by striking subsection (c) and inserting the following:

''(c) Of the amount transferred for each fiscal year to the Secretary of Transportation under section 4(b)(1)(A) of the Act of August 9, 1950 (16 U.S.C. 777c(b)), $5,000,000 is available to the Secretary for payment of expenses of the Coast Guard for personnel and activities directly related to coordinating and carrying out the national recreational boating safety program under this title. Amounts made available by this subsection shall remain available until expended. The Secretary shall publish annually in the Federal Register a detailed accounting of the projects, programs, and activities funded under this subsection.''.

(b) CONFORMING AMENDMENTS.—

(1) The caption for section 13106 of title 46, United States Code, is amended to read as follows:

''§ 13106. Authorization of appropriations''.

(2) The chapter analysis for chapter 131 of title 46, United States Code, is amended by striking the item relating to section 13106 and inserting the following:

''13106. Authorization of appropriations''.

SEC. 807. FUNDS FOR RECREATIONAL BOATING SAFETY.

(a) ALLOCATION OF FUNDS TO INSULAR AREAS.—Section 13103 of title 46, United States Code, is amended—

(1) by inserting ''(1) before ''The Secretary'' in subsection (a);

(2) by redesignating paragraphs (1), (2), and (3) of subsection (a) as subparagraphs (A), (B), and (C), respectively;

(3) by adding at the end of subsection (a) the following:

''(2) The amount allocated to each of the insular areas under this subsection shall not exceed one-half of one percent of the total amount allocated under paragraph (1).'';

(4) by striking ''year.'' in subsection (b) and inserting the following: ''year, except that, in the case of the insular areas, the requirement for local matching funds is waived for amounts under $200,000.''; and

(5) by adding at the end thereof the following:

''(d) For purposes of this section, the term 'insular areas' means American Samoa, Guam, the Northern Mariana Islands, and the Virgin Islands.''.

(b) AVAILABILITY OF ALLOCATIONS.—Section 13104(a) of such title is amended—

(1) by striking ''3 years'' in paragraph (1) and inserting ''2 years''; and

(2) by striking ''3-year'' in paragraph (2) and inserting ''2-year''.

By Mr. DORGAN:

S. 1236. A bill to amend title 23, United States Code, to provide for a national program concerning motor vehicle pursuits by law enforcement officers, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE NATIONAL POLICE PURSUIT POLICY ACT OF 1997

Mr. DORGAN. Mr. President, when Police Chief John Whetsel pulled up to the scene of a fiery car wreck, he never expected to recognize the charred remains of a familiar vehicle. After receiving word that a highway patrol cruiser's 100-miles-per-hour pursuit of a fleeing motorcycle had led to a terrible accident involving several bystanders, Chief Whetsel hurried to the scene.

Upon his arrival, Chief Whetsel quickly recognized his family's smoldering automobile and let out a long cry of anguish as he discovered that his wife and two daughters were the victims of this terrible accident. Unfortunately, 1995 statistics show that 40 percent of all high-speed pursuits end in accidents, causing needless death and injury to our Nation's families.

I certainly understand the pain that Chief Whetsel endured. My mother was killed in a high-speed police chase on her drive from a local Bismarck, ND hospital. Eyewitnesses say that the speed of this chase was 80 to 100 miles an hour through the city streets. She died as the drunk lawbreaker fishtailed his pickup truck racing away from pursuing officers. She was a wonderful woman, and it was a senseless and painful loss of life.

There are countless other tragic examples. In fact, there is an entire organization, called STOPP, dedicated to raising the awareness of the dangers of high speed police pursuits. The members of their board have very strong convictions on this issue, for each of them also lost a family member or a friend who was an innocent victim of a high speed chase.

Mr. President, today I rise to introduce the National Police Pursuit Policy Act of 1997. It is my hope that this legislation, if enacted, would help prevent tragic losses like the episode that occurred to Chief Whetsel, my family, and so many others. High speed chases are dangerous and occur too frequently, and the human losses resulting from high-speed police pursuits in the last several years continue to mount. While we are finally seeing some initiative being taken by various States and local communities to address this problem, these efforts must extend to all State and local jurisdictions in this country to attack the problem.

According to the U.S. Department of Transportation, there were 377 deaths nationwide in 1996, and 27 percent of these deaths were police officers or innocent bystanders that died as a result of high-speed chases. Many chases begin as motorists—whether out of fright, panic, or guilt—flee at high speeds instead of pulling over when a police vehicle turns on its lights and siren. Unfortunately, some police become determined to apprehend the fleeing motorists at all costs, and an alarming 60 percent of all police pursuits originate from minor traffic violations. The result is that the safety of the general public—and the dangers that are created by high-speed chases in city traffic—become secondary to catching someone whose initial offense may have been no greater than driving a car with a broken tail-light.

Increased training and education are essential in addressing this problem. Every single law enforcement jurisdiction in the United States must adopt a reasoned, and well-balanced pursuit policy. With 73 percent of all police officers reporting that they have been involved in a high-speed pursuit in the last 12 months, these officers need specialized training in this area. Currently, new studies show that on average only 14 hours of driver training is provided to new law enforcement recruits, with the majority of this time used for the mechanics of driving rather than practicing safe and effective high-speed pursuit procedures. In addition, statistics show that there is a decrease in high-speed pursuits when law enforcement officers are properly trained in this area.

Specific training on departmental pursuit policies and regular followup training is necessary to guarantee that all citizens, both civilians and police, receive the benefit of uniform awareness of this problem. There must be a national realization that there are circumstances in which police should not conduct a chase, and our officers should be commended for making these important, lifesaving choices. A drive across country should not be a ''pot luck'' regarding one's chances of being maimed or killed by a police pursuit.

I want to stress that the police are not the villains here. It is the folks that run from the police who are the villains. We must focus on the fleeing lawbreakers who are initiating these chases. The punishment for fleeing the police should be certain and severe. People should be aware that if they flee they will pay a big price for doing so.

The legislation that I am introducing today would require the enactment of State laws making it unlawful for the driver of a motor vehicle to take evasive action if pursued by police and would establish a standard minimum penalty of 3 months imprisonment and the seizure of the driver's vehicle. In addition, my bill would require each law enforcement agency to establish a hot-pursuit policy and provide that all officers receive adequate training in accordance with that policy.

Mr. President, this public safety problem is not an easy issue to solve. I understand that it will always be difficult for police officers to judge when a chase is getting out of hand and when public safety would be served best by holding back. However, it can improve the situation if we ensure that police officers are trained on how best to make these difficult judgments, and if we send a message to motorists that if you flee, you will do time in jail and lose your car.

I believe that these requirements, if passed, will demonstrate strong and uniform Federal leadership in response to this problem. Consequently, I ask unanimous consent that the full text of this bill be printed in the RECORD, and I urge my colleagues to support this important measure.

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

S. 1236

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 ''National Police Pursuit Policy Act of 1997''.

SEC. 2. FINDINGS.

Congress finds that—

(1) in 1996—

(A) 377 deaths occurred in the United States as a result of high-speed motor vehicle pursuits; and

(B) 103 of those deaths were police officers or innocent bystanders who died as a result of high-speed motor vehicle pursuits;

(2) in 1995, of the high-speed motor vehicle pursuits conducted during that year, approximately—

(A) 40 percent resulted in accidents;

(B) 20 percent resulted in injury; and

(C) 1 percent resulted in death;

(3) a recent study found that approximately 60 percent of high-speed motor vehicle pursuits resulted from pursuits that were not related to felony offenses;

(4) an insufficient amount of statistical data and documentation concerning high-speed motor vehicle pursuits is available;

(5) a recent study found that although only 31 percent of law enforcement agencies maintain consistent records on motor vehicle pursuits made by law enforcement officers, 71 percent of those agencies were able to provide data on the number of high-speed motor vehicle pursuits conducted;

(6) a recent study found that—

(A) 73 percent of the law enforcement officers polled had been involved in a high-speed motor vehicle pursuit during the 12-month period preceding the date of the polling; and

(B) 40 percent of those officers reported that an accident resulted from a high-speed motor vehicle pursuit in which the officer participated;

(7) a recent study found that most law enforcement recruits who receive training to become law enforcement officers receive only an average of 14 hours of training for driving skills, and a majority of that time is used to provide training in the mechanics of driving instead of providing practice for safe and effective high-speed motor vehicle pursuit procedures; and

(8) a recent study found that an increased emphasis on the high-speed motor vehicle pursuit policies, procedures, and training decreases the occurrence of high-speed motor vehicle pursuits, as the recruits who receive training that includes special training for effective high-speed motor vehicle pursuits were less likely to engage in those pursuits.

SEC. 3. MOTOR VEHICLE PURSUIT REQUIREMENTS FOR STATE HIGHWAY SAFETY PROGRAMS.

Section 402(b)(1) of title 23, United States Code, is amended—

(1) in each of subparagraphs (A) through (D), by striking the period at the end and inserting a semicolon;

(2) in subparagraph (E), by striking the period at the end and inserting ''; and''; and

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

''(F) on and after January 1, 1999, have in effect throughout the State—

''(i) a law that—

''(I) makes it unlawful for the driver of a motor vehicle to increase speed or to take any other deliberately evasive action if a law enforcement officer clearly signals the driver to stop the motor vehicle; and

''(II) provides that any driver who violates that law shall be subject to a minimum penalty of—

''(aa) imprisonment for a period of not less than 3 months; and

''(bb) seizure of the motor vehicle at issue; and

''(ii) a requirement that each State agency and each agency of a political subdivision of the State that employs law enforcement officers who, in the course of employment, may conduct a motor vehicle pursuit shall—

''(I) have in effect a policy that meets requirements that the Secretary shall establish concerning the manner and circumstances in which a motor vehicle pursuit may be conducted by law enforcement officers;

''(II) train all law enforcement officers of the agency in accordance with the policy referred to in subclause (I); and

''(III) for each fiscal year, transmit to the chief executive officer of the State a report containing information on each motor vehicle pursuit conducted by a law enforcement officer of the agency.''.

SEC. 4. REPORTING REQUIREMENT.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Attorney General of the United States, the Secretary of Agriculture, the Secretary of the Interior, the Secretary of the Treasury, the Chief of the Capitol Police, and the Administrator of General Services shall each transmit to Congress a report containing—

(1) the policy of the department or agency headed by that individual concerning motor vehicle pursuits by law enforcement officers of that department or agency; and

(2) a description of the procedures that the department or agency uses to train law enforcement officers in the implementation of the policy referred to in paragraph (1).

(b) REQUIREMENT.—Each policy referred to in subsection (a)(1) shall meet the requirements established by the Secretary of Transportation pursuant to section 402(b)(1)(F)(ii)(I) of title 23, United States Code, concerning the manner and circumstances in which a motor vehicle pursuit may be conducted.

ADDITIONAL COSPONSORS

S. 627

At the request of Mr. JEFFORDS, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 627, a bill to reauthorize the African Elephant Conservation Act.

S. 887

At the request of Ms. MOSELEY-BRAUN, the names of the Senator from Maine [Ms. SNOWE] and the Senator from Maine [Ms. COLLINS] were added as cosponsors of S. 887, a bill to establish in the National Service the National Underground Railroad Network to Freedom program, and for other purposes.

S. 981

At the request of Mr. THOMPSON, the name of the Senator from Minnesota [Mr. GRAMS] was added as a cosponsor of S. 981, a bill to provide for analysis of major rules.

S. 1052

At the request of Mr. FAIRCLOTH, his name was added as a cosponsor of S. 1052, a bill to amend the Andean Trade Preference Act to prohibit the provision of duty-free treatment for live plants and fresh cut flowers described in chapter 6 of the Harmonized Tariff Schedule of the United States.

S. 1056

At the request of Mr. BURNS, the names of the Senator from Kansas [Mr. BROWNBACK], the Senator from Kansas [Mr. ROBERTS], the Senator from Kentucky [Mr. MCCONNELL], the Senator from Iowa [Mr. HARKIN], and the Senator from Illinois [Ms. MOSELEY-BRAUN] were added as cosponsors of S. 1056, a bill to provide for farm-related exemptions from certain hazardous materials transportation requirements.

S. 1081

At the request of Mr. LEAHY, the names of the Senator from Hawaii [Mr. INOUYE] and the Senator from Washington [Mrs. MURRAY] were added as cosponsors of S. 1081, a bill to enhance the rights and protections for victims of crime.

S. 1105

At the request of Mr. COCHRAN, the names of the Senator from Virginia [Mr. WARNER] and the Senator from Tennessee [Mr. FRIST] were added as cosponsors of S. 1105, a bill to amend the Internal Revenue Code of 1986 to provide a sound budgetary mechanism for financing health and death benefits of retired coal miners while ensuring the long-term fiscal health and solvency of such benefits, and for other purposes.

SENATE CONCURRENT RESOLUTION 48

At the request of Mr. KYL, the names of the Senator from Utah [Mr. HATCH] and the Senator from Michigan [Mr. ABRAHAM] were added as cosponsors of Senate Concurrent Resolution 48, a concurrent resolution expressing the sense of the Congress regarding proliferation of missile technology from Russia to Iran.

SENATE RESOLUTION 119

At the request of Mr. FEINGOLD, the name of the Senator from South Dakota [Mr. JOHNSON] was added as a cosponsor of Senate Resolution 119, a resolution to express the sense of the Senate that the Secretary of Agriculture should establish a temporary emergency minimum milk price that is equitable to all producers nationwide and that provides price relief to economically distressed milk producers.

AMENDMENTS SUBMITTED

THE BIPARTISAN CAMPAIGN REFORM ACT OF 1997

LOTT (AND WARNER) AMENDMENT NO. 1258

Mr. LOTT (for himself and Mr. WARNER) proposed an amendment to the

bill (S. 25) to reform the financing of Federal elections; as follows:

Strike all of section 501, and insert the following:

SEC. 501. PAYCHECK PROTECTION ACT.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding the following new subsection:

''(c)(1) Except with the separate, prior, written, voluntary authorization of each individual, it shall be unlawful—

''(A) for any national bank or corporation described in this section to collect from or assess its stockholders or employees any dues, initiation fee, or other payment as a condition of employment if any part of such dues, fee, or payment will be used for political activities in which the national bank or corporation, as the case may be, is engaged; and

''(B) for any labor organization described in this section to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used for political activities.

''(2) An authorization described in paragraph (1) shall remain in effect until revoked and may be revoked at any time.

''(3) For purposes of this subsection, the term 'political activities' includes communications or other activities which involve carrying on propaganda, attempting to influence legislation, or participating or intervening in any political campaign or political party.''

LOTT AMENDMENT NO. 1259

Mr. LOTT proposed an amendment to amendment No. 1258 proposed by him to the bill, S. 25, supra; as follows:

In lieu of the matter proposed to be inserted insert the following:

SEC. 501. PAYCHECK PROTECTION ACT.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding the following new subsection:

''(c)(1) Except with the separate, prior, written, voluntary authorization of each individual, it shall be unlawful—

''(A) for any national bank or corporation described in this section to collect from or assess its stockholders or employees any dues, initiation fee, or other payment as a condition of employment if any part of such dues, fee, or payment will be used for political activities in which the national bank or corporation, as the case may be, is engaged; and

''(B) for any labor organization described in this section to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used for political activities.

''(2) An authorization described in paragraph (1) shall remain in effect until revoked and may be revoked at any time.

''(3) For purposes of this subsection, the term 'political activities' includes communications or other activities which involve carrying on propaganda, attempting to influence legislation, or participating or intervening in any political campaign or political party.''

(b) EFFECTIVE DATE.—This section shall take effect one day after enactment of this Act.

LOTT AMENDMENT NO. 1260

Mr. LOTT proposed an amendment to amendment No. 1258 proposed by him to the bill, S. 25, supra; as follows:

Strike all after the word ''SEC.'' in the pending amendment and insert the following:

501. PAYCHECK PROTECTION ACT.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding the following new subsection:

''(c)(1) Except with the separate, prior, written, voluntary authorization of each individual, it shall be unlawful—

''(A) for any national bank or corporation described in this section to collect from or assess its stockholders or employees any dues, initiation fee, or other payment as a condition of employment if any part of such dues, fee, or payment will be used for political activities in which the national bank or corporation, as the case may be, is engaged; and

''(B) for any labor organization described in this section to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used for political activities.

''(2) An authorization described in paragraph (1) shall remain in effect until revoked and may be revoked at any time.

''(3) For purposes of this subsection, the term 'political activities' includes communications or other activities which involve carrying on propaganda, attempting to influence legislation, or participating or intervening in any political campaign or political party.''

(b) EFFECTIVE DATE.—This section shall take effect two days after enactment of this Act.

LOTT AMENDMENT NO. 1261

Mr. LOTT proposed an amendment to the bill, S. 25, supra; as follows:

On page 42, in the language proposed to be stricken, strike all after ''SEC. 501.'' through the end of the page, and insert the following:

PAYCHECK PROTECTION ACT.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding the following new subsection:

''(c)(1) Except with the separate, prior, written, voluntary authorization of each individual, it shall be unlawful—

''(A) for any national bank or corporation described in this section to collect from or assess its stockholders or employees any dues, initiation fee, or other payment as a condition of employment if any part of such dues, fee, or payment will be used for political activities in which the national bank or corporation, as the case may be, is engaged; and

''(B) for any labor organization described in this section to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used for political activities.

''(2) An authorization described in paragraph (1) shall remain in effect until revoked and may be revoked at any time.

''(3) For purposes of this subsection, the term 'political activities' includes communications or other activities which involve carrying on propaganda, attempting to influence legislation, or participating or intervening in any political campaign or political party.''

(b) EFFECTIVE DATE.—This section shall take effect three days after enactment of this Act.

LOTT AMENDMENT NO. 1262

Mr. LOTT proposed an amendment to amendment No. 1261 proposed by him to the bill, S. 25, supra; as follows:

Strike all after the first word in the pending amendment and insert the following:

PROTECTION ACT.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding the following new subsection:

''(c)(1) Except with the separate, prior, written, voluntary authorization of each individual, it shall be unlawful—

''(A) for any national bank or corporation described in this section to collect from or assess its stockholders or employees any dues, initiation fee, or other payment as a condition of employment if any part of such dues, fee, or payment will be used for political activities in which the national bank or corporation, as the case may be, is engaged; and

''(B) for any labor organization described in this section to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used for political activities.

''(2) An authorization described in paragraph (1) shall remain in effect until revoked and may be revoked at any time.

''(3) For purposes of this subsection, the term 'political activities' includes communications or other activities which involve carrying on propaganda, attempting to influence legislation, or participating or intervening in any political campaign or political party.''

(b) EFFECTIVE DATE.—This section shall take effect four days after enactment of this Act.

LOTT AMENDMENT NO. 1263

Mr. LOTT proposed an amendment to the motion to recommit the bill, S. 25, supra; as follows:

At the end of the instructions add the following:

''with an amendment as follows:

Strike all of section 501 and insert the following:

SEC. . PAYCHECK PROTECTION ACT.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding the following new subsection:

''(c)(1) Except with the separate, prior, written, voluntary authorization of each individual, it shall be unlawful—

''(A) for any national bank or corporation described in this section to collect from or assess its stockholders or employees any dues, initiation fee, or other payment as a condition of employment if any part of such dues, fee, or payment will be used for political activities in which the national bank or corporation, as the case may be, is engaged; and

''(B) for any labor organization described in this section to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used for political activities.

''(2) An authorization described in paragraph (1) shall remain in effect until revoked and may be revoked at any time.

''(3) For purposes of this subsection, the term 'political activities' includes communications or other activities which involve carrying on propaganda, attempting to influence legislation, or participating or intervening in any political campaign or political party.''

LOTT AMENDMENT NO. 1264

Mr. LOTT proposed an amendment to amendment No. 1263 proposed by him to the bill, S. 25, supra; as follows:

In lieu of the matter proposed to be inserted insert the following:

SEC. . PAYCHECK PROTECTION ACT.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding the following new subsection:

''(c)(1) Except with the separate, prior, written, voluntary authorization of each individual, it shall be unlawful—

''(A) for any national bank or corporation described in this section to collect from or assess its stockholders or employees any dues, initiation fee, or other payment as a condition of employment if any part of such dues, fee, or payment will be used for political activities in which the national bank or corporation, as the case may be, is engaged; and

''(B) for any labor organization described in this section to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used for political activities.

''(2) An authorization described in paragraph (1) shall remain in effect until revoked and may be revoked at any time.

''(3) For purposes of this subsection, the term 'political activities' includes communications or other activities which involve carrying on propaganda, attempting to influence legislation, or participating or intervening in any political campaign or political party.''

''(b) EFFECTIVE DATE.—This section shall take effect one day after enactment of this Act.

LOTT AMENDMENT NO. 1265

Mr. LOTT proposed an amendment to amendment No. 1264 proposed by him to the bill. S. 25, supra; as follows:

Strike all after the word ''section'' in the first-degree amendment and insert the following:

PAYCHECK PROTECTION ACT.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding the following new subsection:

''(c)(1) Except with the separate, prior, written, voluntary authorization of each individual, it shall be unlawful—

''(A) for any national bank or corporation described in this section to collect from or assess its stockholders or employees any dues, initiation fee, or other payment as a condition of employment if any part of such dues, fee, or payment will be used for political activities in which the national bank or corporation, as the case may be, is engaged; and

''(B) for any labor organization described in this section to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used for political activities.

''(2) An authorization described in paragraph (1) shall remain in effect until revoked and may be revoked at any time.

''(3) For purposes of this subsection, the term 'political activities' includes communications or other activities which involve carrying on propaganda, attempting to influence legislation, or participating or intervening in any political campaign or political party.''

(b) EFFECTIVE DATE.—This section shall take effect two days after enactment of this Act.

NOTICE OF HEARINGS

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the public that a hearing of the Senate Committee on Labor and Human Resources will be held on Tuesday, September 30, 1997, 10 a.m., in SD–430 of the Senate Dirksen Building. The subject of the hearing is Tobacco Settlement part III. For further information, please call the committee, 202/224–5375.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the public that a hearing of the Senate Committee on Labor and Human Resources will be held on Wednesday, October 1, 1997, 10 a.m., in SD–430 of the Senate Dirksen Building. The subject of the hearing is Voluntary Initiatives to Expand Health Insurance Coverage. For further information, please call the committee, 202/224–5375.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LUGAR. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry has changed the hearing schedule for October. The committee will meet on the following days:

Tuesday, October 7, 1997 in SR–328A at 9 a.m. To consider the nomination of Sally Thompson to be the Chief Financial Officer for the U.S. Department of Agriculture. The committee will also consider other recently announced nominations whose paperwork is received in a timely manner.

Wednesday, October 8, 1997 in SR–328A at 9 a.m. The purpose of this hearing is to examine food safety issues and recent food safety legislation proposed by the U.S. Department of Agriculture.

AUTHORITY FOR COMMITTEE TO MEET

SUBCOMMITTEE ON ADMINISTRATIVE OVERSIGHT AND THE COURTS

Mr. BENNETT. Mr. President, I ask unanimous consent that the subcommittee on Administrative Oversight and the Courts, of the Senate Committee on the Judiciary, be authorized to meet during the session of the Senate on Monday, September 29, 1997, at 2 p.m. to hold a hearing in room 226, Senate Dirksen Building, on: A Review of the FBI Crime Laboratory.

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

ADDITIONAL STATEMENTS

WHAT NEXT, MR. PRIME MINISTER? DEMOCRACY HANGS IN THE BALANCE IN SLOVAKIA ON CONSTITUTION'S FIFTH ANNIVERSARY

• Mr. D'AMATO. Mr. President, 5 years ago, the speaker of the Slovak Parliament, Ivan Gasparovic, described his country's new constitution as ''an expression of centuries-old emancipation efforts of the Slovak people to have a sovereign state of their own.'' He also spoke of its ''supreme binding force.'' Since then, the people who present themselves as the guardians of Slovakia's statehood have undermined Slovakia's constitution.

This is what they have done.

This May, the Ministry of Interior ignored the Constitutional Court's ruling and altered an important referendum on NATO and on the direct election of the President, effectively denying the people of Slovakia their constitutionally guaranteed right to register their views through a referendum. Defending its actions, members of the Prime Minister's party insisted that they acted in conformity with the constitution—as they interpreted it—and that they were justified in placing their views ahead of the ruling of the highest court in the land.

The actions of the ruling coalition in the case of Frantisek Gaulieder makes clear that the Meciar government has a profound and fundamental disregard for the constitution of Slovakia.

Then there is the case of Frantisek Gaulieder.

Frantisek Gaulieder is a member of the Slovak Parliament who was removed from office because he renounced his membership in Prime Minister Vladimir Meciar's party, the Movement for a Democratic Slovakia. On July 25, the Constitutional Court confirmed that the ruling coalition's action which deprived Gaulieder of his seat was unconstitutional and violated Gaulieder's rights. But members of the Prime Minister's coalition again claimed that they, and not the Constitutional Court, have the right to determine what the constitution means, and have declined to act to restore Gaulieder to his seat in Parliament.

In short, the ''supreme binding force'' that Ivan Gasparovic spoke of 5 years ago no longer flows from the constitution, but from the will of Vladimir Meciar.

When there are differences of opinion as to what a constitution means, whether those differences arise between branches of government or between the government and its citizens, in a state operating under the rule of law, it is the job of a constitutional court to interpret what the constitution means—not the Prime Minister or Parliament. Although this principle is taken for granted in many parts of Europe, and was established early in American history by the famous Supreme Court case of Marbury versus Madison, it has apparently not yet been accepted in Slovakia.

Mr. President, the Slovak Democratic Coalition has moved, four times, to convene a special session of the Parliament in order to implement the decision of the Constitutional Court and restore Frantisek Gaulieder to his seat. Four times, however, Prime Minister Meciar's coalition has boycotted their own Parliament rather than face the following dilemma: restore Gaulieder to his seat—consistent with the Constitutional Court's decision—and risk

the chance that others will follow Gaulieder's example and defect from the Prime Minister's party, or vote down the Slovak Democratic Coalition's proposal to restore Gaulieder to his seat and confirm that whatever form of government exists in Slovakia, it is not constitutional democracy, at least not as we understand it.

Sooner or later, the Slovak Parliament will reconvene. When it acts, or fails to act, on the Gaulieder question, we will know whether Slovakia is committed to becoming a functioning constitutional democracy. If it is not, what it will become is an isolated State under constant international pressure and scrutiny, cut off from a promising and prosperous future by the arrogance and greed of its own leaders.

As Vladimir Meciar is asked in his weekly news show, what next, Mr. Prime Minister?●

TRIBUTE TO GEN. JOHN M. SHALIKASHVILI

● Mr. LEVIN. Mr. President, I rise today to pay tribute to Gen. John M. Shalikashvili on the occasion of his retirement after serving on active duty for more than 39 years, the last 4 years of which he has served as the Chairman of the Joint Chiefs of Staff.

General Shalikashvili's life is a marvelous American success story. Many people are aware that he was born in Warsaw, Poland of stateless parents and came to Peoria, IL, at the age of 16. What is not generally known, however, is that when he became a naturalized American citizen shortly before he graduated from Bradley University, it was the first nation of which he was a citizen, and that he was drafted into the U.S. Army shortly after graduation. He is the only Chairman of the Joint Chiefs of Staff who is a naturalized American citizen and the only Chairman who was drafted into the military.

Mr. President, I won't attempt to describe all of General Shalikashvili's military achievements, but I would like to include a few of his experiences that I believe molded his outlook and enabled him to perform in such a superb fashion as our Nation's senior military officer.

General Shali, as he likes to be called, served in Vietnam during the Tet offensive and in Korea in the early 1970's. His experience in combat and in a theater in which U.S. forces faced a strong and unpredictable military foe undoubtedly prepared him to be the strong spokesman for the men and women in uniform and a strong advocate for maintaining our Nation's military might second to none.

I have been struck by General Shali's frequent reference to his experience in 1991 as the head of Operation Provide Comfort. This operation brought the Iraqi Kurds down from the mountains of northern Iraq and eastern Turkey where thousands were dying and helped them to return to their towns and villages. He has described that experience as the toughest challenge and, at the same time, one of the most gratifying things that he has done. Mr. President, it has been my experience that our finest military leaders are also people who are caring human beings. General Shali's compassion and humanity comes clearly through in his recollection of his experience with the Iraqi Kurds who suffered so much at the hands of Saddam Hussein.

General Shali also served in a number of positions in Europe both during and after the cold war. Just last week, I had an opportunity along with Senators ROTH and BIDEN and other members of the Senate NATO Observer Group to meet with General Shali and the chiefs of defense of our NATO allies. I observed with pride the respect and admiration that the senior military leaders of our NATO allies have for General Shali. I am sure that it was also evident to them that all of the Senators at that meeting have the highest regard for General Shali. With his European upbringing and his several assignments in the European area, including as NATO's Supreme Allied Commander, General Shali has been a unique leader as NATO has been carrying out its internal adaptation and its enlargement.

Mr. President, I am sure that there will be a number of tributes paid to general Shali here on the Senate floor, elsewhere in the Capital area, and around the world. Some will no doubt recount his extraordinary performance as the Chairman of the Joint Chiefs of Staff. I have chosen to highlight only a few and perhaps lesser known aspects of General Shali's career because I believe they demonstrate his qualities of leadership, compassion, humanity, and courage.

General Shali has been a superb Chairman, a true friend of the men and women who serve our Nation, and I count myself fortunate to consider him a good personal friend. I salute him for the former and cherish the latter.●

KENNETH APFEL CONFIRMATION

● Mr. GRASSLEY. Mr. President, today Mr. Ken Apfel will be sworn in for the position of Commissioner of the Social Security Administration. Mr. Apfel was confirmed earlier this month to direct the agency responsible for administering the largest domestic program in the United States. Social Security will have an impact on the life of every single American at one time or another. I support Mr. Apfel's confirmation to head this vital agency.

Mr. Apfel will guide the Social Security program into the 21st century, bringing it right up to the edge of the largest demographic shift this country has ever seen. Starting in 2010, the baby boom generation—70 million strong—will begin entering retirement. Because of the tremendous medical strides we have made in extending life expectancy, this cohort will be living longer and collecting benefits longer. It is imperative that our Social Security program be ready to absorb such a huge influx of beneficiaries. The Commissioner must be a leader in preparing the agency and the program itself, to meet this challenge.

Preparing for the retirement of the baby boom generation is only half of the challenge. There are on-going problems that must be addressed as well. The Social Security Administration has had difficulties protecting taxpayer dollars. The General Accounting Office recently elevated the Supplemental Security Income Program to its high-risk list of Federal programs because of their inability to pay out the proper amount of money. Huge overpayments go out to beneficiaries—most of which are never collected. Additional problems exist in the Disability Insurance Program. Prisoners and legal aliens have received benefits improperly. The agency has not fulfilled its legislative mandate to refer applicants and recipients of disability benefits to appropriate rehabilitation. Addressing these issues is very important because problems in any one of the programs that the Social Security Administration operates undermines confidence in all of the programs.

I will say right now that I do not envy Mr. Apfel. He is endeavoring to take on a job with many difficult challenges. Having met with him personally, I can honestly say I believe he can do the job. It is my hope, however, that he will not fall into the practice of his predecessors of not taking a pro-active stance with regard to policy issues faced by the Social Security Administration. When he sees the need for legislative action, or he sees problems with policies that must be changed—that he communicate with Congress immediately.

I hope he will see himself , in his capacity as Commissioner, as a liaison to the public, to the President, and to Congress to resolve some of the most important challenges that will face our country and the Government over the next 6 years. Most of all, SSA, like any other Government agency, is an overseer of taxpayer dollars—our money. That responsibility must be taken with the utmost seriousness and deliberation. If he can motivate his personnel to do that—protect taxpayer dollars—he will have a successful term as Commissioner.●

BLACK CAREER WOMEN

● Mr. DEWINE. Mr. President, I rise today to recognize the achievement of a very valuable community organization in Cincinnati, OH.

The group—known as Black Career Women, or BCW—has been serving the African-American community in Cincinnati and throughout the United States for 20 years. Back in the early 1980's, BCW provided word processing assistance and office-skill development

services to unemployed and underemployed women—to help them get decent jobs with a living wage.

This nonprofit organization provides an extremely valuable service to corporations and managers who are trying to develop and support successful skills-development strategies for African-American women. Working in partnership with executives, BCW has helped improve the lives of countless women from corporate executives to entrepreneurs.

Over the last two decades, more than 10,000 women have benefited from the service of Black Career Women.

Black Career Women has been helping the African-American women in the Cincinnati area and throughout the Nation achieve the goals of self-help and self-determination. They deserve the praise of all people who believe in diversity, economic progress, and independence for working people.

I ask all my colleagues to join me in extending our warmest congratulations on their 20th anniversary. They are making a big difference for the better in the life of the Cincinnati area and the entire nation.●

RECOGNITION OF HISPANIC HERITAGE MONTH

● Mrs. HUTCHISON. Mr. President, I am proud to be able to speak today, as many of my colleagues have done recently, on the significance of Hispanic Heritage Month, being commemorated from September 15 through October 15. For almost 30 years, we as a nation have, in this way, formally acknowledged and celebrated the contributions Hispanic Americans have made and are making to our country.

Mr. President, in my home State of Texas, Hispanics are an intrinsic and dynamic part of our history, culture, economy, and civic life. From El Paso to Texarkana, and from Amarillo to Brownsville, over 6 million Latinos in Texas contribute immeasurably to making the Lone Star State the unique and wonderful place it is. Whether they trace their ancestry to the earliest Spanish settlers in Texas or have recently immigrated to this country, individually and collectively Hispanics have made our State and our Nation a richer place in which to live.

For at least 250 of the last 400 years, Hispanic heritage was synonymous with Texas heritage. Since the first Spanish landing at the mouth of the Rio Grande by Alonso Alvarez de Pineda in 1519, the Spanish, and later the Mexicans bravely began to colonize the vast and rugged land known as Tejas. To this day, Hispanics continue to contribute their boundless determination and unique perspective to every facet of life in Texas and the Nation. Hispanic Americans enrich our lives in virtually every field of endeavor: politics, business, science, education, art, music, film, cuisine, and countless other fields.

In my home State, we recently lost two of our greatest native Texas Hispanics, Congressman Frank Tejeda and musical artist Selena Perez. In their own way, both of these individuals demonstrated astonishing determination, which in turn reflected the vibrancy and strength of the Hispanic community: Frank Tejeda, who dropped out of high school from the south side of San Antonio and went on to distinguish himself in military service in Vietnam, in higher education, in the business world, and as a dedicated public servant; and Selena who, at the young age of 23 became a pop icon, entertaining audiences in her hometown of Corpus Christi and throughout the world with her unique brand of ''Tejano'' music. Although the lives of these two great Texans ended far too soon, they will forever inspire the tens of thousands of young Hispanics who will look to them and to the many other Hispanic leaders in our country as symbols of what can be achieved through hard work, ambition, and the support of the community.

As a Texas and as a member of the Senate Republican Conference Task Force on Hispanic Affairs, I remain committed to ensuring that the American dream continues to exist and to come true for all Americans. Through my activities on this task force and in the Senate, as well as through daily contact with my constituents, I have worked hard to ensure that the needs and concerns of the Hispanic community are heard and responded to. While we all share the goal of improving our country and the opportunities for our children, there are economic and other concerns that disproportionately impact the Hispanic community. I believe we in Congress must continue to address those concerns by pursuing policies that promote education, health care, urban renewal, and a business environment that encourages entrepreneurial activity and risk taking.

There are certainly challenges ahead. With so many Hispanic-owned businesses starting up around the country, access to capital is a critical need. I have supported and continue to support lending and contracting programs that offer fledgling businesses the opportunity to launch themselves—and to continue to soar. I am also working to give small business people and other Americans relief from excessive levels of taxation and Federal regulation.

On the eve of a new millennium, it is vital that we remain a people united, respectful of the individual, the family, and our country as a whole. In this same spirit, it is also important to inform ourselves and our children of the sacrifices and contributions that have been made by our ancestors on our behalf. Hispanics have extremely good reason to be proud of that heritage and to rejoice in it.

Mr. President, I am pleased to be able to highlight today the contribution of Hispanics to the exquisite mosaic that is America the Beautiful, America la linda.●

PROTECTING RELIGIOUS FREEDOM WORLDWIDE

● Mr. ABRAHAM. Mr. President, I rise today to draw the attention of my colleagues to an article I recently read on the subject of religious freedom. The author, Mr. Philip Peters, a senior fellow at the Alexis de Tocqueville Institution, offers a keen assessment of the tragedy that currently faces Christians who are being persecuted in their homelands. In his article, ''Persecution and Redemption,'' Mr. Peters makes specific reference to the treatment of Christians and other victims of religious persecution living in the former Soviet Union.

It is unfortunate but true that tens of thousands of people in the former Soviet Union cannot practice their religion without encountering hostility from their government. As the author points out, ''About one fourth of Russia's regional governments have laws restricting religious activity.''

I agree with Mr. Peters' assessment that refugees from the former Soviet Union ''deserve the support of anyone concerned about Christians and other victims of religious persecution around the world.'' I have joined with Senators KENNEDY, HATCH, and LEAHY in urging President Clinton to restore the refugee ceiling on refugees from the former Soviet Union in fiscal year 1998 to its level in fiscal year 1997.

Mr. President, I ask that Mr. Peters' article be printed in the RECORD.

The article follows:

[From the Washington Times, Sept. 25, 1997]

PERSECUTION AND REDEMPTION

(By Philip Peters)

This year, Washington has caught on to a fact that human rights activists have known for some time: Persecution of Christians is on the rise around the world. This issue was at the center of the debate on China's trade status, and the State Department issued a special report on it in July.

Now, the question is whether anything will be done about it.

New legislation introduced by Sen. Arlen Specter and Rep. Frank Wolf, the Freedom From Religious Persecution Act, is so laden with new economic sanctions and foreign policy prescriptions that it has drawn the opposition of the Clinton administration, business, and pro-trade groups, and is destined for prolonged debate.

While that debate goes on, four other senators have proposed a far more immediate and concrete way for the U.S. to help.

On Sept. 10, Sens. Spencer Abraham, Edward Kennedy, Orrin Hatch, and Patrick Leahy called on the administration to abandon its current plan to cut next year's admissions of refugees from the former Soviet Union. They deserve the support of anyone concerned about Christians and other victims of religious persecution around the world.

The State Department wants to cut admissions from the former Soviet Union to 21,000, even though 27,000 were admitted this year. The senators propose instead 30,000 admissions from the former Soviet Union, with no reductions in planned admissions from other regions.

This proposal is modest. The Clinton administration has driven refugee admissions down 40 percent, and if the senators' proposal is accepted, total 1998 admissions

would be 87,000, far lower than the 100,000-plus refugees admitted annually from 1989 to 1995.

The senators' letter has ignited a debate among administration aides, who must soon decide on the number of refugees to admit in 1998. They need look no further than the administration's own reports on religious persecution in the former Soviet Union. These reports document that:

Legislation passed last week by the lower house of Russia's parliament would require the registration of new religious groups, and would require these groups to wait up to 15 years to obtain full legal status. During this period, these groups would be barred from importing or distributing religious materials, and it would be difficult for them to own property or have bank accounts. This bill does not apply to Orthodoxy, Islam, Judaism or Buddhism; instead, it would affect faiths newer to Russia, especially evangelical Christians. President Yeltsin vetoed the bill once but now seems prepared to sign it.

About one fourth of Russia's regional governments have laws restricting religious activity.

Russian authorities have made Christian missionary work difficult or impossible in some regions, and they have made recovery of property difficult for non-Orthodox faiths, including the Catholic church.

As a result, Pentecostals and other evangelical Christians now account for about half the refugees from the former Soviet Union.

The State Department argues against any increase in refugee admissions. In spite of conditions in the former Soviet Union, it claims that interest in the U.S. refugee program is declining, even though 6,000 more were admitted this year than it proposes to admit next year.

But even if less than 30,000 admissions slots for the former Soviet Union are needed in 1998, the increase in overall admissions would give the administration greater flexibility to address other crises. This year, the administration exceeded its planned admissions from the former Yugoslavia by 25 percent. If the implementation of the Dayton accords continues to prove difficult, the need to resettle refugees from this region will grow. And, following the historical pattern in other refugee crises, American action to resettle refugees from the former Yugoslavia will cause European and other countries to accent greater numbers of these refugees for resettlement.

Last year, the House and Senate defeated legislative attempts to slash refugee admissions. The senators' action is one more demonstration of the bipartisan consensus supporting American action to help refugees fleeing oppression. President Clinton should view their proposal as an opportunity to help victims of religious oppression, and to revitalize American humanitarian leadership around the globe.●

ENERGY AND WATER APPROPRIATIONS CONFERENCE REPORT

● Mr. GORTON. Mr. President, in the Energy and Water Appropriations Conference Report, which this body may consider as early as tomorrow, is a provision that encourages the Corps of Engineers to make a decision on permits for a 50-foot dock extension at the Port of Seattle.

Over the past several years the Port of Seattle, Muckleshoot Indian Tribe, and Corps of Engineers have been involved in a debate over the replacement of a 350-foot wood dock with a 400-foot concrete dock at the Port of Seattle. In an effort to move this process forward and break the deadlock between the parties, I included report language in the Energy and Water Appropriations Conference Report asking the Corps of Engineers promptly to consider the permit issue.

Due to the continued cooperation and hard work of the Muckleshoot Indian Tribe and Port of Seattle, an agreement was reached this past Friday evening over the dock extension. I would like to praise the judgment and cooperation of the Port of Seattle and the Muckleshoot Indian Tribe both. Their willingness to work together has not only averted a protracted conflict but also provide a positive example for other local governments and tribal governments in reaching agreements under similar circumstances.

As a result of this agreement, the language which I included in the Energy and Water Appropriation Conference Report is redundant and no longer necessary. I have discussed this point with Congressman NORM DICKS in the House and would like the official record to show that both the House and Senate agree that this language is effectively voided by the agreement. Furthermore, I would like to request that the final version of the Energy and Water Conference Report that will be considered by the Senate not contain this language. In any event, that language should be treated as having no effect.●

JUDICIAL NOMINEES

Mr. HATCH. Mr. President, I rise this evening to say a few words in response to President Clinton's radio address over the weekend about the pace of the Senate's consideration of judicial nominees. In that address, the President chided Members of this body for what he described as ''a vacancy crisis'' in our Federal courts ostensibly resulting from politically motivated scrutiny of his nominees.

I will respond for a moment to the myths and distortions that the Clinton administration has engaged in; specifically the myth that there is a vacancy crisis in the Federal judiciary and the myth that there is a Republican slowdown of judicial confirmations.

There is no vacancy crisis. So far this year, the Senate has confirmed 18 of President Clinton's judges. This brings the total number of Clinton nominees on the Federal bench to 222—that is nearly 30 percent of the active Federal judiciary. There are more sitting Federal judges today than there were through virtually all of the Reagan and Bush administrations. As of September 26, 1997, just 3 days ago, there were 750 active Federal judges. Now, this figure excludes the approximately 79 senior status judges who continue to preside over and hear cases.

Yet at this point in the 101st Congress when George Bush was President and in the 102d Congress when George Bush was President, by contrast, when President Bush's nominees were being processed by a Democrat-controlled Senate, there were only 711 and 716 active judges, respectively. We have 750 as we stand here today.

Keep in mind that the Clinton administration is on record as stating that 63 vacancies—a vacancy rate just over 7 percent—is considered virtual full employment of the Federal judiciary, and they were right. Ninety-four vacancies, the current vacancy rate, is a vacancy rate of about 11 percent. So ask yourselves this question, how can a 4-percent rise in the vacancy rate from 7 percent to 11 percent convert full employment into a crisis?

Moreover, let's compare today's vacancy level, 94, with those that existed during the early 1990's when George Bush was President and the Democrats controlled the Senate. In May 1997 there were 148 Federal judicial vacancies, and in May 1992 there were 117 Federal judicial vacancies. I remember those years. I don't recall one comment about it in the media. I don't recall one television show mentioning it. I don't recall one writer writing about it. Nobody seemed to care. But all of a sudden it has become a crisis today with less vacancies at this time than the Democrat-controlled Senate and Judiciary Committee at that time had.

I should also note that at the end of the Bush administration, there were 115 vacancies compared to the 65 at the end of the last Presidential election; 115 vacancies, for which 55 nominees were pending before the Judiciary Committee. None of these 55 nominees even received the courtesy of a hearing.

I have heard all the yelling and screaming here on the floor and in the public media today and by the President on Saturday. In short, I think it is unfair and frankly inaccurate to report that the Republican Congress has created a vacancy crisis in our courts.

Now, it is also incorrect when we suggest there is a deliberate Republican slowdown of the nominations process. The President pointed out on Saturday, correctly I might add, that he has sent up to the Senate nearly 70 nominees to fill vacant seats on the Federal bench, 68 to be exact. By way of comparison, he notes that the Senate has confirmed fewer than 20 of his nominees, suggesting undue Senate delay in the face of an abundance of qualified nominees.

But the picture the President paints is less than complete. Of the 68 judicial nominees submitted to the Judiciary Committee this year, nearly half of them, 30 in all, have been nominated just since July 1 of this year. So, factoring in the Senate's August recess, when we were gone for better than 30 days, the Judiciary Committee has had scarcely 2 months to consider virtually one-half of the President's nominees this year.

Perhaps, then, it is fair to say the delay has been a factor in the face of

Senate confirmation. Unfortunately, the delay has to date been largely at the other end of Pennsylvania Avenue—at the White House, if you will.

Even the Administrative Office of the Courts has concluded that most of the blame for the current vacancies falls predominantly with this administration. It calculates that until his most recent rush of nominations, it has taken President Clinton an average of 618 days to name a nominee for a vacancy—nearly twice the time it has historically taken prior White Houses.

By contrast, it has taken the Senate an average of 91 days to confirm a judge once the President finally nominates him or her. In other words, the Senate is carrying out its constitutional responsibilities with respect to the confirmation of judicial nominees more than six times faster than the President. And in recent months, the Judiciary Committee has been moving noncontroversial nominees at a remarkably fast pace.

Since returning from the August recess, we have already scheduled two nomination hearings. At the first, earlier this month, we considered four of the President's nominees. Tomorrow we will hold a hearing for seven judicial nominees, and in addition a hearing for the President's nominee for Associate Attorney General. Those were scheduled before the President, I think, ever dreamed of giving a speech last Saturday. I should note that the Clinton administration was made aware of this fact prior to the President's address, but he failed to mention that. In addition, we are planning to have another hearing in the next few weeks, so, clearly noncontroversial nominees are being considered at a responsible pace.

I will concede that some nominations have taken longer than is customary. But in many instances, this has been due to the unfortunate fact that some nominees have not been entirely forthcoming with the Judiciary Committee. In the interest of fairness, I have given these nominees repeated opportunities to fully respond to the committee's inquiries, and when they have done so, we have moved the nomination. Ms. Margaret Morrow is a good example of a nominee who was slowed by her reluctance to promptly answer questions posed by members of the committee. After I spoke with her and urged her to be more forthcoming, her nomination was reported to the floor—with my support, I might add—and I expect her nomination will be scheduled for a floor vote soon. I expect it to be scheduled. It should be scheduled. If people have differences with her, let them express those differences with their votes. But she has been reported by the Judiciary Committee, and with good reason as far as I'm concerned.

Nevertheless, other nominees have been similarly less than cooperative. While I appreciate and concur in the President's expression of concern for the integrity of our courts, we will all be better served by this administration's renewed commitment to sending up restrained, qualified nominees who respect the essential role that the Senate must play in the confirmation process. We cannot serve that function well when nominees are less than forthright with members of the committee.

The President was quite correct when he said over the weekend, ''This age demands we work together in a bipartisan fashion and the American people deserve no less.'' Indeed, they do deserve no less. But bipartisan cooperation depends not only on swift confirmations, but qualified and cooperative nominees as well.

Now, I also want to take a moment to address some of the personal criticisms directed at our majority leader. To suggest that the majority leader has acted irresponsibly with respect to the nominations is just plain wrong. Of 21 judicial nominees reported to the floor by the Judiciary Committee, only 3 remain on the calendar. One was reported within the last 2 weeks. So to suggest that this majority leader is playing games with nominations is not only unfair, it is grossly untrue.

Now, I have been pleased to have worked, over the past number of months, with White House counsel Chuck Ruff to ensure that the nomination and confirmation process is a collaborative one between the White House and Members of the Senate. I think it is fair to say that after a few months in which the process suffered due to inadequate consultation between the White House and some Senators, the process is now working rather smoothly. I think the process is due to the White House's renewed commitment to good faith consultation with Senators of both parties.

Now, I think it is important to note that I believe the Senate is doing its best to move nominees and to move them quickly. If we have noncontroversial nominees submitted, we can move them quickly. If and when the administration sends us qualified, noncontroversial qualified nominees, they will be processed fairly and promptly. In the last 6 weeks or so, the administration has finally began sending us nominees which I have, for the most part, found to be quite acceptable. Take Ms. Hull, who was nominated for a very important seat on the Eleventh Circuit. That is a circuit court of appeals judge. She was nominated on June 18, she had her hearing June 22, and was confirmed on September 4. That is a remarkably fast turnaround for both parties, the White House and the Senate. Or Mr. Alan Gould from Florida, who was nominated in February. We completed his paperwork and our review in March and April. He had a hearing shortly thereafter in May, and was reported out in committee and confirmed before the Fourth of July recess. Another good example is Janet Hall, from Connecticut, who was nominated to the U.S. District Court on June 5, 1997. The Committee had a hearing on July 22, and she was confirmed September 11. Clearly, when it comes to new noncontroversial nominees, we are in fact proceeding with extraordinary speed and diligence.

Now, more controversial nominees take a little more time. Of the 69 individuals nominated in this Congress, only 43 have been new. The other 23 are renominees that were nominated but never confirmed in the last Congress. Some have had committee consideration, but most of the nominees with completed paperwork who have not yet had consideration are ones who were renominated from the last Congress. When the administration simply sends back nominees who had problems last Congress, it takes much more time and it is much more difficult to process them, and they know it.

I am trying to work out the differences between the Senators of the respective States—I might add, Democrats and Republicans—and the White House so that we can move more of these. It was worth pointing out that there was, in nearly every instance, a reason why the Senate confirmed 202 other Clinton nominees, but not these 23. If all we are left with are judges that we are not ready to move, I will not compromise our advise and consent function simply because the White House does not send qualified nominees. As I said at the outset, the Senate's advise and consent function should not be reduced to a mere numbers game. The confirmation of an individual to serve for life as a Federal judge is a serious matter and should be treated as such. In fact, we have sent a letter down to the White House and Justice Department and explained the problem with each nominee, and they understand perfectly well why some of these nominees have not moved. When you talk about confirmation numbers, let me compare them to the previous Congresses. As of today, we have processed 24 nominees this year—18 confirmed, 3 on the floor, and 3 are pending in committee. Now, not all of these judges have been confirmed, but we expect that most all of them will be confirmed fairly promptly.

Assuming most of these nominees are confirmed, I think any reasonable person could see that our efforts compare quite favorably to prior Congresses in terms of the number of judges confirmed at this point in the first session of a Congress, especially if you look at recent Democrat controlled Congresses. In 1993, there were zero judges confirmed by the Democrat Congress by the end of July of that year. In 1991, 23 judges were confirmed, at a time when there were 148 vacancies—in a Congress controlled by Democrats. In 1989, only 4 judges were confirmed—a Democrat Congress. In 1987, only 17 judges confirmed—a Democrat Congress. I can go on and on. So the plain fact is, we are on track, if not ahead of previous Democrat Congresses.

Well, I can say so much more, but let me just say this. Some have argued

that the Republican leadership is holding up qualified nominees. Let me just point out for the record that there were a number of qualified nominees of President Bush who weren't even given the courtesy of a hearing. For instance, John G. Roberts, Jr., nominated on January 27, 1992, for the vacancy left by the now Supreme Court Justice Clarence Thomas. Among his long list of accomplishments, I note, was that he was a former law clerk to the Chief Justice of the Supreme Court. He had worked at various high level positions at the Justice Department, including serving as Deputy Solicitor General of the United States. He was an outstanding lawyer and he wasn't even given the courtesy of a hearing.

Another fine nominee was Maureen Mahoney. Keep in mind, we have had some Senators take to the floor here and try to imply that because it has been difficult to get a certain woman nominee through from time to time, that there must be something wrong with the Judiciary Committee for not doing that. Well, take the fine nominee, Maureen Mahoney, nominated for the U.S. District Court in the Eastern District of Virginia on April 2, 1992. Like Mr. Roberts, she, too, was a well-respected litigator. She clerked for Chief Justice Rehnquist and also served as a deputy solicitor general of the United States. Neither of these exceptionally qualified nominees were able to get a hearing on their nomination.

I could go on and on. Keep in mind that we have 750 judges on the bench today, compared to in 1991–92 when we had considerably less judges at that particular time—711 and 716, compared to 750 today. Plus, in addition to the 750, we have a number of senior status judges—79 as I recall—who are hearing cases and continuing their work even though they have taken senior status. So there is no crisis.

Now, having said all of this, I would like to move these nominees who are qualified as fast as we can. I would like them to come up on the floor as fast as they can be brought up. Thus far, the majority leader has virtually brought up everybody we have brought out of the committee, except a couple, and they will be brought up in the near future. Margaret Morrow will have her vote in the Senate. I will announce right here and now that I will vote for her, even though I did have some qualms as a result of her first confirmation hearing and as a result of some of the things that she had said while President of the California Bar Association, and on other occasions during the earlier years. But I have found her to be qualified and I will support her. Undoubtedly, there will be some who will not, but she deserves to have her vote on the floor. I have been assured by the majority leader that she will have her vote on the floor. I intend to argue for and on her behalf.

I believe that with continued cooperation from the White House, in consultation with Senators up here—keep in mind that this isn't a one-way street. Senators have a right to be concerned about lifetime-appointed judges serving within their areas, their States. Therefore, that is why the Senate has a noble and very important role in this confirmation process. I want to commend the current White House counsel, Charles Ruff for the work he is doing in meeting personally with Senators up here and trying to resolve their difficulties. I think he has made a lot of strides, and I think that is going to be helpful over the long run.

Mr. President, these are important matters. I do not believe they should be politicized. I think activist judges, whether they come from the right or left, are judges who ignore the law and just do whatever their little old visceral tendencies tell them to do. These are judges who act like superlegislatures from the bench who usurp the powers of the other two branches—coequal branches—of Government, the executive and legislative branches. These are judges who ignore the written law. These are judges who take their own political purposes to what the law should be. These are judges, a number of whom sit on the Ninth Circuit Court of Appeals, who have given me nothing but angst because of their activism. During this last year 28 of 29 cases on the Ninth Circuit Court of Appeals were reversed by the Supreme Court because of judicial activism.

Everybody knows that judicial activism is hard to define. But it is not hard to define when you look at some of those cases. Judges do have to try cases at first impression. And when they do, they do have to make decisions, and they have to split the baby, so to speak. But we are talking not about those cases. We are talking about judges who ignore the basic intents of the law, the basic languages of the law, who substitute their own policy preferences for what the law really is.

When we see judges like that, I tell them they are undermining the Federal judiciary, they are making my job as chairman of the Judiciary Committee much more difficult, and the job of the ranking member much more difficult, and they are doing wrong things.

It is important that this be brought to the attention of the American people because these judges are nominated by the President. They are confirmed for life. When they retire, they get full judgeship pay the rest of their lives. We need an independent judiciary in this country. There is no stronger voice for an independent judiciary than I. And we do need the lifetime tenure. But when judges ignore the basic laws and substitute their own policy preferences for what the law really is, they are undermining the Federal judiciary, and they are disgraces to the Federal judiciary.

Frankly, it is time that they wake up and realize that. It is embarrassing to the good judges throughout this country—manifestly embarrassing to them to have some of these judges who just think they are above the law; who think they are above the Constitution; who think they are above the other two coequal branches of Government.

Thank goodness there are not too many of them in the Federal judiciary. Thank good goodness we have people and a Senator willing to stand up and say, We have had enough. I happen to be one of them.

Mr. President, these are important issues. The Federal judiciary can determine what happens in this country for years to come. It is important that we have people of the utmost integrity and respect for the law and respect for the rule of law and respect for the role of judging on our Federal benches.

As long as I am on the Judiciary Committee, I am going to work as hard as I can to see that those are the kinds of people that we get there. I am not so sure it is that important whether they are liberal or conservative, if they will respect the role of judges and respect the rule of law. I have seen great liberal judges, and I have seen great conservative judges. And I have seen lousy ones in both categories as well.

I just suggest that they respect the role of judging. Judging generally has been pretty good.

UNANIMOUS CONSENT AGREEMENT—HOUSE JOINT RESOLUTION 94

Mr. HATCH. Mr. President, I ask unanimous consent that the majority leader, after consultation with the minority leader, may proceed to the consideration of House Joint Resolution 94, the continuing resolution, which will be received from the House.

I further ask unanimous consent that no amendments be in order to the resolution and that the Senate then immediately proceed to a vote on passage of the resolution with no intervening action or debate.

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

Mr. HATCH. I now ask unanimous consent that, notwithstanding the receipt of the continuing resolution, it be in order to ask for the yeas and nays at this time.

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

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

NATIVE AMERICAN PROGRAMS ACT AMENDMENTS OF 1997

Mr. HATCH. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 57, S. 459.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 459) to amend the Native American Programs Act of 1974 to extend certain authorizations, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Indian Affairs with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Native American Programs Act Amendments of 1997''.

SEC. 2. AUTHORIZATIONS OF CERTAIN APPROPRIATIONS UNDER THE NATIVE AMERICAN PROGRAMS ACT OF 1974.

Section 816 of the Native American Programs Act of 1974 (42 U.S.C. 2992d) is amended—

(1) in subsection (a), by striking ''for fiscal years 1992, 1993, 1994, and 1995.'' and inserting ''for each of fiscal year 1997, 1998, 1999, and 2000.'';

(2) in subsection (c), by striking ''for each of the fiscal years 1992, 1993, 1994, 1995, and 1996,'' and inserting ''for each of fiscal years 1997, 1998, 1999, and 2000,''; and

(3) in subsection (e), by striking '', $2,000,000 for fiscal year 1993 and such sums as may be necessary for fiscal years 1994, 1995, 1996, and 1997.'' and inserting ''such sums as may be necessary for each of fiscal years 1997, 1998, 1999, and 2000.''.

SEC. 3. NATIVE HAWAIIAN REVOLVING LOAN FUND.

(a) IN GENERAL.—Section 803A of the Native American Programs Act of 1974 (42 U.S.C. 2991b–1) is amended—

(1) in subsection (a)(1)—

(A) in the matter preceding subparagraph (A)—

(i) by striking ''award grants'' and inserting ''award a grant''; and

(ii) by striking ''use such grants to establish and carry out'' and inserting ''use that grant to carry out''; and

(B) in subparagraph (A), by inserting ''or loan guarantees'' after ''make loans'';

(2) subsection (b)—

(A) in paragraph (1), by striking ''loans to a borrower'' and inserting ''a loan or loan guarantee to a borrower''; and

(B) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by striking ''Loans made'' and inserting ''Each loan or loan guarantee made'';

(ii) in subparagraph (A), by striking ''5 years'' and inserting ''7 years''; and

(iii) in subparagraph (B), by striking ''that is 2 percentage'' and all that follows through the end of the subparagraph and inserting ''that does not exceed a rate equal to the sum of—

''(I) the most recently published prime rate (as published in the newspapers of general circulation in the State of Hawaii before the date on which the loan is made); and

''(II) 3 percentage points.''; and

(3) in subsection (f)(1), by striking ''for each of the fiscal years 1992, 1993, and 1994, $1,000,000'' and inserting ''for the first full fiscal year beginning after the date of enactment of the Native American Programs Act Amendments of 1997, such sums as may be necessary''.

Mr. HATCH. Mr. President, I ask unanimous consent that the committee substitute be agreed to, the bill be deemed read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill appear at this point in the RECORD.

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

The committee amendment was agreed to.

The bill (S. 459), as amended, was passed.

ORDERS FOR TUESDAY, SEPTEMBER 30, 1997

Mr. HATCH. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 a.m. on Tuesday, September 30. I further ask that on Tuesday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate resume consideration of the Coats amendment No. 1249 to the District of Columbia appropriations bill.

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

Mr. HATCH. Mr. President, I now ask unanimous consent that the Senate stand in recess on Tuesday from the hours of 12:30 to 2:15 p.m. for the weekly policy conferences to meet.

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

PROGRAM

Mr. HATCH. Tomorrow morning at 10 a.m. the Senate will begin 1 hour of debate prior to the cloture vote on the Coats amendment regarding school choice. Following that vote, the Senate will continue consideration of the D.C. appropriations bill with the hope of finishing action on that bill during Tuesday's session.

The Senate will also consider the continuing resolution tomorrow as well. Therefore, additional votes will occur.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. HATCH. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:36 p.m., adjourned until Tuesday, September 30, 1997, at 10 a.m.