

SENATE—Thursday, May 16, 1991

(Legislative day of Thursday, April 25, 1991)

The Senate met at 9:45 a.m., on the expiration of the recess, and was called to order by the Honorable HERBERT KOHL, a Senator from the State of Wisconsin.

The PRESIDING OFFICER. The Senate will come to order. Today's prayer will be offered by our guest chaplain, the Reverend Dr. Louis H. Evans, Jr., the National Presbyterian Church, Washington, DC.

PRAYER

The Chaplain, the Reverend Louis H. Evans, Jr., D.D., National Presbyterian Church, Washington, DC, offered the following prayer:

Let us pray:

Lord God, You are the Almighty. Nevertheless, You serve Your children with a sensitive care and the provision of resources for every circumstance in life and for their full development. We thank You for the example of Jesus Christ who took the basin of water and the towel and washed His disciples' feet. Forever, he set the role of leadership right-side up. We thank You that the forebears of this Nation, cognitive of His example, changed the dynamics of political power from despotic ruler to public servant, and unleashed upon this Nation a new power of creativity. Forgive us when we, in leadership of government, business, or church, have become so concerned with public image and ego status, that we have forgotten the dynamics of servant-leadership. Recall us again to the powerful simplicity of servanthood, the powerless take their places in the decisionmaking Chambers, and the poor escape the tethers of poverty.

Confident this servanthood will yield the refreshing fruit of creativity among all our constituencies, we commit ourselves afresh to the basin and the towel, in Your almighty name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 16, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HERBERT KOHL, a Sen-

ator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 11 a.m., with Senators permitted to speak therein.

Under the previous order, the hour of 9:45 having arrived, the Senator from Nebraska [Mr. KERREY] is authorized to speak for up to 30 minutes.

NATIONAL HEALTH CARE

Mr. KERREY. I thank the Chair. Mr. President, I rise today to describe in general terms a national health care proposal which I intend to introduce very soon.

Mr. President, this effort began in the State of Nebraska with a series of meetings and hearings that I have held over the past 2 years trying to get a feel for what the problems are in health care at the street level. I have had some experience in health care in my life; as a patient at the Philadelphia Naval Hospital in 1969 and as a business person from 1973 until the time that I became Governor. I understand the problems that small businesses face. Then while I was Governor of Nebraska, and I saw first hand how the Medicaid Program works and does not work, Mr. President.

Now, as a national politician, I have been asked to respond to the problems facing hospitals and doctors, particularly those in rural communities where the problems are increasing, as the distinguished occupant of the chair knows. I know he has been involved with the growing problem of rural health care.

So I have had a variety of experiences myself, Mr. President, including having been licensed as a registered pharmacist for a period of time, though I was discouraged from practicing pharmacy by the Selective Service office in the State of Nebraska. After Vietnam, I came back and went into

business. Nonetheless, I have maintained an interest in the field of health care.

As a consequence of these experiences I find myself concluding that we need to change in a rather dramatic fashion the way we finance health care in the United States.

Nonetheless, I am compelled to note, Mr. President, that my primary efforts must remain at home. Thus, although I will introduce legislation shortly, I will continue to work the piece of legislation itself in the State of Nebraska. I will seek no cosponsors in the Senate. I will attempt to arrive at a point in Nebraska where I have a majority of people in support for a detailed proposal prior to trying to advance it in the Senate.

I must say, Mr. President, however, that I have found a considerable amount of enthusiasm already, and I believe that the time required to get it done may be less than I had originally anticipated.

The proposal which I intend to introduce is called Health U.S.A. It begins with a declaration of respect for the high quality of health care we have in the United States. The technology of the U.S. medical care system, although they sometimes create problems in terms of our costs, have also greatly improved our lives. Any effort to solve the problems in American health care must take care to maintain this high quality.

The proposal also expresses a bias toward private health care, with Government-delivered health care being the exception rather than the rule. Freedom to choose our provider is maintained as a preferred value.

Mr. President, it is important for me to call attention to what this proposal does not attempt to solve. It does not attempt to directly solve the problem of uninsured Americans, nor does it attempt to isolate a specific problem, such as the problem of medical malpractice, which the President this week announced that he intends to address. I am quite willing to stand at the plate and hit the ball of malpractice, but I merely suggest that I do not target it as a No. 1 problem.

I believe the problem of the uninsured will be solved with this proposal, but I do not attempt to address it directly. Indeed, my fear is if we attempt to address these kinds of problems directly we will add to the problem increasing costs, increasing paperwork, and decreasing access to health care which I think are the No. 1, 2, and 3

problems we have with our current health care system.

Health U.S.A. focuses on five growing problems in the American health care system and tries to address each one of these problems as directly and simply as possible. These five are the following: rapidly rising costs, decreasing real access to health services, growing workplace immobility, increasing amounts of paperwork, and decreasing focus on prevention for illnesses, diseases and accidents which could have been prevented.

The first of these problems, Mr. President, that is talked about a great deal is rapidly rising costs. I believe it is possible and important for us in Congress to observe rapidly rising costs at three different levels.

The first level is that of the United States as a Nation. We know that, as a Nation, we are spending ever greater proportions of our gross national product [GNP] for health care. It is identified in almost every article that you read about health care, what percent of the GNP, what is the overall aggregate cost. What we know for sure, Mr. President, is that in 1989 we spent \$604.1 billion on health care, about 11.6 percent of our GNP. In 1990, we spent 12.2 percent of our GNP or about \$675.7 billion in health care.

Health care consumed about 25 percent of the entire economy's growth in the year 1990. It presents me with an image of a Nation that is overgrazing its pasture for health care. In fact, we have begun to break down the fences of that pasture and we are grazing in other areas. This excessive grazing will decrease our ability to spend money on education, for investment in capital improvements, investment in equipment, among other national priorities. It will cause us to have less money for a variety of things, Mr. President, and I believe it will serve us well to compare these expenditures with the expenditures of our industrial competitors.

There is no reason to doubt, Mr. President, that we are continuing the pace of our expansion. We not only expect to spend over \$750 billion this year on health care but we can expect to spend somewhere in the mid-\$800 billion range in 1992 and we may break the magic \$1 trillion number in the year 1994.

One of the most difficult problems we have in trying to make the effort to control rising costs flows from our current open-ended financing system. Mr. President, we do not know how much we are going to spend this year. We will find out about 18 months after the year ends, and thus we find ourselves shooting at a moving target. It is a target that is moving away from us. It will be over the horizon by the time we find ourselves able to confront its real size.

We are working with a number, Mr. President, that is 2 years old. Because the number is getting bigger all the time, we end up dealing with facts that bear no resemblance to the real lives of American businesses or American families.

Mr. President, I believe it is very important for us as Senators to try to focus our attention on the level of business where the real increases are being felt and at the level of the American worker and American family where these increases are also being felt in real time, not 18 months old but in real time. They face them today.

It is unusual, but a business will consider it to be good news if they are able to keep the cost increase down under 15 percent. It is much more likely they will face 15- to 20-percent increases today in health care expenditures. In order to hold those cost increases down, businesses are forced to increase deductibles and copayments for their employees, or in some cases, drop employees from coverage altogether.

There are two important points that relate to the perspective of health care from businesses and individual American families.

First of all, Mr. President, when we try to control costs in Congress, the impact of what we are able to do today is adverse to the private health care sector, to both businesses and individuals. For example, if we reduce Medicare and Medicaid, we do not hold down the cost of health care expenditures. We merely shift those costs over to other payers, and ultimately, individuals that then face rapidly rising costs and decreasing access.

I find it ironic that the President would elect to make malpractice the first issue he addresses in health care, after making a recommendation of a \$25 billion reduction over 5 years in Medicare. I also think it is ironic that he is going to get costs under control by addressing half of the malpractice problem, that which affects physicians, rather than simply saying to the people of the United States we do not have the ability to control costs.

Currently, we do not have the ability to control costs. All we can do is control little pieces of the cost. As we attempt to control those costs, we merely create cost shifts that will drive up the cost in the private sector and, perhaps most painfully of all, we are finding increasing numbers of people who find themselves without health care.

It will not surprise me to discover that, when the administration's task force examines why Medicaid has increased from \$49 to \$62 billion in 1 year's time and enrollment has gone from 22 to over 28 million people—that is 28 million Americans today who get their health care through a system that is designed to help those who are in poverty.

It will not surprise me to discover that one of the reasons we are increasing Medicaid enrollment lies in our attempts to reduce the amount of money spent on Medicaid and Medicare. It will not surprise me to find that the problem is one of our own making.

A second point worth noting as it relates to the individual is that we have an insensitivity to the problem that the average working American citizen faces.

I say that with all due respect to all of us who attempt to understand. But in the 2 years that I have worked the issue in Nebraska, I found a rather interesting differentiation. If an individual's income is sufficiently high—and I would suggest the break point is about \$100,000—about the same level as our salaries—if you suggest a single payer health care system, the immediate response is we are going to have rationing in health care. We do not want rationing in health care. We are frightened of such a system.

But what happens if the income is below \$25,000 a year? What is the response? The response is we are facing rationing right now. Health care is rationed for many Americans. Many Americans do not have the same kind of access to health services that we here in Congress have. I have suggested in the past, somewhat humorously, but I am increasingly serious in thinking that it would be healthy for our efforts to develop health policy if Congress and the administration obtained their health care through the Medicaid Program rather than getting it through our current system.

If we experience Medicaid having a problem signing up through a welfare office, having payments being insufficient to cover the costs for our physician, the hostility of the environment—and again to see who now is on Medicaid—I believe we would no longer find it quite so easy to turn to Medicaid as a solution for problems facing our health care system.

Indeed, one problem that we have developing the requisite sense of urgency about the rising cost of health care is that most of us here in Congress, and most of the policymakers throughout the Nation, do not face the consequences of those rising costs, have no connection to them, do not know what it is like whether or not they are going to be able to pay the bills for a baby, wondering what will happen if they have a \$250 health care bill that they consider catastrophic—most of us probably could not tell you how much it costs for our health insurance. Most of us probably could not even explain any of the costs of health care because for us it is not an issue.

It is a growing, real problem today, Mr. President, for most Americans. In Monday's New York Times in which the President's malpractice proposal was detailed, there was also an insur-

ance article about a drug called Taxol found in a type of tree called the Pacific yews. It is from the bark of the tree. This drug was discovered 15 years ago in a massive screening of organic chemicals. Recently, it was found to be effective in certain cases of cancer. It takes six 100-year-old trees to produce enough Taxol for one patient. There is enough dosage of Taxol for about 1,000 patients a year.

Mr. President, Taxol is effective against ovarian cancer, breast cancer, and lung cancer. One hundred thousand Americans die of lung cancer a year, about 45,000 die of breast cancer, and about 10,000 die of ovarian cancer a year. We are going to be rationing those 1,000 doses. We are going to not be able to provide sufficient doses of Taxol to take care of the number of people who I suspect will be wondering whether or not it is available.

I just ask you, if your income is in excess of \$100,000 a year, if you are a Member of Congress who has loved someone with lung, breast or ovarian cancer, and you want Taxol, do you think you are going to be able to get it? Do you think access is going to be a problem for us? The answer is "No." For us, we will be able to get whatever we want because we will be able to get practically anything we need and have to worry about the cost.

Indeed, I would go so far as to say I think it would be quite interesting if, for example, Mr. Sununu obtained his health care through Medicaid. What would happen when the report comes back to Mr. Sununu about the rising costs of Medicaid? What would he do with that report? What would the people presenting him with that report do with their own conclusions if they knew the man to whom they were going to present the conclusions already had a problem of access and understood that in a very real way the problem that we currently see in the United States of America with access.

Health U.S.A. tries to control costs in a very direct way. It simply says we are going to budget health care costs as a nation. We will provide a budget to States. We will know today how much we will spend in 1992. There will be disagreements. Some will say they want to spend \$900 billion; some will want to spend \$800 billion. All politicians will have to answer the question: How much do you want to spend, not for Medicaid, but for all of health care in the United States of America?

I believe unless we address that directly all we are going to do is create additional problems, and not solve the most important problem that we have with our current health care system.

I have addressed the second problem a bit in detail, the problem of access. As I said, I believe for a majority of Americans this problem is already there. Even though they may not at the moment be aware of it, when that

thin ice of medical indigency on which most of us stand today breaks they discover in fact access is a real and growing problem.

But access is not just a problem that should be viewed as a humanitarian issue. It is an important economic issue, Mr. President. If we provide access to all Americans, and Health Care U.S.A. establishes health care as a right, I am prepared to argue health care in the United States should be a right. I am prepared to argue it should not be an unlimited right. It is not an absolute right as almost all of our rights are. There are limitations and we will decide what they are collectively together. But it will not be a right that we establish for the poor. It will not be a right that we establish for the elderly, and not a right that the country establishes. Thank heavens for disabled veterans such as myself. It will be a right that we establish for all of us.

As we argue what that right will extend to, we will be arguing it for ourselves. It is an altogether healthy environment I believe for us to do so. It will enable us to address the crisis in real health care, so and it will enable us to address the rising crisis as well in indigent care.

There is a remarkable two volume series that came out this month. I urge all my colleagues to read it. I will not insert it into the RECORD. It is too lengthy. It is in the Journal of the American Medical Association, and in these two journals are detailed problems of access today, particularly in indigent care, particularly for the poor, particularly for our children, Mr. President, who are not able to, do not have the strength to, be able to come here and argue to get the appropriations that they indeed need and that all people say they need.

A couple of days ago I read in the newspapers here an account of a hearing that the distinguished Senator from Connecticut, Senator DODD, had where he talked about trying to get business for increasing appropriations, for Head Start, for WIC, for maternal and infant health care block grants to do something that we all know works. We know it works. No one disagrees with it. On both sides of the aisle there is strong support for the program, but we do not allocate the resources. We say we do not have the money. We have a deficit. But these children did not cause the deficit. Our deficit will grow and our economic status will not be strengthened unless we are able to provide a sufficient amount of resources for the youngest and most vulnerable of our population.

Health U.S.A. can by establishing a right to health care in the United States, by establishing as a nondifferentiated right, by defining it as an absolute right places upon the American citizens not only the oppor-

tunity to decide how much we will spend, but the obligation to decide how we are going to spend it.

The third problem is a problem of worker mobility. It is a growing economic problem. It is particularly, I think, worthwhile to discuss this kind of proposal in light of the administration's request for fast-track authority under the North American free-trade agreement and for GATT.

The basis of the two treaties is that we ought to be able to maintain a competitive advantage. Our workplace ought to be able to maintain a competitive advantage with workers in the rest of the world. If that is the basis, Mr. President, then we ought to have policies that make certain that that can be possible, because right now the Nation is against our workers attempting to compete, and have established health care as a right. We should make certain that they break the connection between employment and health care eligibility. It is a very important economic issue.

I spent enough time in the Medicaid Program to know that we are discouraging people from working. We have a barrier there for the worker to decide whether they want to go to technical college to increase their skills, and take time off to try to learn something more in light of the changing workplace. An increasing turnover in our workplace is a fact of life. Preexisting medical conditions that immobilize a worker is also an increasing fact of life. It is an economic and humanitarian imperative to break the connection and say to the worker you will not have to negotiate for care benefits.

Say to an employer, as well, that you are not going to have to spend all that time, particularly for entrepreneurs, trying to figure out what kind of health care benefit you are going to offer to entice people to work for you. It is an economic and humanitarian imperative to break the connection between employment and health care benefits.

Mr. President, the fourth problem I identify is the problem of increasing paperwork. There has been an awful lot of conversation about this problem.

Anybody who has gone into an American hospital or an American physician's clinic and has seen the increasing amount of time that our providers are putting in just filling out the forms required to get paid, or the forms required to make certain that they have not violated any laws, cannot come away with any other conclusion than that we must do something to reduce that paperwork load.

I believe, by simplifying the payment system, we will be on our way to doing that. I must also, with respect to myself and my other colleagues, say that part of the problem is us. Part of the problem is that we find ourselves faced with somebody who says, "here is

something out here we do not like; here is a condition of our society. We want to improve this, and we want a law passed with regulations to try to improve it."

Sometimes we do not measure the impact upon the providers themselves. We sometimes do not measure that paperwork that is going to be loaded upon those providers, and we sometimes do not measure whether or not, indeed, we should simply be saying this is a problem that can be solved in another way. It is particularly true when you are dealing with an attempt to solve the problem from the top down, which our current system requires.

Health U.S.A. attempts to distribute more than delivering decisions back to the State and local level, where I believe much more can be made of an environment of decreasing paperwork, rather than increasing.

I find it rather odd at this point that the administration, in their moment of proposing a change of the malpractice system, would have as an object the reduction of punitive damages, and would say to the States: We are going to have an unlimited punitive assault on you, unless you put in place the procedures for controlling malpractice that we suggest; that we are not going to provide you with medicare or medicaid unless you put in place what we say.

That is opposite the model we ought to have for health care in America. I vastly prefer to have a bottom up, State-administered and State-negotiated process, such as Health U.S.A.

Last, Mr. President, I want to talk briefly about the problem of prevention. Quite simply, if you ask me what the No. 1 problem is in terms of the rapidly rising costs, I say this: We are getting sicker than we ought to, and we are spending more once we are sick to get well.

I have tried, in drafting this proposal, to put a lot of incentives in here for both the politicians and for the patients to avoid sickness, disease, and accidents, before it happens, to make the effort to change habits in order to avoid the consequences of sickness, disease, and accidents. I have tried to provide incentives in the financing system so that we, as politicians, can look, as an alternative, to payroll tax and income tax, and we can look to those things that are producing health care problems and use those things as a source of revenue.

There is no reason, Mr. President, that we should not use the revenue from tobacco to fund those expenditures that are being caused as a consequence of the consumption of tobacco. There is no reason that we should not look to alcohol and spirits as a source to help fund those problems, or to toxics. If the evidence is overwhelming that some behavior or condition causes a health care expenditure, there is no reason for us not to

look for a way to use revenue from that activity in order to avoid the cross-subsidization that we currently have in our system.

I believe, in addition to that, we would find ourselves in an environment where, if we had a single fund, as we would under Health U.S.A., we would be doing a better job in the area of research, making sure our research was directed in ways to reduce costs.

It would be difficult, under the current environment, to get much enthusiasm for research on the question of incontinence or immobility, and research on the question of why some people become addicted to alcohol after a 3-ounce glass of wine, and others do not. In all three of those areas, research would offer great hope for reductions in health care expenditures.

Under this system that I have proposed, we have a single fund where there is a connection to the cost we are paying in. We would be, as politicians, encouraged to do that. There are also incentives for the patient in here. There are rewards if you stay well; not providing an environment where we simply have people skimming.

As I indicated, we have established health care as a right, and we are going to make a statement that as a State and as an individual, there will be rewards for individuals who are able, and States who are able to reduce their expenditures, not by denying people access or saying to them, "No, we are not going to pay for your health care," but by doing it in a positive way, and saying that there are rewards for not making the expenditure at all.

In closing, let me deal with this issue of quality. There is a great deal of concern, any time you talk about major reform in the way we finance, about the deteriorating quality of health care in the United States. I think it is an issue that needs to be addressed head on. My own assessment of it is that in the U.S.A. we will always desire superior health care; we will be willing to spend more. We are fascinated by gadgets, and we have a great deal of compassion in wanting to try to save a life, to enrich and improve a life.

Thus, I do not believe, in a system where we will be deciding how much to spend and allocate, as we would under this particular proposal, that Americans would decide to have inferior quality. Quite the opposite. I believe we would have an opportunity to look at quality as an issue and get real quality, sometimes at a lower cost. Regarding technology that we sometimes today do not allow into the marketplace, because we do not know how it is going to be distributed, we would be able, I believe, to assess and measure quality versus cost in a way that we currently cannot do.

I believe passionately that there is a humanitarian necessity to change the way we finance health care, to estab-

lish health care as a right in America, to give us the opportunity to budget and break the link between employment and eligibility.

I believe there is an economic imperative as well. The U.S. economy would grow faster under this system, and we would create more jobs under this proposal, and create incentives for individuals to increase their skills and move up in the workplace, to try to raise their standard of living and replace the system where we currently have disincentives, in my judgment, to do all of that.

I recognize that there will be losers in this proposition. I say to those who are losers: Do not simply look in the short term. Look in the long term. Think about your country 10 years from now, and what you want it to be. I believe you will, of necessity, conclude that we need to change the way we finance in order to have a better America.

Mr. President, I yield the floor.

Mr. MITCHELL addressed the Chair. The ACTING PRESIDENT pro tempore. The majority leader.

CHINA MOST-FAVORED-NATION LEGISLATION

Mr. MITCHELL. Mr. President, I will introduce today a bill to condition the President's renewal of most-favored-nation trade status to the People's Republic of China on reciprocal action by the Chinese Government to end its violation of international standards of human rights, its unfair trade practices, and to cooperate with the world community in restricting the proliferation of chemical, biological, and nuclear weapons technology.

The bill is direct and to the point. Its purpose is to make tangible the verbal expressions of American support for democracy.

It seeks to join words with deeds. Talk about democracy is not enough. We need action.

My bill is not an impermissible intrusion into the President's conduct of foreign policy. It gives the President a time period after his renewal of non-discriminatory trade status to work with Chinese leaders to produce change in those human rights, trade and weapons policies which now cloud our bilateral relations.

The bill asserts the American national interest in promoting and defending international respect for human rights and our interest in promoting fair and cooperative contacts between our countries.

The bill requires the President to certify within 180 days of enactment that the Government of the People's Republic of China has ceased violating the human and religious rights of its citizens; that is permitting unrestricted immigration; that it is providing protection for the intellectual

property and trade rights of American businesses; and that it is cooperating with international efforts to control arms proliferation.

The President has made clear his intention to renew MFN status for China as recently as yesterday when he told Republican Members of the Senate that he strongly favors the extension and asked for their support.

My legislation does not propose to block that extension. Instead, it acknowledges the concerns of the Senate, many of which are on record in past debates, that relations with China demand more than unilateral United States forbearance alone. The Senate has indicated that relations with China demands some reciprocal action from China as well.

The criteria in my bill are based on internationally recognized human rights, fair trade practices, and the international interest world peace. These are all consistent with fundamental U.S. national interests.

The criteria are neither onerous nor unfair. The President has repeatedly stated that it is our national goal, in the wake of the events of the past several years in Eastern Europe, to seek a world order in which respect for the rule of law and the fundamental rights of people are the norm.

In pursuing that goal the President has the full support of every American citizen and of millions of people in other countries.

I strongly agree with the President when he says that it is in our national interest to promote respect for the rule of law and for human rights worldwide. I strongly disagree with the President when he refuses to apply that same standard to China. The President's policy has two standards, one for other countries, another for China.

I believe we should apply to the Government of China the same standards and the same goals we apply elsewhere in the world.

By no standard does the Chinese Government's treatment of its people today reflect even minimal respect for basic human rights.

The Chinese leaders have still not accounted for and released all the political prisoners arrested and imprisoned just because they expressed their political beliefs. They have not altered the prerequisite of political indoctrination and military service for Chinese who want to study abroad. They have not ceased military and political repression in Tibet. Just a few weeks ago the President received the spiritual leader of the Tibetan people and the Congress heard from the Dalai Lama. He told us that the Chinese have killed more than 1 million of his people, one-fifth of their entire population. What a mockery to receive and listen to that holy man and then to go back to business as usual with the very government which has murdered his people.

The Chinese have not ceased that repression in Tibet. They have not ceased the repression of prodemocracy protests in China. They have not granted the right of free emigration. They have not stopped using torture, detention without charge, and forced labor.

In short, virtually all the human rights concerns which today underlie American policy are being ignored and violated in China today. We should not pursue a policy which overlooks those realities.

Internationally China has not become a better world citizen, either.

The Chinese Government has not honored its own commitments to become a responsible party in the effort to control the proliferation of biological, chemical, or nuclear weapons technologies. The Government of China continues to clandestinely arm and equip the forces of the genocidal Khmer Rouge in Cambodia. The Khmer Rouge today continue to pose a grave threat to the Cambodian people and the future of that Nation.

We demand of our closest friends and allies that they cooperate with the international arms program designed to control proliferation. Why should we ask less of China? Why should we have two standards, one for all other countries and another different, lower standard for China? That is the President's policy. It is a policy with which I profoundly disagree.

In its bilateral relations with the United States, China has not become a better, fairer, or more open-trading partner either. The Chinese Government fails to provide adequate protection for United States intellectual property rights, a failure that leads to the proliferation of bootlegged software and other properties in China and then exported from China. The Chinese Government is not providing American exporters with fair, unrestricted access to Chinese domestic markets, a status Chinese goods enjoy in the American market. China is maintaining discriminatory import and tariff barriers even as it takes advantage of the openness of American markets to its goods.

When the President renewed most-favored-nation status last year, his administration suggested that our trading relationship with China was so important to our economic health that it could not be set aside in spite of human rights concerns or China's international arms sales.

Well, let us look at that trade relationship. Today, a year after the President renewed most-favored-nation trading status, China's exports to the United States have increased by 27 percent to a total of \$15 billion. At the same time, we find that American exports to China have decreased by \$1 billion, down to \$4.8 billion. The China-United States trade imbalance now favors China to the tune of more than \$10.3 billion.

I do not deny it is an economically important trade relationship, but it is clearly more important to China's economic health than to ours.

The President's reaction is to say that we should continue to wait, wait, and wait some more. Maybe relations will improve.

But when the President recently again dispatched a high-level administration official to urge the Chinese leaders to improve their human rights record, once again Chinese leaders angrily rejected those concerns and insisted they will not accept any conditions on renewal of their privileged trade status.

There is, therefore, absolutely no incentive in the record of the relationship under President Bush for the Chinese leadership to change its policies. They now know that they can do anything they want and the President will not do anything about it.

If the Chinese leadership believes—and it has every reason to believe—that an indignantly worded response by them will take care of every American protest, what incentive is there for the Chinese leadership to consider alternatives? The answer is clear. None.

That is exactly what the President's policy toward China has brought the United States: The ability of the Chinese to reject United States interests, both policy and economic interests, at no price to themselves.

On a purely economic basis, there are no grounds for allowing the violation of fair trading practices to continue. American businesses and American workers are the ones who suffer from this policy. When a copyrighted software can be stolen and reproduced at will by the Chinese, the producers of that product have been robbed—robbery just as much as one that occurs in the street at night. We should be defending the rights of American manufacturers, not looking the other way while they are violated.

On the question of our national interest in a world where human rights are universally respected, the renewal of MFN status without conditions sends exactly the wrong signal. It tells the world that Americans are complacent about violations of human rights and repression of dissent; that we are selective in our concerns; that we care about some human rights in some countries. That ought not to be our policy.

That is wrong. Americans did not respond with complacency to the massacre in Tiananmen Square, Americans were shocked at the brutality of the repression. Americans have given their sympathy and their support to the Chinese students who have sought sanctuary in this country.

Renewal of most-favored-nation trade treatment for China without some concrete, demonstrable efforts by the Chinese Government to improve

human rights in their country would not only be wrong, but would perpetuate an obviously failed policy.

The President said last year that he hoped that renewal of most-favored-nation trade treatment would produce a relaxation of repression and an improvement of the human rights situation in China. That was his hope last year. But his hopes have been in vain. No substantive improvement has occurred.

Yielding again to the Chinese leaders with yet a third renewal of most-favored-nation trade status, without conditioning such renewal on significant improvement in the human rights situation of the Chinese people and improved cooperation in trade and weapons proliferation, is not only a failed and mistaken policy, it is contrary to our national interest.

American interests are best served by a policy which promotes international efforts to achieve a world order based on peace and freedom.

Fearful and tyrannical regimes pose a threat to peace and they deny freedom. There is no long-term American interest in constantly giving into such regimes.

A national policy that asserts American values—the values of individual freedom and human dignity—and resolutely looks to the long-range future, not a shortsighted response to meet immediate and transitory circumstances, best serves our national interest.

I believe that it is time to change our policies toward the leaders of China, to recognize that the President's policy has failed and the answer to a failed policy is not to continue it unchanged.

That policy change is what this bill is designed to achieve. It deserves the support of every Senator who agrees that the expression of our fundamental interest worldwide must be clear, consistent and forceful in every relationship not just in some.

Americans want freedom. Americans want individual liberty. Americans want human dignity everywhere, not just in some places. There ought to be one standard, not two. The same standard that applies to other countries ought to be applied to China. This bill will do that in a fair and responsible way.

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

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

S. 1084

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 "Support for Democracy, Human Rights, and Fair Trade in China Act of 1991".

SEC. 2. FINDING; POLICY.

(a) FINDINGS.—The Congress makes the following findings:

(1) The Chinese people have provided a dramatic demonstration of their desire for democratic freedoms. Thousands of courageous Chinese students and workers, men and women, demonstrated on June 4, 1989, that they were willing to die, or face imprisonment or exile, in pursuit of democratic self-determination and human rights.

(2) The Government of the People's Republic of China, which is a member of the United Nations and obligated to uphold the United Nations Charter and Universal Declaration of Human Rights, continues to commit violations of internationally recognized human rights, including—

(A) torture or other cruel, inhuman, or degrading treatment or punishment;

(B) prolonged detention without charges and trials, and sentencing of members of the pro-democracy movement for peaceful advocacy of democracy;

(C) use of forced labor of prisoners to produce cheap products for export to countries, including the United States, in violation of international labor treaties and United States law;

(D) abduction and clandestine detention of individuals; and

(E) other flagrant denials of basic human rights.

(3) The Government of the People's Republic of China has denied Chinese citizens who support the pro-democracy movement and others the right of free unimpeded emigration.

(4) The Government of the People's Republic of China has restricted the number of students permitted to study abroad and has required college students to attend military indoctrination courses, work five years after graduation, and pay large sums of money before being eligible to apply to study outside China.

(5) The Government of the People's Republic of China continues to violate the fundamental human rights of the people of Tibet and uses the People's Liberation Army and police forces to intimidate and repress Tibetan and Chinese citizens peacefully demonstrating for democratic change and religious freedom.

(6) The Government of the People's Republic of China has not demonstrated its willingness or intention to participate as a full and responsible party in good faith efforts to control the proliferation of dangerous military technology and weapons, including biological, chemical, and nuclear weapons technologies.

(7) The Government of the People's Republic of China continues clandestinely to supply arms and equipment to the genocidal Khmer Rouge forces fighting in Cambodia.

(8) The Government of the People's Republic of China has interfered with the rights of the people of Hong Kong to exercise self-determination in their political, cultural, and economic activities.

(9) The President of the United States has suspended all government-to-government sales and commercial exports of weapons to China, and issued an Executive order to treat sympathetically requests by Chinese students in the United States to extend their stay.

(b) POLICY.—(1) It is the sense of the Congress that the additional existing sanctions being applied against the People's Republic of China in the areas of technology exports and international monetary loans should be continued and strictly enforced.

(2) It should be the policy of the United States Government to consult with members of the United States business community operating or investing in the People's Republic of China in order to discuss the establishment of guidelines for corporate activity in that country.

SEC. 3. DENIAL OF MOST-FAVORED-NATION STATUS.

(a) IN GENERAL.—Notwithstanding any other provision of law—

(1) the President shall terminate or withdraw any portion of any trade agreement or treaty that relates to the provision of non-discriminatory (most-favored-nation) trade treatment by the United States to the People's Republic of China;

(2) the People's Republic of China shall be denied nondiscriminatory (most-favored-nation) trade treatment by the United States, and goods which are the growth, product, or manufacture of the People's Republic of China shall be subject to the rates of duty set forth in column number 2 of the Harmonized Tariff Schedule of the United States; and

(3) the People's Republic of China may not be provided nondiscriminatory (most-favored-nation) trade treatment under any provision of title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.).

(b) EFFECTIVE DATE.—The provisions of this section shall apply with respect to goods entered, or withdrawn from warehouse, for consumption after the date that is 180 days after the date of enactment of this Act.

SEC. 4. TERMINATION DATE.

(a) IN GENERAL.—This Act shall terminate at such time as the President determines and certifies to the Congress that all of the conditions set forth in subsection (b) have been met.

(b) CERTIFICATION.—The conditions referred to in subsection (a) are that—

(1) the Government of the People's Republic of China—

(A) has accounted for and released all political prisoners arrested and incarcerated because of expression of their political beliefs;

(B) has ended interference with Voice of America broadcasts in China and Tibet and ceased the harassment and restrictions imposed on Chinese and foreign journalists; and

(C) has ceased surveillance and harassment of Chinese students and other individuals living outside of China, including returning and renewing passports confiscated as retribution for pro-democracy activities; and

(D) has otherwise ceased violating internationally recognized standards of human rights;

(2) the Government of the People's Republic of China has ceased its persecution and arrest of members of the pro-democracy movement in China, including a cessation of the prohibition on peaceful assembly, and allowed international observers to monitor the well-being of those persons previously sentenced and imprisoned;

(3) the Government of the People's Republic of China has permitted the unrestricted emigration of its citizens, including permitting untaxed freedom to study abroad;

(4) the Government of the People's Republic of China has ceased religious persecution in China and Tibet and has released from detention and house arrest, leaders and members of religious groups;

(5) the Government of the People's Republic of China—

(A) is providing adequate protection of United States patents and copyrights and all other intellectual property rights;

(B) is providing American exporters with fair and unrestricted access to their markets, including the lowering of tariff and nontariff barriers; has increased its purchase of U.S. goods and services, reducing its trade surplus with the United States; and

(C) is not attempting to hide the origin of goods manufactured in the People's Republic of China through the practice of transshipping goods through Hong Kong or other non-Chinese ports;

(6) the Government of the People's Republic of China has demonstrated its good faith participation in international efforts to control the proliferation of sophisticated military weapons and chemical, biological, and nuclear technologies; and

(7) the Government of the People's Republic of China has ceased exporting products manufactured, wholly or in part, by convict, forced, or indentured labor under penal sanctions.

SEC. 5. DEFINITION.

For purposes of this Act, the term "forced labor" shall have the meaning given to such term by section 307 of the Tariff Act of 1930 (19 U.S.C. 1307).

The ACTING PRESIDENT pro tempore. The time between now and 11 is controlled by the majority leader.

Mr. MITCHELL. Mr. President, I yield 6 minutes to the Senator from California, and I designate the Senator from California as my designee in charge of the time remaining this morning.

The ACTING PRESIDENT pro tempore. The Senator from California is recognized for 6 minutes.

Mr. MITCHELL. If the Senator would yield, Mr. President, in view of the numbers of persons interested in speaking on this—as I understand it, this period is to end at 11, the Senate is to proceed to the House of Representatives at 11:15 for the joint session to be addressed by the Queen of England—I therefore ask un consent that this period be extended until 11:15 this morning.

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

Mr. CRANSTON. Mr. President, I thank the majority leader.

SUPPORT FOR DEMOCRACY AND HUMAN RIGHTS IN CHINA

Mr. CRANSTON. Mr. President, I rise today to voice my full support for the Democracy, Human Rights and Fair Trade Act of 1991 introduced by the majority leader. I am pleased to join the majority leader and Senator MOYNIHAN as principal cosponsors of this important piece of legislation.

It is time to send a signal—a strong signal to the Chinese leadership that they cannot have a free ride as a member of the world community. There are certain international standards—in human rights, in trade, and in weapons proliferation—that they must abide by if they wish to be accepted as members of the civilized world community.

As chairman of the East Asian and Pacific Affairs Subcommittee, I have

confronted these problems repeatedly. As a member of the Senate Select Committee on Intelligence, I have been concerned by the continual flow of negative reports on China's international behavior.

Last June, I held a hearing on Sino-American relations, just a few days short of the 1 year anniversary of the massacre of Tiananmen Square. At that hearing, Assistant Secretary of State Richard Solomon testified that "We want China to take into account our views on a wide range of regional and global issues * * *. Denying MFN would mean that China would have little more to lose by ignoring our concerns in these areas."

Well, it has been 1 year since and it is time to tally the Chinese response. It is clear they may have listened to President Bush's emissaries but they ignored our message. Now is the time for Congress to send a message they cannot ignore by denying most-favored-nation status.

In human rights, the situation has deteriorated. The Chinese Government continues to detain members of the prodemocracy movement, without charges or trials, while sentencing more. In an effort to discourage dissidents several leaders have been sentenced to 13-year terms because they "wantonly incited some persons to subvert the people's Government and socialist system," according to the official New China News Agency.

A week from today marks the 40th anniversary of the Chinese declaration of sovereignty over Tibet. The Congress in a splendid display of solidarity with Tibet welcomed the Dalai Lama to Washington last month. Having just gone to war to prevent Iraq's illegal occupation of Kuwait, we must not forget how long China has illegally occupied Tibet, nor what the cost of that occupation was: 1.2 million Tibetans perished and more than 6,000 monasteries and temples were destroyed. And while we denounce China's treatment of democracy's advocates, we must not forget how China continues to oppress Tibetans, for advocating not only democracy but for trying to practice their religion.

The prevalence of slave labor in China's gulags, widely disclosed for the first time in last June's hearing, has now been widely documented by Asia Watch, the Congressional Research Service, and the General Accounting Office.

Mr. President, I ask unanimous consent that a report prepared for me by the Congressional Research Service on slave labor be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. CRANSTON. Some of these goods made by slave labor, it is now clear,

are being imported into the United States in contravention of American law.

The administration states we have to give MFN because the trade benefits the United States. Let us look at those benefits: Our trade deficit with China is expected to be second only to Japan's by the end of the year. In 1985, our trade was almost in balance. By 1988, the deficit was \$3.5 billion and had tripled to \$10.4 billion in 1990. Some are projecting a deficit of at least \$15 billion this year. Our exports to China actually declined last year in large measure because the Chinese decided to restrict imports from the United States. Perhaps it is time we did the same to them.

There can be no doubt that our trade with China has often been disadvantageous to us. On April 26 the United States Trade Representative [USTR] reported that China failed to provide adequate and effective protection of intellectual property rights. Intellectual property rights piracy is widespread in China, accounting for significant financial losses to United States industries.

In response to the USTR's decision to designate China a priority country for intellectual property rights violations, a Chinese spokesman said our action would have an extremely negative effect on economic cooperation. And so well it should. It is time to stop this free ride on American know-how.

In one of the key areas of American concern, weapons proliferation, all indications are of a worsening situation. Last year, the administration testified that the Chinese had promised us several times that they would not sell M-9 missiles to Syria. Yet the reports this year show not only that they may be intending to sell long-range M-9 and shorter range M-11 missiles to Syria and Pakistan, but that they have secretly been helping Algeria build a nuclear powerplant which, now that it has been disclosed to the world, they cleverly call a research reactor.

In Cambodia, they tell us they support efforts to achieve an international peace settlement while announcing that they are continuing their arms sales to the genocidal Khmer Rouge. There are even reports of Chinese tanks being supplied to the Khmer Rouge. Is this how they support our efforts to achieve peace? Yet, according to the administration, China firmly supports the U.N. Security Council's Cambodian peace agreement. Of course they support it. We let them get away with saying one thing while doing opposite—just as with their public declarations that they are not selling missiles to the Middle East, or helping Libya develop chemical weapons, or Algeria develop nuclear weapons technology.

Mr. President, I suggest the resolution should be amended by adding, on page 8, between lines 11 and 12, a provi-

sion making another condition relating to Cambodia with the following language:

(8) the Government of the People's Republic of China has ceased providing any military or nonmilitary support to the genocidal Khmer Rouge.

They should do that among other things before they get most-favored-nation treatment.

What should our response be to all these issues?

Let me close by citing the Dalai Lama's remarks to Congress on April 18:

For the sake of the people of China as well as Tibet, a stronger stand is needed towards the government of the People's Republic of China. The policy of "constructive engagement," as a means to encourage moderation, can have no concrete effect unless the democracies of the world clearly stand by their principles. Linking bilateral relations to human rights and democracy is not merely a matter of appeasing one's own conscience. It is a proven, peaceful and effective means to encourage genuine change. If the world truly hopes to see a reduction of tyranny in China, it must not appease China's leaders.

Now is the time to end our policy of appeasing China. We must lead the world in standing for the human rights everywhere that are the very heart and soul of our own democracy.

EXHIBIT 1

[From the Congressional Research Service, Nov. 8, 1990]

OVERVIEW AND ASSESSMENT OF ISSUES CONCERNING USE OF FORCED LABOR

The requirement that prisoners work is perhaps the central feature of the Chinese prison system and has been since the early years of the People's Republic of China. Although some reforms and changes in regulations have occurred since 1978, the current systems of reform and reeducation through labor basically have been in place since the 1950s. Chinese leaders continue to believe that labor is an essential and proven component of the rehabilitation process and, moreover, that the products of prison labor should be an integral part of the Chinese economic system. Despite, this, from the standpoint of U.S. policy the extent to which labor reform and labor reeducation are enshrined in Chinese policies appears secondary to several other issues involving forced labor. The following section deals only with the issue of forced labor. It does not deal with the merits or drawbacks of the Chinese approach to rehabilitation, nor with the presence or absence of Western concepts of due process.

EXPORTED PRODUCTS MADE WITH CONVICT LABOR

From the standpoint of U.S. policy, a key issue is the extent to which Chinese prison labor may be used to produce products for export to overseas markets. Current U.S. law prohibits the importation of products made with convict labor, and although imports from China have never been prohibited in the past, the U.S. Customs Service now for the first time is investigating allegations involving convict-made imports from China.¹ Many people writing on this topic have emphasized that information is sketchy, and that there

has been no systematic attempt to determine the extent to which this may be a problem. Most stated that convict-made products probably represent a small fraction of annual exports from China. Only two specific products were routinely mentioned—Dynasty Wine, and Yingdeh Tea (both discussed elsewhere in this memo)—although one expert specializing in the lawmaking process in China stated that specifics on several other cases were available. (See attached memo.)

EMPHASIS ON "LABOR" VERSUS "REFORM"

A second issue in convict labor concerns the extent to which individual prison camp officials may emphasize the "labor" component of penal servitude to the detriment of the "reform" component. A number of Chinese jurists and government officials in China, particularly since 1978, apparently have found it necessary periodically to remind prison camp authorities that it is a mistake to emphasize "labor" (or production) over "reform."² Judging from these sources, some managers in charge of labor camp production facilities may mistreat and overwork prisoners in pursuit of other national or even personal goals such as increased production and profits. The fact that Chinese jurists and officials have often mentioned this as a problem appears to indicate that national regulations concerning prisons and central government control over labor camps are sometimes overridden or ignored by on-site authorities and production managers. This raises questions about the extent to which the central government may have control over individual prison facilities, and, by implication, casts doubt upon central government assertions about how policies concerning prison camps are enforced. Although Chinese government spokesmen routinely deny that labor-camp prisoners are used to make products for overseas markets, other sources allege that some camp managers have written letters to potential foreign investors, offering the labor services of "criminals" at low wages.³

METHOD FOR RELEASING OR DISCHARGING PRISONERS

A third issue involving forced labor in China concerns the method for releasing or discharging prisoners from prison camps. Current Chinese law appears to allow for a system of reward and punishment, so that persons incarcerated can theoretically shorten their sentences by accumulating points for proper behavior and hard work and, conversely, can have their sentences extended for failing to attain these goals. In addition, current Chinese law permits an indefinite extension of a prisoner's incarceration after the term of sentence has been completed. (This system, sometimes referred to as "forced job placement" or "internal exile," is discussed elsewhere in this memo.) But the method and organs for determining these rewards and punishments appear to some extent to be subjective, without judicial re-

²The Library of Congress report in particular refers to this problem. See pp. 16-17. Labor camps.

³The Press Counselor for China's Embassy in Washington wrote a letter to the New York Times on October 5, 1990, asserting that "labor-reform departments in China are not allowed to engage in foreign economic and trade activities. . . ." New York Times, October 5, 1990, p. A36. Steven Mosher, in a revision of his committee testimony (reviewed in this memo), reprints a letter from a Chinese general manager offering the services of prisoners to Volvo, the Swedish car manufacturer. Mosher, Steven. "Made in the Chinese Laogai: China's Use of Prisoners to Produce Goods for Export." The Claremont Institute (undated), p. 13. (Hereafter cited as The Claremont Institute Report.)

course to appeal, and sometimes dependent on the recommendations of officials at the camp or others who may have a vested interest in the camp's production.

In addition, some sources have stated that prison camp officials may pressure prisoners who make a significant contribution to the production output of a labor camp to voluntarily stay on at the camp, after their sentences have expired, to help with the camp's work. The dependence of prisoners' sentences on judgments about their behavior (particularly when combined with the incentive to use labor camps as production facilities) raises questions about conflicts of interest on the part of prison camp officials to the detriment of prisoners' welfare and their hope of eventual release.

REVIEW OF SIGNIFICANT WRITTEN WORK ON FORCED LABOR IN CHINA

This section reviews the following three written studies which deal with forced labor practices in the PRC:

"Made in the Chinese Laogai:" China's use of prisoners to produce for export. Testimony of Steven W. Mosher to the Senate Foreign Relations Committee on June 6, 1990.

Forced Labor in the People's Republic of China. Report to Congress of the Law Library of Congress' Far Eastern Law Division, dated April, 1990. (LL90-27), by Tao-tai Hsia, Constance Johnson, Wendy Zeldin, and Donald R. DeGlopper.⁴

Forced Labor in the People's Republic of China. General Accounting Office Briefing Report to the Ranking Minority Member, Senate Committee on Foreign Relations, by Jess Ford, John Butcher, Beth Hoffman, and Marie-Denise Sansaric.

There are other studies dealing with the forced labor issue, but for various reasons they have not been included in this memo. Examples of studies not included are: classified reports prepared by several U.S. Government Departments and Agencies; individual written accounts of former prisoners (many of these have been cited in one or more of the above reports); written reports which are not recent, such as the International Commission against Concentration Camp Practices' "White book on forced labour and concentration camps in the People's Republic of China" (1957-58); the State Department's Country Reports on Human Rights Practices for 1989, dated February 1990 (although the section on China on pp. 802-825 does mention labor reform camps, it does so in too little detail to offer useful comparison); and reports in Chinese.

SIMILARITIES

The studies that CRS reviewed are substantially similar in their descriptions of the general nature of the Chinese labor reform and labor reeducation systems, Chinese laws and practices concerning imprisonment, and the types of labor performed by prisoners. All the studies, for instance, emphasize that Chinese laws specifically state the importance of "reform through labor," and that Chinese officials since the founding of the PRC have routinely praised both the concept and its accomplishments. To some extent, these similarities may be enhanced because official PRC documents and accounts of

⁴In addition, the Law Library has just completed preliminary drafts of two other products on this issue: a report on Extra-Judicial Arrest and Detention in the People's Republic of China (October 1990), which deals only with detention prior to being charged with a crime; and a two-page discussion of Forced Labor Production in the PRC during 1988 (October 3, 1990).

¹See later sections of this memo dealing with provisions in U.S. law.

former prisoners represent the two major sources of information on the forced labor issue, and are drawn upon by many writing on this topic, including journalists, academics, and human rights groups. The statements in the remainder of this section apply to the three studies reviewed.

Labor as a component of the prison system

Chinese prison camps generally have two names—the name of the prison facility itself (such as the “No. 1 Prison Camp of Beijing”) and the name of the enterprise for which the prisoners labor (in the case of the aforementioned Beijing camp, the “State-Operated Qinghe Farm”).⁵ The production from Chinese prison camps is included in local production plans, thus integrating the prison system into the national economy. Chinese prisoners and prison camps have been heavily involved in construction of large-scale, labor-intensive projects such as railroads, dams, canals, and power plants. In addition to involvement in heavy industrial projects, prison camps also produce other goods and commodities, such as agricultural products and handicrafts. Some of these products may be exported to other countries.⁶

Categories of detention

Although the reports differ in the types of reform facilities they describe, they all describe three general categories of detention.⁷ “Labor reform” is a criminal sanction in which prisoners have been arrested, found guilty of a crime by the Chinese courts, and sentenced to a labor reform facility. “Labor re-education” refers to an administrative sanction which does not necessarily involve criminal charges and for which there is no judicial recourse. Chinese citizens may be sent to “labor re-education” camps for up to four years for a wide variety of behavior that Chinese government or administrative authorities deem disruptive or undesirable and that falls outside the acts described in public security regulations. The distinctions Chinese regulations make between criminal and noncriminal behavior are often unclear. The third type of detention, variously referred to as “forced job placement,” (FJP), “detention beyond sentence,” or “internal exile,” refers to those prisoners who have completed their sentences but are not permitted to leave the prison camp.⁸

Numbers of prisoners

The number of prisoners in China has never been determined definitively. Estimates have ranged from 2.5 million (the U.S. State Department's estimate, according to the GAO report) to over 20 million (the estimate of a former prisoner, cited in the Mosher report).⁹ Despite this quantitative uncertainty, the reported number of arrests and detentions in China generally tends to increase during political and ideological

campaigns such as the “spiritual pollution” campaign of 1983 or the “anti-bourgeois liberalization” campaign of 1987. Based on this, it can be surmised that there has also been an increase in the rate of arrests and detentions during the political tightening since the crackdown in Tiananmen Square.

DIFFERENCES OF SCOPE, CONTENT, AND FOCUS

The reports do not specifically contradict one another in any important way. They do differ on some specific details—particularly concerning the types of reform facilities that exist, the status of prisoners who are kept on at prison camps after the expiration of their sentences, and on details concerning allegations that prison camp products are exported overseas. In addition, each report is unique in its focus, amount of detail, emphasis, and conclusions. This section presents a synopsis of each report, including a discussion of its scope, content, and focus. The next section discusses those issues on which the reports differ concerning specific points.

Law Library of Congress Report

Of the three reports reviewed, this report is the most detailed and documented and the most specific in its focus. It provides an historical overview of the administration of justice in the PRC from 1949 to the present day, particularly the legal aspects of labor reform and labor re-education. It makes no attempt to calculate the numbers of prisoners or of prison camps. It is based “entirely on material published by the People's Republic of China,”¹⁰ including official statements, laws and regulations, textbooks used in law schools, and law journals published with official approval. There is little reference in the report to Western-language sources or materials.

Since it is based heavily on official Chinese-language laws and regulations, this report appears to offer official substantiation of some of the major claims of other reports. For instance, the Law Library report discusses in detail those portions of Chinese law which require some prisoners to be kept in labor reform camps after they have served their sentences, including the categories of prisoners to be kept and the fact that their “original urban household registration” permits should be cancelled. The Law Library Report also refers to several Chinese textbooks on law which refer to the importance of the “development of an international market for the labor reform enterprises” and to the possible approaches by which labor reform units could consider entering the international marketplace.

Mosher Report (“Made in the Chinese Laogai”)

The Mosher report focuses almost entirely on the question of the extent to which prison labor may be used in the manufacture of products for export. It cites a mixture of Chinese- and Western-language sources, including Chinese news accounts and law textbooks, and also extensively uses accounts and writings from prisoners, American and foreign news articles, and writings from Taiwan. Mosher's is the only report of the three to provide a list of commodities made by labor reform camps (cited as having been prepared by a former prisoner, Harry Wu).¹¹ This is also the only one of the reports which

mentions the wide range of estimates for the numbers of prisoners in China, and which suggests possible methods of calculating their numbers more effectively, including the use of sentencing statistics and crime rates. The report concludes with a reference to current U.S. law prohibiting imports produced with convict labor, and provides five policy recommendations on how to apply this law to products from China.

General Accounting Office Report

The GAO report is both the broadest and the most policy-oriented in the focus. For the most part, it synthesizes, without extensive detail, other accounts on prison camps in China and provides general information on all of the other issues discussed in this memo. At the outset, the GAO report cites as its primary source officials (not named) of U.S. Government Departments and agencies, the United Nations, international human rights organizations, academia, private and religious organizations, and two former prisoners. It is the only report to cite U.S. Government sources, but no individual names or departments are given in the list of sources, and specific details are not footnoted to specific sources. The GAO report is the only report which mentions pending U.S. Customs cases involving allegations of imports from China made with prison labor.

AREAS OF DISAGREEMENT

In addition to the basic differences cited above, the reports differ in their treatment of two topics: types of reform facilities, and exported products.

Types of reform facilities

The GAO report describes four basic types of reform facilities: detention centers, prisons, labor camps, and juvenile detention centers. In a footnote, the GAO report notes that some sources further distinguish between “labor production camps and labor re-education camps” (see GAO report, footnote #3, p. 9). The report offers no information on how these camps may differ.

The Mosher report states that there are six types of facilities, then describes the following five: prisons, labor reform battalions, labor reeducation battalions, “forced job placement” battalions, and detention centers (see Mosher, p. 4. Mosher later refers to juvenile detention centers, possibly the sixth type).¹²

The Law Library of Congress report also mentions detention as a form of incarceration. The report also asserts that there is no time limit on how long people can be detained for questioning prior to being charged with a crime.¹³

Exported products

On this subject, the Mosher report, which focuses on labor camp production, makes stronger assertions about exported products than do the other reports. He states that products made with forced labor find their way to overseas markets often unbeknownst to foreign importers. One reason for this, he states, is that the output of prison camp enterprises is controlled by the ministry in charge of that product, and thus is subsumed into China's economic system. Mosher mentions two specific products made by prison camps which are exported to the United

¹⁰ From the Law Library of Congress Report, p. vii.

¹¹ Harry Wu, the former prisoner often cited in the Mosher report, is reportedly at work on a lengthy and as yet unavailable study entitled “The Labor Reform Camps of the People's Republic of China.” A partial list of exported Chinese commodities alleged to be produced at labor camps can be found in The Claremont Institute Report, p. 15, at Table I.

¹² Detention centers uniformly are described as facilities where citizens are held for investigation and questioning, but who have not yet been charged with any crime.

¹³ Although it is not reviewed in this memo, the Law Library's new report entitled “Extra-Judicial Arrest . . .” (see footnote #1) does deal more extensively with the practice of detention in China.

⁵ Although there is a distinction between labor reform and labor reeducation camps, this memo will use the term “prison camps” in instances where this distinction appears irrelevant.

⁶ Although each study stated that prison camps may export some products, they differed on more specific details and in their assessments of the extent to which this occurs. These differences are noted elsewhere in this memo.

⁷ See section on differences.

⁸ The Law Library of Congress report states that Chinese law provides for this type of detention for five categories of people who have completed their labor re-education terms. See Law Library of Congress Report, pp. 73-74.

⁹ According to the GAO report, the U.S. State Department does not include prisoners detained beyond their sentences in its estimate of China's prison population. The Law Library of Congress Report does not include estimates of the prison population.

States: Dynasty Wine, and Yingdeh Black Tea, Golden Sall Brand. He also cites more examples of the "enterprise" names of prison camps, basing many of these on the reports of prisoners formerly incarcerated in some of these camps.

The GAO report is less specific about exported products. But it does cite U.S. Government officials as stating that goods from China pass through many hands and enterprises before final export, and it implies that products made by prison camp inmates are hard to trace for this reason. The GAO report also cites an exported brand of black tea as having been grown at a labor reform camp in Guangdong Province, but mentions no product names. (This could be the Yingdeh Black Tea mentioned in the Mosher report.) The GAO report also states that prison camps may produce goods for foreign investors involved in joint venture enterprises in China, and mentions that an exported Chinese wine (unnamed, but possibly Dynasty Wine), produced jointly with a French company, was made with grapes grown at a labor camp. The Library of Congress report states that some products made with forced labor have been exported, citing at least one case—a special type of clamp exported to Europe.¹⁴

CURRENT POLICY AND U.S. LAW

The United States has prohibited or placed restrictions on the import of goods made by convict labor since 1890 (Section 53 of the McKinley Tariff Act of 1890, 26 Stat. 567, 624 [1890], now found at 19 U.S.C., section 1307). This section of U.S. law, dealing with Customs Duties, declares the following:

"All goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in any foreign country by convict labor or/and forced labor or/and indentured labor under penal sanctions shall not be entitled to entry at any of the ports of the United States, and the importation thereof is hereby prohibited, and the Secretary of the Treasury is authorized and directed to prescribe such regulations as may be necessary for the enforcement of this provision."

The Secretary of the Treasury has designated the U.S. Customs Service as the agency responsible for administering this prohibition on the importation of goods made by convict labor. In the past, the U.S. Customs Service has investigated some 90 cases under the provisions of this law, only two of which resulted in the prohibition of goods. None of these past actions involved products from China, although the U.S. Customs Service currently is investigating allegations involving products from China.

In addition, U.S. criminal law (18 U.S.C., sections 1761 and 1762) provides, in part, for criminal penalties for the importation of goods produced by convict labor under the following language:

"Whoever knowingly transports in interstate commerce or from any foreign country into the United States any goods, wares, or merchandise manufactured, produced, or mined, wholly or in part by convicts or prisoners on parole, supervised release, or proba-

tion, or in any reformatory institution, shall be fined not more than \$1,000 or imprisoned not more than one year, or both."

POSSIBLE OPTIONS FOR CONGRESS

Existing U.S. law appears explicit and sufficient to permit the United States both to prohibit imported products made with convict labor and to levy criminal penalties on the importers of such products, regardless of the goods' country of origin. Should Congress determine that available evidence is strong enough to support allegations that some imported products from China have been made with convict labor, or should Congress determine that these allegations are strong enough to warrant further investigation, a number of options are available.

To secure more information, Congress could, through enactment of legislation or through informal request, ask for an investigation by relevant U.S. Departments and Agencies—such as the Customs Service, the Department of Agriculture, the Department of Labor, or the Central Intelligence Agency—into whether Chinese products made with convict labor are being imported into the United States. Among other things, such an investigation could result in an accounting (where information is known) of prisons in China, their corresponding enterprise names, the market brand names of their products, their conditions of production, and the basis for believing that they are produced by forced labor. Congress could further request investigations by the U.S. Customs about specific cases where allegations appeared to be substantiated.

Should Congress determine current information is sufficient to warrant action, Congress could, through enactment of legislation, request the President to instruct the Secretary of the Treasury to enforce existing law—either 19 U.S.C. section 1307, or 18 U.S.C. section 1761 and 1762, or both—with respect to imports from China without delay. Such an action was taken in 1988 (P.L. 100-418, title I, section 1906) with respect to products from the Soviet Union, based in part on information provided by the Central Intelligence Agency about Soviet products made by convict labor that were being imported by the United States.

Congress could require U.S. companies involved in joint ventures with Chinese enterprises to certify that neither their joint venture partners nor any subcontracting Chinese enterprises are labor camps, and that no aspect of the joint venture uses products made by labor camp personnel.

Should Congress determine that there is insufficient evidence to support allegations about the convict labor content of Chinese imports, it may take no action. Under current U.S. law, the U.S. Customs Service, which is the enforcing agency for the existing prohibition, must determine that sufficient evidence *does* exist before it investigates allegations of violations and, having concluded its investigation, must find evidence that a particular violation indeed has occurred.

Should Congress determine for any policy reason that circumstances warranted the exemption of China from the convict-labor prohibitions in U.S. law, it could, through enactment of legislation, amend current law to exclude imports from China.

Mr. BIDEN. Mr. President, will the Senator yield 4 minutes?

Mr. CRANSTON. I do yield 4 minutes to the Senator from Delaware, but let me say first that I transfer the authority to do this to the chief cosponsor of

this resolution, Senator MOYNIHAN, who is patiently waiting. I have to go elsewhere. I trust he will be on the floor longer than I, and therefore I transfer the authority to him to yield time.

Mr. MOYNIHAN. Mr. President, before the distinguished Senator from California leaves, may I express deep admiration for his statement. It was comprehensive, it was true, and it is characteristic. We are graced by his presence in this Chamber.

I yield to the Senator from Delaware such time as he may require, up until 5 minutes of 11.

Mr. CRANSTON. I thank the Senator from New York very much for his generous remarks and for his leadership.

Mr. BIDEN. Mr. President, I truly appreciate the Senator from New York yielding me time. He, as the old saying goes, has forgotten more about this subject than I am likely to learn. But I am to conduct a hearing that was to begin at 10:30 in the Judiciary Committee and he is very gracious to give me this time and allow me to speak before him.

Mr. President, I am pleased to cosponsor the bill offered by the majority leader to deny most favored nation status to the People's Republic of China.

MFN is a misnomer. In practice, MFN is granted to nearly every country that we regard as a normal member of the community of nations.

But today there is nothing normal about China, especially when it comes to arms proliferation. In recent weeks, we have learned from news reports that China has sold nuclear weapons technology to Algeria, and is selling medium-range ballistic missiles to Syria and Pakistan.

Mr. President, these reports are horrifying. The Chinese are selling extremely dangerous weapons to some extremely dangerous dictators. China is no normal country. On the contrary, China has become a rogue elephant in the community of nations.

In zealous pursuit of hard currency and with no regard for the international consequences, Beijing apparently plans to continue selling unconventional weapons to unstable countries. So long as China's arms proliferation continues, in our own self-interest, and in the interest of our friends in the Middle East, we must be prepared to use the strongest leverage that we have—revoking MFN.

China's trade surplus with the United States is expected to reach \$15 billion this year, which is many times more than its revenue from arms sales.

We must present China with a stark choice, arms trade with outlaw nations, or normal trade with the United States.

It seems fair to say that Chinese proliferation policies are the legacy of the mild response by the Bush administration and other nations to the massacre

¹⁴In addition, the Law Library's brief "Figures Concerning Forced Labor Production . . ." (see footnote #2) discusses the question of forced labor products being exported. The report cites the 1989 *Law Yearbook of China*, published in March 1990 by the PRC's Legal Press and considered a reputable journal on this issue, as saying "The outward model economy of the labor reform units also make significant progress. The value of the products for export of labor reform enterprises in 1988, compared to the previous year, increased 21 percent and the foreign exchange earned increased 42 percent."

at Tiananmen Square. By resisting tough sanctions then, the West signaled to China that no matter how abhorrent their policies, the international cost would be small.

As the majority leader stated, there are many other Chinese actions, including human rights violations, use of forced labor, and continued arming of the Khmer Rouge in Cambodia—that merit our condemnation. Standing alone, each would be sufficient to reconsider China's MFN status. Taken together, they provide an overwhelming and compelling case for denying MFN to China.

Despite this compelling case, last year we renewed MFN. But, Mr. President, Chinese arms proliferation adds a radically new and extremely dangerous element to the MFN debate. After the gulf war, I hope my colleagues will realize we cannot look the other way. This time, we must send Beijing a clear and unmistakable message.

Again, I thank my colleague from New York—I am not being solicitous when I say this—who knows so much more about the situation in China than I do, and who I suspect is equally concerned as I am with China's trade policy in weaponry.

I thank the Chair and I thank my colleagues.

Mr. MOYNIHAN. Mr. President, I yield myself such time as remains.

While my two colleagues are on the floor, let me point out to them an event, a real event. Freedom House, which is based in New York and dates back to the Second World War, has just put out for 1991 a survey of the world called "Freedom in the World: Political Rights and Civil Liberties."

For the first time ever, something has happened which we never thought would happen. The Soviet Union appears as a partly free nation, along with Mexico and nations all over the world. But the one great black spot in the world—with a quarter of the world's population not free—is the People's Republic of China. Yet our country denies most-favored-nation treatment to the Soviet Union and gives it to the People's Republic of China.

We have seen in the last few days reports and photographs on television of the Soviet Foreign Minister, Mr. Bessmertnykh, and our Secretary of State, Mr. Baker, working together in the Middle East, trying to bring some resolution to that protracted stalemate. It seems they have failed.

Their first significant blow was that of Assad of Syria, that the Senator from Delaware was speaking of. Why would Assad want peace, as the Senator from Delaware was saying, when he is getting contemporary, state-of-the-art missiles from the People's Republic of China, against the interests of all mankind? How would they know we object? What do we do? We encourage. We give them most-favored-nation sta-

tus. We deny the Soviets who, by and large, have met the requirements of Jackson-Vanik. The Chinese have not, yet they have this most-favored-nation status.

The most-favored-nation treatment that Senator CRANSTON spoke of provides them an enormous source of funds in exports to the United States. They have come up by a factor of 10 in this decade, 10 times that of the Soviets.

Here, Mr. President—if I can show the Senate—is a set of socks, socks one might buy in a K Mart store or on Main Street anywhere, a little panda bear boxing—golfing, if you like. These nice little bits of cottonwear were obtained by Representative FRANK WOLF of Virginia in Beijing Prison No. 1 in the People's Republic where prison labor is routinely used and extensively used to produce goods for export to the United States. They evidently mistook Mr. WOLF for a buyer and took him down and showed the merchandise available, with more to be made on order if you like. This came out in the course of a hearing held in the Committee on Foreign Relations on International Labor Convention 105, the treaty against forced labor which President Kennedy sent to the Senate 27 years ago. It is the first-ever basic human rights core convention of the ILO we ever proposed to adopt.

I had something to do with drafting his message to the Senate. I was then Assistant Secretary of Labor for Policy Planning. President Bush sent us the same treaty, and on Tuesday we in the Senate voted unanimously to ratify that convention against forced labor. Having done that, how can we not now put ourselves on record against a nation that is shamelessly exploitive and indifferent to the judgment of the rest of the world? Indeed, the most important judgment comes from this body, and we continue conferring most-favored-nation status. We must no longer do. Trade is the responsibility of the Congress and surely, Mr. President, we can exercise it.

The Senator from California mentioned Tibet, and astonishing violation of the rights of a sovereign nation. In its report of 1960, the International Commission of Jurists states clearly that Tibet was a sovereign and independent nation prior to its invasion under the cover of the Korean war in 1950 by the PRC. What is going on is genocide. Six thousand temples closed; some million or more persons murdered; a transfer of populations; everything hideous in the world under the aegis of the Chinese Government in Beijing.

As long as we give them most-favored-nation treatment, how can they suppose that we interpose any objection to their genocidal treatment of Tibet, to their indifference to the spread of arms, to their violation of

human rights standards to which the world is increasingly repairing?

Mr. President, I think we have good warning here. I hope we will proceed to deal with this measure on the floor, as the majority leader has proposed we do.

I see the hour of 11 has arrived, and I see the Senator from Illinois is on the floor. I yield the floor, Mr. President.

Mr. DIXON. Mr. President, I thank my friend, the distinguished senior Senator from New York State.

The majority leader asked extension of time until 11:15 on this subject. I require only 5 minutes, and I ask unanimous consent to proceed on the same subject matter for about 5 minutes.

The PRESIDING OFFICER (Mr. LIEBERMAN). Without objection, it is so ordered. The Senator from Illinois is recognized.

CONDITIONAL RENEWAL OF MOST-FAVORED-NATION STATUS FOR THE PEOPLE'S REPUBLIC OF CHINA

Mr. DIXON. Mr. President, I am proud to join with the distinguished majority leader as an original cosponsor of this legislation conditionally authorizing renewal of most-favored-nation status for the People's Republic of China [PRC].

About the same time last year, I stood here asking the Senate to support a similar bill. At that time, some Senators said: "Wait. Give the Chinese Government officials time. Give them a chance to address their problems."

It has been 1 year and the situation in the PRC has not gotten better. I could stand here and talk about the endless human rights violations, slave labor practices, repression of the press, military arms and nuclear technology sales, trade violations, et cetera. I do not need to do that. All one has to do is open the newspaper and read all about it in black and white. Yet, the leadership of the PRC continues its blind adherence to a worn and tattered Communist dogma that is flatly rejected by the Chinese people.

I think all my colleagues would agree that the situation in the PRC has not improved. I think most would agree it has gotten worse. PRC officials seem oblivious to the legitimate concerns of their own people and the international community.

Mr. President, there continues to be some disagreement as to how to address this situation. Some of my colleagues believe we need to continue attempting to engage the PRC Government. They argue that we should not cut off the People's Republic of China, contending that distancing the United States from the current Chinese Government denies us leverage with them. In other words, if we look the other way at their onerous acts—if we ignore the internal unrest and the brutal way they are dealing with it, they will stop such practices.

Mr. President, we have been looking the other way since the Tiananmen Square massacre. Even before the blood was dry, the U.S. Government was accommodating the same leaders who ordered tanks to roll over unarmed people.

The policy of engagement and accommodation has not produced results, and it is not consistent with American beliefs and principles. It has not resulted in democratization and a flowering of freedom. Rather, the secret trials and harsh sentences of students and dissidents continue, as does the harassment of Chinese students abroad, the horrific slave labor situation, and the export of nuclear and missile technology to less than stable countries.

While the administration has spun its wheels in the mud of its China policy, the people of China continue to suffer. The present course has not brought the Chinese people any closer to realizing the dream of democracy. The Chinese people are, in fact, further from that dream today than they were 2 years ago.

It is time to adopt another approach. What we are proposing is to continue most-favored-nation trade status with conditions. The conditions are not pie-in-the-sky. They are reasonable, achievable, and of significant benefit to the Chinese people. The President has 180 days from date of enactment to certify that the People's Republic of China has met certain conditions. If the President cannot provide certification, then the People's Republic of China would be denied continued most-favored-nation status.

Let me state that I do not want to hurt the people of China, who are so victimized by their leadership, or the innocent people of Hong Kong. However, to continue current administration policy toward the People's Republic of China does more harm than good.

The PRC Government does not respect the rights of its citizens to peacefully petition their Government, or respect the rights of its people to practice their religion. It uses its prisoners to improve its trade position in the world.

Those actions hurt all people.

If we truly want to attempt to better the lot of the Chinese people, conditioning our trade status is a reasonable step, one that is in keeping with our principles, and the international community's standards on human rights, labor, and trade practices.

Turning a blind eye to the worsening situation in China serves no one. I urge my colleagues to support this important legislation. I urge the Senate to send a clear message that the United States will not continue to support the Chinese leadership's continued attempts to crush democracy and basic human rights at home and its reckless nuclear and arms sales policies abroad.

I thank my colleagues.

VETERANS PROGRAMS FOR HOUSING AND MEMORIAL AFFAIRS

Mr. DIXON. Mr. President, the following consent request has been cleared on the Republican side.

I ask unanimous consent that the Veterans' Affairs Committee be discharged from further consideration of H.R. 232, the veterans housing and memorial affairs bill, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 232) to amend title 38, United States Code, with respect to veterans programs for housing and memorial affairs, 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.

AMENDMENT NO. 243

The PRESIDING OFFICER. Are there amendments to the bill?

Mr. DIXON. Mr. President, I send an amendment to the desk on behalf of the Senator from California [Mr. CRANSTON] and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows: The Senator from Illinois [Mr. DIXON], for Mr. CRANSTON, proposes an amendment numbered 243.

Mr. DIXON. 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 printed in today's RECORD under "Amendments Submitted.")

Mr. CRANSTON. Mr. President, as chairman of the Committee on Veterans' Affairs, I am very pleased that the Senate is considering H.R. 232 as it will be amended by the amendment I proposed. This measure, which I will refer to as the compromise agreement, contains a number of provisions, carried over from the 101st Congress, dealing with housing programs administered by the Department of Veterans Affairs and one provision dealing with the National Cemetery System, also administered by VA. This measure represents a compromise between various provisions in S. 2100 as reported by our committee on July 19, 1990, and H.R. 5002 as passed by the House on July 16, 1990.

Mr. President, prior to the end of the last Congress, I made great efforts to have the Senate consider S. 2100, the proposed Veterans Benefits and Health Care Amendments of 1990, an omnibus veterans' bill which contained a number of provisions related to veterans' housing programs. Unfortunately, as my colleagues are aware, objection was raised to agent orange and certain

other provisions of that bill. Because of those objections, Senate consideration of S. 2100 was precluded.

Mr. President, the House passed H.R. 232 by a unanimous vote on February 6, 1991, and the Senate, I am hopeful, will do the same. The provisions in the compromise agreement will, I believe, make significant improvements in veterans' programs.

Because I will submit for the RECORD a detailed explanatory statement prepared by the two Veterans' Affairs Committees which describes in detail the provisions in this measure. I will at this point only briefly summarize the home-loan guaranty provisions of the compromise agreement and then discuss the background on certain provisions that are designed to assist certain veteran populations.

HOME-LOAN GUARANTY PROVISIONS

Mr. President, the compromise agreement contains home-loan guaranty provisions that would:

First, make permanent the requirement for VA to ensure that individuals who default on VA-guaranteed loans receive notification and counseling about the impact of, and alternatives to, foreclosure.

Second, terminate the upper and lower limits on VA's extension of credit to purchasers of foreclosed properties—so-called vendee financing.

Third, allow VA to sell vendee loans either with recourse or without recourse only if the amount received by VA is at least equal to the unpaid balance of the loan.

Fourth, make permanent the vendee-loan and property-management provisions in section 1833(a) of title 38.

Fifth, extend the no-bid formula in section 1832(c) of title 38 from October 1, 1991, to December 31, 1991.

Sixth, extend for 2 years, through fiscal year 1992, the authority for certain lenders to review appraisals and add a reporting requirement which would direct the Secretary of Veterans Affairs to submit to the congressional Veterans' Affairs Committees data on various components of lender's involvement in the VA home-loan guaranty program.

Seventh, require VA, at the request of the Secretary of Housing and Urban Development and without charge, to issue certificates of veteran status to veterans seeking certain benefits under laws administered by HUD.

Eighth, exempt individuals who receive a VA-guaranteed loan from the requirement that those who obtain federally guaranteed loans of more than \$150,000 disclose their lobbying activities.

Ninth, limit the time during which a veteran may apply to VA for waiver of a home-loan debt.

Tenth, permit interest rate reduction refinancing loans to be guaranteed up to the new maximum of \$46,000.

COMPENSATED WORK THERAPY ENHANCEMENT
AND EXPANSION

Mr. President, the compromise agreement also contains several provisions designed to improve VA's compensated work therapy [CWT] programs and to provide housing opportunities for homeless veterans, veterans recovering from substance abuse problems, and veterans participating in CWT programs, which I will discuss in some detail.

Section 7 of the compromise agreement—which is derived from section 212 of S. 13 as reported by the Veterans' Affairs Committee on September 13, 1989, and passed by the Senate in H.R. 901 on October 3, 1989, and section 222 of S. 2100 as reported by the Veterans' Affairs Committee on July 19, 1990—would authorize VA to conduct a 3-year demonstration program to expand and enhance VA compensated work therapy [CWT] programs—structured job opportunities arranged under contracts with private businesses. This demonstration program would provide for testing, at a limited number of sites, an innovative approach to providing veteran-patients—primarily those recovering from mental disabilities or drug or alcohol conditions—with services to help them make the transition from inpatient care to independent living in the community.

BACKGROUND OF COMPENSATED WORK THERAPY
PROGRAMS

Mr. President, as I discussed in my January 25, 1989, introductory statement on S. 13, CONGRESSIONAL RECORD, page S234, CWT programs provide, at a low cost to the Government, numerous therapeutic benefits to VA patients in a work setting. In CWT programs, veteran-patients perform work under VA—or nonprofit corporation—contracts with businesses and the veterans' wages are paid with funds generated through the work contracts and generally paid on a piece-work basis. The jobs vary greatly, from simple packaging to fabrications and assembly operation using complex machinery, and take place in VA medical centers, in the community, or on industrial sites. Not only do these programs provide a clinical procedure for evaluating the patient's vocational or avocational interests, aptitudes, and skills, but they also provide a method for assessing the patient's physical and mental capacities for performing in actual work situations. CWT programs also encourage the development of good work habits, by emphasizing attendance, reliability, punctuality, productivity, craftsmanship, and personal responsibility. In essence, individuals working in CWT programs gain a sense of being productive while developing important work skills.

The CWT/therapeutic transitional housing provision included in the compromise agreement is the result of 2 years of effort. Since early 1989, I have

pushed for expanded CWT programs—programs that include a therapeutic housing component.

DEMONSTRATION PROGRAMS

Under the demonstration program established by section 7, VA would be authorized to carry out a CWT program that includes the provision of therapeutic transitional housing [TTH]. The demonstration program would have two components: One in which VA would operate directly up to 50 residences as TTH solely for participants in CWT programs or in hospital-based "incentive therapy" programs, and the other in which VA would enter into contracts with nonprofit corporations to carry out a CWT program in conjunction with operating residences as TTH. Residences operated under either component would be required to meet all local zoning, building permit, and other similar requirements, as well as State and local fire and safety requirements. Only veteran participants in CWT or incentive therapy programs and a house manager, for whom qualifications would be established by the Secretary, would be allowed to live in a residence.

In the direct-run model, VA would be authorized to provide a house manager with free room and subsistence in addition to, or instead of, a fee for the services provided. Each veteran residing in a residence operated as TTH under the demonstration program would be required to pay rent. The Secretary would be required to establish reasonable rental rates and appropriate limits on the period of time veterans would be allowed to reside.

For the purpose of operating a residence as TTH, VA would be authorized to use any suitable residence acquired as the result of a default on a loan guaranteed or insured by VA under its home loan programs and any other suitable residential property purchased, leased, or otherwise acquired by VA. In cases where VA is to use as TTH a residence acquired due to default on a VA-guaranteed or VA-insured loan, the Secretary would be required to transfer administrative jurisdiction for the property from the Veterans Benefits Administration to the Veterans Health Services and Research Administration and to transfer from VA's general post fund to the loan guaranty revolving fund an amount not to exceed the amount the Secretary considers could be obtained by sale of such property to a nonprofit organization or a State for use as a shelter for homeless veterans. In cases where VA is to use residences acquired from HUD, the amount paid by VA to HUD would be limited to the amount the Secretary of HUD would charge for the sale of the property to a nonprofit or State for use as a homeless shelter for homeless veterans.

Under the nonprofit-corporation-run component of the demonstration

project, VA would be authorized to enter into contracts with nonprofit corporations to conduct CWT programs and to which it could provide assistance in setting up TTH residences providing relatively independent group living arrangements. In order to be eligible to receive a CWT contract under this program, the corporation would have to run a TTH program.

Mr. President, it seems clear that the psychiatric and substance-abuse patients, both inpatient and outpatient, in CWT programs would benefit from the availability of a transitional living environment between the hospital and a return to fully independent living in the community. Therapeutic transitional residences in combination with CWT programs would provide such a step—supervision during the day while working in CWT and some form of supervision at night while at the therapeutic residence.

Mr. President, I strongly believe that the best method of bringing this treatment modality into reality is to authorize VA to promote and participate in the creation of nonprofit corporations with boards of directors consisting of community members and a minority of VA employees. My original legislative proposal would have required VA to implement the nonprofit model at up to 15 sites as well as requiring VA to operate directly CWT/TTH programs at up to 15 sites. The compromise agreement provides only the authority for the use of either model, but I am confident that the nonprofit approach will prove to be successful and cost effective.

It is important to note that the underlying model for this legislation is a program at the Menlo Park Division of the Palo Alto VA Medical Center, where the very capable and creative Chief of Staff, Dr. Mark Graeber, has been working with a nonprofit corporation, which currently runs several therapeutic residences, for many years. Through the work of the nonprofit corporation, and the contributions of in-kind services from VA staff, over 400 veterans have been helped since 1968. It is this kind of success that I hope this demonstration program will engender, and I encourage those who undertake programs—either the nonprofit model or the VA direct-run model—pursuant to the demonstration program to utilize the Menlo Park staff as a resource for advice and information.

TRANSITIONAL GROUP HOMES FOR VETERANS
RECOVERING FROM SUBSTANCE ABUSE

Mr. President, section 8 of the compromise agreement, which is derived from section 217(b) of S. 2100 as reported, would establish a revolving fund from which loans not to exceed \$4,500 could be extended to private nonprofit groups for the purpose of establishing transitional group homes for veterans who are receiving or have recently received care for drug or alcohol

abuse or addiction. This provision is modeled after section 2036 of the Anti-Drug Abuse Act of 1988, Public Law 100-690, which requires States to establish similar revolving funds in order to be eligible for block grants of Federal funds for drug and alcohol treatment programs.

VA has vast expertise and experience in dealing with the treatment of drug and alcohol addiction and related conditions. In fact, VA is the single largest direct provider of substance-abuse treatment in the United States, and I believe that VA is particularly well-placed to be a leader in treatment efforts and modalities of care.

Mr. President, this provision addresses one important aspect of substance abuse treatment that is currently lacking in VA—and often in State, local, and private—treatment programs; namely, a drug- and alcohol-free place for recovering veterans to stay upon discharge from treatment in a hospital or halfway-house program. As I noted, this provision is modeled on section 2036 of the Anti-Drug Abuse Act of 1988, under which 31 States have set up revolving funds to be used for loans to establish recovery homes for groups of recovering substance abusers.

The underlying model for both the provision in the compromise agreement and the provision in the Anti-Drug Abuse Act of 1988 is the Oxford House, a recovery program for individuals recovering from alcoholism or drug addiction. Since the first Oxford House was established in Silver Spring, MD, in 1975, it has demonstrated that a drug- and alcohol-free environment can be maintained by recovering drug and alcohol abusers. Today there are 142 Oxford Houses throughout the Nation in 22 States and the District of Columbia—each chartered by Oxford House, Inc., a nonprofit, tax-exempt corporation which acts as an umbrella organization for the national network of Oxford Houses, but all distinctly autonomous. Currently, there are 1,215 residents in these homes, and, since 1975, well over 3,000 men and women have been or are residents. According to Oxford House, Inc., nearly 80 percent of the recovering individuals who become residents in an Oxford House do not return to using alcohol or drugs.

There are only three rules mandated by the chartering organization which all Oxford Houses are obliged to follow: First, the house must operate using democratic procedures; second, the group must be financially self-supporting; and third, any resident who relapses into using alcohol or drugs must be expelled immediately.

There are many therapeutic aspects built into the Oxford House model. The group residence allows the individuals in recovery the opportunity to determine their own living environments; it offers a supportive environment free of alcohol or drug use; and, most impor-

tantly, it reinstills pride and self-esteem in the residents, characteristics often in short supply among alcoholics and drug abusers. But Oxford House is only part of the recovery process. Residents are encouraged to participate in Alcoholics Anonymous and Narcotics Anonymous, and long-time residents often play vital roles in the further expansion of the Oxford House program.

Mr. President, section 8 of the compromise agreement would encourage the establishment of group homes similar to those under Oxford House for veterans recovering from substance abuse. Specifically, this provision would establish a separate account in VA's general post fund [GPF] from which loans of up to \$4,500 could be made to nonprofit organizations for the purpose of establishing transitional housing for veterans who are, or recently have been, in a program for the treatment of alcohol or substance abuse. The amount of outstanding loans at any time would not be allowed to exceed \$100,000.

Mr. President, recovery from substance abuse does not end when the alcoholic or addict walks out the door of initial treatment. It is only the beginning. For persons whose lives have been devastated by addiction to alcohol or drugs, there is often the need to rebuild the communication skills and work abilities that have been impaired by the addiction. Hospital treatment programs and participation in halfway house programs can help recovering persons relearn these skills and begin rebuilding their lives, but it is when these persons are outside of the hospital or therapeutic halfway house and on their own that the real test begins. The Oxford House model, in which recovering persons live together, make decisions together, help each other find work, and support themselves and each other without any public or private assistance except for the startup rental and security deposits, provides an environment where the recovering addict lives with others with common experiences who can assist him or her in going forward. I am very encouraged by what I have learned about the Oxford House model, and fully expect that in implementing this provision VA would consult the people who developed the model and who are instrumental in its operation.

Inherent in this provision and the Oxford House model on which it is based is faith in and trust of the recovering person. It may seem to some that it is a leap of faith to facilitate, by providing loans, the establishment of group homes for recovering-addict veterans who are unsupervised by anyone other than themselves. The clear success of the Oxford House homes leads me to believe that such faith is well founded and well worth the limited cost involved in this provision, and I look forward to its passage and imple-

mentation so that the veterans troubled by addiction can return to truly free and more productive lives.

USE OF VA-ACQUIRED PROPERTIES FOR HOMELESS VETERANS

Mr. President, section 9 of the compromise agreement contains a provision that would codify in title 38 and extend for 3 years VA's authority to sell acquired property to public or nonprofit entities to assist homeless veterans and their families in acquiring shelter.

Under section 9 of the Veterans' Home Loan Program Improvements and Property Rehabilitation Act of 1987 (Public Law 100-198), VA is authorized to sell to States, State agencies, or nonprofit organizations for use solely as shelters for homeless veterans and their families properties VA acquires as a result of defaults on loans made or guaranteed by VA under the VA home loan program. The sale price may be less than the full market value; the law provides that the sale shall be "for such consideration as the [Secretary] determines is in the best interests of homeless veterans and the Federal Government." The authority provided under this law terminated on October 1, 1990.

Mr. President, as of February 5, 1991, three properties had been sold, with a fourth sale pending, under the Public Law 100-198 authority to eligible groups for use solely as shelters primarily for homeless veterans and their families. In Pennsylvania, the Pennsylvania Department of the American Legion formed a nonprofit corporation, the American Legion Housing for Homeless Veterans Corp., which purchased from VA in July 1988 a four-unit property for \$20,000 and, in conjunction with the Pittsburgh VA Medical Center, provides housing for 10 homeless veterans. In Washington State, the Seattle Vietnam Veterans Leadership Program purchased from VA for \$28,000 on December 21, 1989, a large, old three-story home which is being renovated to expand the usable floor space and provide shelter to six homeless veterans. In Denver, CO, the American GI Forum purchased from VA for \$4,950 an 87-year-old, two-bedroom house which is being renovated for use as a shelter for homeless veterans.

I find it most regrettable that the utilization of the authority thus far has been limited to three sites only. In response to an inquiry I made to VA in March 1989 regarding what aspects of the program precluded wider participation and what steps could be taken to facilitate and encourage additional sales under the program, VA directed its field stations to survey eligible homeless providers. VA stations reported contact with local offices of 967 community-based agencies and nonprofit organizations. More than half of those contacted indicated to VA that they were insufficiently funded to pur-

chase real estate incident to their public assistance programs.

In a white paper transmitted to the committee on January 5, 1990, VA indicated that it was administratively revising the property selection and pricing criteria for the program so that the number of eligible properties would be increased approximately fourfold and the amount of the sale price would be dropped from 75 percent to 50 percent of market value. With these changes and the extension that would be provided under this legislation, I very much hope that this program will be utilized to a far greater extent during the coming 3 fiscal years to assist homeless veterans and their families.

Mr. President, I regret that the compromise agreement does not include an additional provision which I had proposed in section 217(a) of S. 2100 to expand VA's authority in this area to permit the sale of such property for use as transitional residences for veterans receiving treatment for substance abuse or mental health problems. I believe such a modification would have complemented the CWT/TTH Program that I just outlined and would have been fully consistent with the intent of the original legislation to put excess, hard-to-sell properties to use for the benefit of veterans with housing needs. Although the House would not agree to my proposal, I remain committed to exploring creative ways for VA to serve veterans with substance abuse or mental problems in a comprehensive manner.

CWT ADMINISTRATIVE PROVISIONS

Mr. President, section 10 of the compromise agreement would authorize VA, in carrying out CWT programs, to enter into contracts with any Federal agency, including VA, and also authorize expenditures from the special therapeutic and rehabilitation activities fund to cover training, education, and travel costs of employees associated with the CWT programs. These provisions are derived from provisions I first introduced over 2 years ago in section 212 of S. 13 and the Senate passed in October 1989, and I am pleased that the House has agreed to them. I believe that these provisions will allow existing CWT programs to expand and operate more effectively and will also encourage the establishment of new CWT programs.

FLORIDA NATIONAL CEMETERY

Section 11 of the compromise agreement would authorize VA to provide flat grave markers in one section of the Florida National Cemetery that had been designed and developed to use such flat grave markers prior to the enactment of section 1004(c)(2) of title 38, which generally requires upright markers in new national cemeteries.

This provision is included at the request of the administration, which, in its April 13, 1990, letter transmitting the proposed legislation, indicated that

in developing the Florida National Cemetery it had replaced graveliners in one section of the cemetery in order to realize cost savings on subsequent burials. However, the graveliners were placed to accommodate flat grave markers, which are smaller than upright markers. Thus, although current law requires the use of upright markers at the cemetery, they cannot be used in the section in which the graveliners were placed unless VA undertakes the costly removal and replacement of the graveliners. I believe the exception that would be provided by this provision is warranted in light of the costs involved, and I note that VA has advised that veterans would be offered the option of burials in that section of the cemetery or in other sections where upright markers would continue to be used.

AUTHORITY TO CARRY OUT SPECIFIED ADMINISTRATIVE REORGANIZATION

Mr. President, section 210(b)(2) of title 38, imposes certain requirements for advance congressional notification of planned VA administrative reorganizations which result in employment reductions that exceed specified levels at certain VA facilities or units.

By letters to the chairmen of the Committees on Veterans' Affairs of the Senate and the House of Representatives dated January 4, 1991, Secretary of Veterans Affairs Derwinski provided notice of a planned organizational realignment of management responsibility for the Department of Veterans Affairs data processing centers, together with the corresponding realignment of associated information resources management operational components and functions with the Department's central office.

Mr. President, the Congress recently sent to the President a bill, H.R. 598, the proposed Department of Veterans Affairs Health-Care Personnel Act of 1991, which modifies section 210(b) in a number of ways that will allow much of this proposed realignment to go forward before October 1, 1991. However, without a waiver of section 210(b)(2), the full alignment cannot be completed prior to that date.

Mr. President, I am satisfied that the reorganization is appropriate and that there is no reason to delay its completion. Thus, section 12 of the compromise agreement would authorize VA to carry out the proposed realignment without regard to section 210(b)(2).

TECHNICAL AMENDMENTS

Mr. President, the compromise agreement, in sections 13, 14, and 15, contains a number of technical amendments. Section 13 contains amendments to laws other than those codified in title 38, United States Code, which modify those laws to reflect the redesignation of the Veterans' Administration as the Department of Veterans Affairs. Sections 14 and 15 contain purely

technical amendments to various title 38 provisions.

CONCLUSION

Mr. President, in closing, I express my deep appreciation to the distinguished chairman and ranking minority members of the House Committee on Veterans' Affairs, Mr. MONTGOMERY and Mr. STUMP, as well as the former ranking minority member of the Senate committee, Mr. MURKOWSKI, and the current ranking minority member, Mr. SPECTER, for their cooperation on and contributions to this measure.

Mr. President, I also note the efforts of, and express my deep gratitude to, the committee staff members who have worked on this legislation—on the minority staff, Todd Mullins, Chris Yoder, and Lisa Moore, who recently left the committee staff, and Tom Roberts, the new minority chief counsel and staff director; and, on the majority staff, Brett Hansard, who recently left the committee staff, Michael Cogan, Thomas Tighe, Kimberly Morin, Bill Brew, and Ed Scott.

I also note the fine work, as always, of the staff of the House Committee on Veterans' Affairs—in this case, Gloria Royce, Cynthia Jones, Kingston Smith, Pat Ryan, and Mack Fleming.

Mr. President, I also note the fine work of the staff of the two Offices of Legislative Counsel, Charlie Armstrong and Greg Scott in the Senate, and Bob Cover in the House. They provided their usual excellent assistance as we prepared this legislation. Bob Cover was particularly instrumental in drafting the various technical amendments which are included in the compromise agreement.

Mr. President, I urge the Senate to give its unanimous approval to this measure.

Mr. President, I ask unanimous consent that the explanatory statement that referred to earlier, and which takes the place of a joint explanatory statement that would accompany this measure if it were a conference report, be printed in the RECORD.

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

EXPLANATORY STATEMENT ON H.R. 232

H.R. 232 reflects a compromise agreement that the Senate and House of Representatives Committees on Veterans' Affairs have reached on certain bills considered in the Senate and the House of Representatives, but not enacted, during the 101st Congress. These are H.R. 5002, which the House passed on July 19, 1990, and S. 2100, which the Senate Committee on Veterans' Affairs reported on July 19, 1990, but which did not receive Senate consideration prior to the end of the 101st Congress.

The Committees on Veterans' Affairs of the Senate and the House of Representatives have prepared the following explanation of H.R. 232. Differences between the provisions contained in H.R. 232 (hereinafter referred to as "Compromise agreement") and the related provisions in the House-passed version of H.R. 5002 (hereinafter referred to as "House

bill"), and in S. 2100 as reported in the Senate (hereinafter referred to as "Senate bill") are noted in this document, except for clerical corrections, conforming changes made necessary by the compromise agreement, and minor drafting, technical, and clarifying changes.

Permanent Extension of Financial Information and Counseling Assistance

Current Law: Under section 1832(a)(4) of title 38, United States Code, VA is required to provide certain notices and counseling to veterans who default on VA-guaranteed home loans, unless the lender provided equivalent services. The provision took effect on March 1, 1988, and will expire on March 1, 1991. It requires VA to provide, as appropriate in light of the veteran's particular circumstances, information and counseling about (a) methods of curing the default; (b) conveyance to VA by a deed in lieu of foreclosure; (c) other alternatives to foreclosure; and (d) the liabilities of VA and the veteran in the event of foreclosure.

House bill: Section 5 would make the requirements of section 1832(a)(4) permanent.

Senate bill: Section 401 is substantively identical to the House provision.

Compromise agreement: Section 1 contains this provision.

Limits on Vendee Loans and Cash Sales

Current Law: Under section 1833(a) of title 38, VA is required to sell at least 50 but not more than 65 percent of its acquired properties with vendee financing. This provision expires on December 31, 1990.

House bill: Section 3(1) would terminate the prohibition against VA selling more than 65 percent of its acquired properties using vendee loans.

Senate bill: No provision.

Compromise agreement: Section 2(a) follows the House provision, except that both the upper and lower limits on vendee financing would be terminated. The Committees direct the Secretary to determine the ratio of vendee loans to cash sales according to the best interest of the veterans.

Sale of Vendee Loans

Current Law: Under section 1833(a)(3) of title 38, the Department is allowed to sell vendee loans without recourse only if it receives at least the unpaid balance of the loan. Section 1833(a)(6) sets an expiration date of December 31, 1990, for that provision.

In 1987, the Office of Management and Budget, and later the Congressional Budget Office, adopted a new approach to counting, for budget purposes, the proceeds of with-recourse sales of vendee loans. Instead of counting the proceeds of with-recourse sales as offsetting collections of VA's Loan Guaranty Revolving Fund—which funds the operation of the VA loan-guaranty program with respect to loans made on or before December 1, 1989—OMB and CBO now consider those sales as the equivalent of a loan from the purchaser to the Government. Loans sold without recourse continue to be counted as offsetting collections.

House bill: Section 3(1) would allow non-recourse sales of LGRF-related vendee loans only if the amount received is no less than the unpaid balance of the loan. Section 3(1) also would prohibit all sales of vendee loans related to VA's Guaranty and Indemnity Fund, which funds the operations of the loan-guaranty program with respect to loans made after December 31, 1989. This section would expire on December 31, 1993.

Senate bill: Section 402 would allow VA to sell vendee loans either (a) with recourse, or (b) without recourse only if the amount re-

ceived by VA is at least equal to the unpaid balance of the loan.

Compromise agreement: Section 2(a) follows the Senate provision.

Property Management

Current Law: Section 1833(a)(6) of title 38 sets an expiration date of December 31, 1990, for the vendee-loan and property-management provisions in section 1833(a).

House bill: Section 3(2) would extend the provisions in section 1833(a) from December 31, 1990, to December 31, 1993.

Senate bill: Section 404(b) would make the provisions permanent.

Compromise agreement: Section 2(b) contains the Senate provision.

Default Procedures

Current Law: Under section 1832(c) of title 38, VA is required to calculate, in accordance with the statutory formula specified in section 1832(c), the "net value" of a property securing a VA-guaranteed loan subject to foreclosure. This calculation is used to determine whether it is more cost-effective for VA to require the property at foreclosure or to pay the guaranty amount to the lender. The requirement for VA to make and apply net-value determinations expires October 1, 1991.

House bill: No provision.

Senate bill: Section 404(a) would make the formula in section 1832(c) of title 38 permanent.

Compromise agreement: Section 3(a) would extend the formula from October 1, 1991 to December 31, 1992.

Extension of Lender Review of Appraisals

Current Law: Public Law 100-198, enacted December 21, 1987, amended section 183(f) of title 38 to provide VA with authority to permit lenders, under certain conditions, to review appraisals. This authority expired October 1, 1990. VA published proposed regulations on May 11, 1989, to implement this authority and the final regulations became effective June 22, 1990.

House bill: Section 6 would extend for three years (through October 1, 1993) the authority for certain lenders to review appraisals.

Senate bill: Section 403 would extend the authority for two years (through FY 1992).

Compromise agreement: Section 3(b) would extend the authority for certain lenders to review appraisals from October 1, 1990, to December 31, 1992, and add a reporting requirement which would direct the Secretary of Veterans Affairs to submit to the Veterans' Affairs Committees data indicating the extent of use by lenders, VA audit and oversight of participating lenders, any abuses, and VA losses from abuse.

Certificates of Veteran Status for National Housing Act Benefits

Current law: The National Housing Act (12 U.S.C. 1701 et seq.) provides for lower downpayments by veterans using certain HUD-administered housing programs. Pursuant to a 1966 agreement between VA and HUD, VA issues certificates establishing veteran status for purposes of this benefit. The agreement calls for HUD to reimburse VA for this service. In recent years, VA has issued the certificates even though HUD had declined to provide reimbursement.

House bill: Section 10(a) would amend section 1820 of title 38 to require VA, at the request of the HUD Secretary and without charge, to issue certificates of veteran status to veterans seeking benefits under laws administered by HUD.

Senate bill: Section 406 is substantively identical to the House provision, except that it would create a new section 1835.

Compromise agreement: Section 4(a) follows the House provision.

Exemption from Lobbying Reporting Requirements

Current Law: Public Law 101-121 requires certain disclosures of lobbying activities by certain recipients of government assistance. This law applies to loans of over \$150,000 made, insured, or guaranteed by the government. The Joint Explanatory Statement accompanying the Conference Report on the bill that became Public Law 101-121 (H. Rept. 101-264, pages 90-98) stated that the \$150,000 threshold "serves to exempt . . . individuals who seek federally insured loans (for purchase of personal residences, for example) from these provisions." VA guaranteed loans effectively are limited to four times the guaranty amount. In section 306 of Public Law 101-237, Congress increased the maximum VA guaranty amount to \$46,000. This guaranty would support a VA-guaranteed loan of up to \$184,000.

House bill: Section 10(b) would amend section 1803 of title 38 to exempt individuals obtaining VA-guaranteed loans from the requirement that individuals obtaining federally guaranteed loans of over \$150,000 disclose their lobbying activities, unless the Secretary or title 38 provides otherwise.

Senate bill: Section 405 is substantively identical to the House provision except that it does not include authority for administrative imposition of reporting requirements or reference to imposition in title 38.

Compromise agreement: Section 4(b) follows the Senate provision.

Waiver of Indebtedness

Current Law: Under section 3102 of title 38, no time limit is imposed for a veteran to apply for waiver of a home-loan debt to VA. Veterans seeking waivers for other types of VA debts, such as debts arising from benefits overpayments, must apply for a waiver within 180 days after receiving notice of the debt.

House bill: No provision.

Senate bill: Section 407 would limit the time during which a veteran may apply to VA for waiver of a home-loan debt to one year after the date VA notified the debtor of the indebtedness and requires that debt notices for home-loan and non-home-loan debts inform the recipient of his or her right to apply for a waiver and of how to apply for a waiver.

Compromise agreement: Section 5 contains the Senate provision modified to begin the one-year period on the date that the debtor receives notice of the debt by certified mail.

Entitlement Amount

Current Law: Under section 1803(a)(1) of title 38, a guaranty is provided equal to (a) 50 percent of the loan amount for loans of up to \$45,000; or (b) 40 percent of the loan amount for loans of more than \$45,000, but not less than \$22,500 or more than \$46,000. The maximum guaranty to which a veteran is entitled is \$46,000, reduced by the amount of entitlement previously used by the veteran and not restored. Under the credit standards established by the secondary mortgage market, the maximum amount of the loan that a veteran can obtain with the maximum of \$46,000 guaranty is \$184,000.

House bill: Section 4 would modify section 306 of Public Law 101-237 by permitting interest-rate-reduction refinancing loans to be guaranteed up to the new maximum of \$46,000.

Senate bill: Section 707(d)(1) and (3) is substantively identical to the House provision except it clarifies the language of the entitlement provisions.

Compromise agreement: Section 6 follows the Senate provision.

DEMONSTRATION PROGRAM OF CWT AND THERAPEUTIC TRANSITIONAL HOUSING

Authorization of Demonstration Program

House bill: Section 13 would authorize the Secretary to carry out a 3-year demonstration project of transitional housing.

Senate bill: Section 222(c) would require VA to conduct a 5-year, two-part CWT and therapeutic residence (TR) pilot program.

Compromise agreement: Section 7 would authorize the Secretary to carry out a CWT and therapeutic transitional housing demonstration program in FYs 1991 through 1994.

Eligible Participants

House bill: Section 13 would authorize the Secretary to purchase, lease, or otherwise acquire residential housing for use as transitional housing for veterans working under subsection (a) (incentive therapy, i.e., work performed for and paid for by VA) or (b) (CWT) of section 618 of title 38.

Senate bill: Section 222(c) would provide that only patients participating in CWT under section 618(b) would be eligible for participation in the demonstration program.

Compromise agreement: Section 7 follows the House bill.

Scope of Demonstration Program

House bill: Section 13 would authorize the Secretary to operate no more than 50 residences as transitional housing under the demonstration program.

Senate bill: Section 222(c) would require the pilot program at not more than 25 VA health-care facilities and require VA (a) at not less than 10 nor more than 15 sites, to promote and participate in the establishment of nonprofit corporations with which VA would contract to run CWT programs as long as the nonprofit runs a TR, and (b) directly to acquire and operate TR's for veterans participating in CWT programs at not less than 10 nor more than 15 sites.

Compromise agreement: Section 7 would authorize the Secretary to operate directly or by contract with non-profit organizations not more than 50 residences as therapeutic transitional housing for veterans engaged in CWT programs.

Section 7 would authorize VA to contract under the demonstration program with nonprofit organizations for the purpose of carrying out a CWT program in conjunction with the nonprofit organization's operation of therapeutic transitional housing for CWT participants. VA would be authorized to furnish nonprofit corporations (with or without consideration) in-kind services including (a) technical and clinical advice, (b) supervision of the activities of CWT participants in the rehabilitation of any property for use as therapeutic transitional housing under the contract, and (c) minor maintenance of and minor repairs to the property used as therapeutic transitional housing.

Acquisition of Residential Properties

House bill: Section 13 would authorize the Secretary to use such procurement procedures in acquiring residential housing as the Secretary considers appropriate to expedite the opening and operation of transitional housing and to protect the interests of the United States.

Senate bill: Section 222(c) is substantively identical to the House provision.

Compromise agreement: Section 7 contains this provision.

Operation of Residences as Therapeutic Transitional Housing

House bill: Section 13 would provide for residences to be operated as transitional housing under the following conditions:

(a) Only veterans working under subsection (a) (incentive therapy) or (b) (CWT) of section 618 and a house manager may reside in the residence.

(b) Each resident, other than the house manager, must pay rent.

(c) In the establishment and operation of transitional housing, the Secretary must consult with appropriate representatives of the local community and shall comply with zoning requirements, building permit requirements, and other similar requirements applicable to other real property used for similar purposes in the community.

(d) The residence must meet State and community fire and safety requirements applicable to other real property used for similar purposes in the community, but Federal fire and safety standards would not apply.

Senate bill: (a) Section 222(c) is substantively identical to the House provision except that veterans described in section 618(a) (incentive therapy) of title 38 would not be eligible.

Compromise agreement: Section 7 follows the House bill.

House Managers

House bill: Section 13 would require the Secretary to prescribe the qualifications for house managers and authorize the Secretary to provide free room and subsistence to house managers in addition to, or instead of payment of, a fee for their services.

Senate bill: Section 222(c) is the same as the House bill, except that (a) it would not expressly require qualifications to be prescribed, and (b) it would require that the house manager's total compensation be no less than any applicable minimum-wage rate.

Compromise agreement: Section 7 follows the House bill.

Sources of Housing

House bill: Section 13 would authorize the Secretary to operate as transitional housing under this section (a) any suitable residential property acquired by the Secretary as the result of a default on loans made or insured under chapter 37 of title 38, and (b) any other suitable residential property purchased, leased, or otherwise acquired by the Secretary.

Senate bill: Section 222(c) is substantively identical to the House provision.

Compromise agreement: Section 7 contains this provision.

Administrative Issues Relating to Use of VA-Acquired Properties

House bill: Section 13 would, in the case of any suitable property acquired by VA as the result of a default open a loan made or insured under chapter 37, require that the Secretary (a) transfer administrative jurisdiction over such property within VA from the Veterans Benefits Administration (VBA) to the Veterans Health Services and Research Administration (VHS&RA), and (b) transfer from the General Post Fund (GPF) to the Loan Guaranty Revolving Fund an amount (not to exceed the amount the Secretary paid for the property) representing the amount the Secretary considers could be obtained by sale of such property to a nonprofit organization or a State for use as a shelter for homeless veterans.

Senate bill: Section 222(c) would, in the case of any suitable property acquired by VA as a result of such a default, require that (a)

the CMD be responsible for the property, and (b) STRAF funds equal to the amount that would have been charged for the property if it had been sold for use as a homeless shelter under section 9 of Public Law 100-198 be transferred to the appropriate VA home-loan guaranty program revolving fund.

Compromise agreement: Section 7 follows the House bill.

Properties Acquired from the Department of Housing and Urban Development

House bill: Section 13 would, in the case of property acquired from the Department of Housing and Urban Development (HUD), require that (a) the amount charged by HUD not exceed the amount that HUD would charge for the sale of the property to a nonprofit organization or a State for use as a shelter for homeless persons and (b) funds paid to HUD be derived from the GPF.

Senate bill: No provision.

Compromise agreement: Section 7 follows the House bill.

Rental Rates

House bill: Section 13 would require the VA Secretary to prescribe a procedure for establishing reasonable rental rates for persons residing in transitional housing and appropriate limits on the period of time for which such persons may reside in transitional housing.

Senate bill: No provision.

Compromise agreement: Section 7 follows the House bill.

Disposal of Properties

House bill: Section 13 would (a) authorize the Secretary to dispose of any property acquired for the purpose of the demonstration program, and (b) require that the proceeds of any disposal of such property be credited to the GPF.

Senate bill: Section 222(c) is substantively identical to the House provision except that the proceeds would be required to be deposited in the STRAF.

Compromise agreement: Section 7 would require that the proceeds of any disposal of property be deposited to the credit of a separate account in the GPF established for the purposes of the demonstration program.

Deposit of Rental Payments

House bill: Section 13 would provide that funds received by VA for rent paid by veteran residents be deposited in the GPF.

Senate bill: Section 222(c) would require that funds be deposited in the STRAF.

Compromise agreement: Section 7 would require that funds received by VA from rents paid by veteran residents be deposited to the credit of the special account in the GPF established for the purposes of the demonstration program.

Funding

House bill: Section 13 would authorize the Secretary to distribute out of the GPF such amounts as necessary for the acquisition, management, maintenance, and disposition of real property for the purpose of carrying out the demonstration project.

Senate bill: Section 222(c) would authorize the appropriation of \$5 million to the STRAF for the purposes of carrying out the pilot program and provide that, to the extent less than \$5 million is appropriated, the Secretary would be authorized to transfer to the STRAF from the GPF of the medical facility hosting the CWT/TR program such amounts as the Secretary determines are necessary to carry out the pilot program.

Compromise agreement: Section 7 would authorize the Secretary to distribute from the GPF such amounts as necessary for the

acquisition, management, maintenance, and disposition of real property for the purposes of carrying out the demonstration project. The operation of the demonstration program and funds received would be separately accounted for and described in the documents accompanying the President's budget for each fiscal year.

Reporting Requirement

House bill: Section 13 would require the Secretary, after the demonstration project has been in effect for two years, to submit to the Congressional Committees on Veterans' Affairs a report of the operation of the program, including such recommendations as the Secretary considers appropriate.

Senate bill: Section 222(c) would require VA to submit to the Committees, not later than February 1, 1995, a report on the experience under the pilot program, including an evaluation of the foreclosed-property transfers to VHS&RA on VA's home loan guaranty program and such recommendations as the Secretary considers appropriate.

Compromise agreement: Section 7 follows the House bill.

Nonprofit Corporations as Funding Mechanisms

House bill: No provision.

Senate bill: Section 222(c) would authorize VA to form nonprofit corporations to act solely as a funding mechanism with authority to accept gifts and grants and transfer those funds to STRAF.

Compromise agreement: No provision.

The Committees note that under chapter 83 of title 38, VA has the general authority to accept gifts, devises, and bequests and that donors may direct that such donations be devoted to a particular use.

TRANSITIONAL THERAPEUTIC HOUSING FOR VETERANS RECOVERING FROM SUBSTANCE ABUSE DISABILITIES

Loans to Nonprofit Organizations

Current Law: No provisions of current law authorize VA to make loans for the establishment of transitional housing.

House bill: Section 14 would authorize VA to make loans of up to \$4,500 to nonprofit organizations for the purpose of leasing residences for use as transitional housing for veterans who are (or recently have been) in a program for the treatment of substance abuse. The loans would be made from the General Post Fund (GPF) and the outstanding amount of such loans would be limited to not more than \$100,000.

Senate bill: Section 217(b) would establish a revolving fund—by transfer on October 1, 1990, of \$100,000 from the Canteen Service Revolving Fund—from which loans of up to \$4,000 could be made to assist in the establishment of transitional residences for veterans who are (or within the last 90 days were) being furnished services by VA, directly or by contract, for alcohol or drug dependencies or abuse disabilities.

Compromise agreement: Section 8 would establish a separate account in the GPF from which loans of up to \$4,500 may be made to non-profit organizations for the purpose of establishing transitional housing for veterans who are (or recently have been) in a program for the treatment of alcohol or substance abuse. The amount of outstanding loans at any time would not be allowed to exceed \$100,000.

Loan Terms

House bill: Section 14 would require that the loans be made on such terms and conditions, including interest, as the Secretary prescribes.

Senate bill: Section 217(b) would require that loans be repaid within 2 years in month-

ly installments and that reasonable penalties be assessed for failures to pay an installment by the date specified in the loan agreement.

Compromise agreement: Section 8 follows the Senate bill except that the Secretary, upon making a determination that it is infeasible to require that loans be repaid within 2 years, would be authorized to extend loans on terms other than those otherwise required.

Loan Recipients

House bill: No provision.

Senate bill: Section 217(b) would provide that a loan may be made only to a nonprofit private entity that agrees that in the operation of the residence:

(a) use of alcohol or drugs would be prohibited;

(b) any resident who uses alcohol or drugs would be expelled from the residence;

(c) residents would pay costs of maintaining the residence, including rent and utilities;

(d) the residents would, through a majority role of the residents, otherwise establish policies governing the conditions of residence, including the manner in which applications for residence are approved; and

(e) the residence would be operated solely as a residence for not less than 66 veterans.

Compromise agreement: Section 8 follows the Senate bill, except that the Secretary, upon making a determination in an individual case that it would be infeasible to require that a nonprofit entity agree to the prohibitions described in (a) through (b) of the Senate bill, above, would be authorized to make loans on terms other than those otherwise required. Section 8 also requires that VA issue a report, 15 months after the first loan is made, on the Department's experience under the loan program. The report would be required to include (a) the default rate on loans made under the new authority, (b) an explanation of the collection system employed by VA for collecting payments on the loans, (c) the number of facilities at which loans have been extended, and (d) the Department's views on the adequacy of a \$100,000 limit on the amount of outstanding loans.

Deposit of Loan Repayments

House bill: Section 14 would provide that amounts received as payment of principal and interest on such loans be deposited in the GPF.

Senate bill: Section 217(b) would require that all loan repayments and penalties collected be deposited to the credit of the Transitional Housing Fund.

Compromise agreement: Section 8 would require that amounts received as payment of principal and interest on such loans, and any penalties collected, be deposited to the credit of the special account in the GPF.

Collection Procedures

House bill: No provision.

Senate bill: Section 217(b) would authorize the Secretary to contract with private nonprofit corporations for the purposes of collecting payments of loans.

Compromise agreement: No provision.

The Committees note that, under section 213 of title 38, VA has authority to contract for needed services.

TRANSITIONAL HOUSING

Extension of Authority to Sell Acquired Properties

Current law: Under section 9(a) of the Veterans' Home Loan Program Improvements and Property Rehabilitation Act of 1987

(Public Law 100-198) VA was granted the authority to sell to States, State agencies, or nonprofit organizations property acquired as a result of a default on a loan made or guaranteed by VA under the VA home loan program if the property is to be used solely as a shelter for homeless veterans and their families. VA was authorized to sell such properties for less than the full market value; the law provides that the sale shall be "for such consideration as the [Secretary] determines is in the best interests of homeless veterans and the Federal Government." The authority provided under section 9 of Public Law 100-198 expired on October 1, 1990.

House bill: Section 16 would codify in title 38 and extend for 3 years the provisions of section 9(a) of Public Law 100-198 under which VA has the authority to sell acquired properties for use as shelters primarily for homeless veterans and their families.

Senate bill: Section 217(a) would extend through December 31, 1993, VA's authority under section 9(a) of Public Law 100-198 to sell acquired properties for use as shelters primarily for homeless veterans and their families.

Compromise agreement: Section 9 follows the House bill.

COMPENSATED WORK THERAPY (CWT)

Contract Sources

Current Law: Section 618 of title 38 authorizes VA, in the furnishing of rehabilitative services, to carry out certain programs of therapeutic work for VA patients. CWT programs involve work contracted for by businesses, with the wages for the VA patients being paid for with the funds generated by the contract and paid to the CWT program. Thus, to carry out CWT programs, VA is authorized to enter into contractual arrangements with private entities and other sources outside of VA, and is also authorized to contract with certain non-profit organizations to conduct CWT programs.

House bill: Section 12 would authorize VA CWT programs to contract with elements of VA, as well as other private or governmental sources, for the work involved.

Senate bill: Section 222(a) is substantively identical to the House provision.

Compromise agreement: Section 10 contains this provision.

Authorized Use of Special Therapeutic and Rehabilitation Activities Fund (STRAF) for Training and Other Purposes

House bill: Section 12 would authorize the use of funds from the Special Therapeutic and Rehabilitation Activities Fund (STRAF), which is used for the operation of CWT programs, to defray the costs of travel and related expenses necessary to train and educate VA employees to administer CWT programs.

Senate bill: Section 222(b) is substantively identical to the House provision.

Compromise agreement: Section 10 contains this provision.

Use of Flat Grave Markers at the Florida National Cemetery

Current Law: Section 1004(c)(2) of title 38 generally requires the use of upright grave markers in national cemeteries for interments that occur on or after January 1, 1987.

House bill: Section 9 would authorize VA to provide for flat grave markers in one section of the Florida National Cemetery that had been designed and developed to use flat grave markers prior to the enactment of the provision in current law requiring upright headstones in national cemeteries.

Senate bill: Section 701(b) is substantively identical to the House bill.

Compromise agreement: Section 11 contains this provision.

Authority to Carry Out Specified Administrative Reorganization

Current Law: Section 210(b)(2) of title 38 imposes certain requirements for advance notification to the Congress of planned VA administrative reorganizations which result in employment reductions that exceed specified levels at certain VA facilities or units.

By letters to the Chairmen of the Committees on Veterans' Affairs of the Senate and the House of Representatives dated January 4, 1991, the Secretary of Veterans Affairs provided notice of a planned organizational realignment of management responsibility for the Department of Veterans Affairs Data Processing Centers, together with the corresponding realignment of associated Information Resources Management operational components and functions with the Department's central office.

Without a waiver of section 210(b)(2), this realignment cannot be completed prior to October 1, 1991.

House bill: No provision.

Senate bill: No provision.

Compromise agreement: Section 12 would authorize the Secretary of Veterans Affairs to carry out the proposed realignment without regard to section 210(b)(2).

Technical Amendments

Compromise agreement: Sections 13, 14, and 15 contain various technical amendments. Section 13 contains amendments to laws other than those codified in title 38, United States Code, which modify those laws to reflect the redesignations of the Veterans' Administration as the Department of Veterans Affairs and related changes made by the Department of Veterans Affairs Act (Public Law 100-527); and sections 14 and 15 contain purely technical amendments to various title 38 provisions.

Mr. MURKOWSKI. Mr. President, as the former ranking Republican of the Veterans' Affairs Committee, I rise today to speak about the homeless provisions included in H.R. 232.

The homeless provisions included in this final compromise version of H.R. 232 were derived, in part, from S. 846 which I introduced on April 19, 1989. S. 846 would have improved and expanded VA's ability to provide services to homeless or potentially homeless veterans. The major focus of the legislation was to provide for therapeutic transitional housing for veterans participating in VA's Compensated Work Therapy Program. This objective would be accomplished by permitting VA to purchase, lease, or otherwise acquire houses to be operated by VA for certain veterans. On June 14, 1989, the committee held a hearing to consider this legislation. S. 13, as reported to the Senate on September 13, 1989 (S. Rept. 101-126), included provisions derived from S. 846.

I am pleased that the House and Senate were able to reach an agreement on this important legislation which should assist certain veterans in achieving both economic and living independence. Under H.R. 232, VA's Secretary would carry out a 3-year pilot program of providing therapeutic transitional housing. In order to par-

ticipate, the veteran must be working in VA's Compensated Work Therapy Program.

I wish to thank Dr. Paul Errera—Director of VA's Mental Health and Behavioral Sciences Service—and Ms. Joan Sheldon also of that service for their outstanding efforts in pushing this legislation forward. Their commitment and diligence to helping those mentally ill veterans is indeed commendable.

I also appreciate the fine work of the chairman of the committee, Senator CRANSTON, on this legislation.

Mr. SPECTER. Mr. President, I am pleased to support passage of H.R. 232, as amended, a bill to improve housing and memorial affairs programs for our Nation's veterans. This measure, which represents a compromise between the House and Senate Committees on Veterans' Affairs, has its origins in last year's S. 2100 and H.R. 5002.

H.R. 232 would make several changes in VA's loan guaranty program including provisions relating to the sale of vendee loans, by removing a statutory limit on the number of such loans which can be sold. The bill would also amend the waiver procedures for loan guaranty indebtedness, by requiring that an application for such a waiver be filed within 1 year of VA's notification to the veteran of his or her indebtedness. Under current law, there is no limitation on such a request.

This bill would also provide three important benefits for veterans struggling to regain their status as fully functioning members of society.

First, in one of its most important provisions, H.R. 232 would authorize the Secretary to carry out a 3-year demonstration project of therapeutic transitional housing for veterans working under VA's Compensated Work Therapy [CWT] and/or incentive work programs. Under this new authority, the Secretary could operate up to 50 such residences. The physical plants would be VA foreclosed properties or properties acquired by any other suitable procurement method. Acquisition and maintenance costs would be paid for out of the VA's General Post Fund, a revolving fund.

I would like at this point to commend my good friend and predecessor as ranking minority member, FRANK MURKOWSKI of Alaska, who has been such a champion of the Compensated Work Therapy Program. Indeed, it was Senator MURKOWSKI who first introduced legislation establishing this link between therapeutic housing and CWT in the last Congress. I am pleased to see his idea becoming a reality.

Second, the bill would authorize loans to nonprofit organizations to establish transitional therapeutic housing for veterans recovering from substance abuse disabilities. Loans would be limited to \$4,500, have 2-year terms, and would be made from a special ac-

count in VA's General Post Fund. In the aggregate, these loans could not exceed \$100,000.

Finally, this compromise agreement would extend, for 3 years, VA's authority to sell acquired properties for use as shelters primarily for homeless veterans and their families.

These are all important provisions, Mr. President, which will help some of our neediest veterans to reenter the mainstream of society.

With respect to memorial affairs, the bill would authorize the use of flat gravemarkers in the Florida National Cemetery. On a purely administrative note, the bill would ease VA's ability to reorganize its data processing center.

Finally, H.R. 232 would make technical corrections necessary as a result of VA's elevation to Cabinet status. This latter portion was a massive undertaking, Mr. President, involving a review of 50 titles of the United States Code, and requiring the cooperation of committee staff, legislative counsel and VA personnel. All deserve a large amount of credit for this impressive work. I would like to thank particularly Charlie Armstrong of Senate Legislative Counsel and Bob Cover of House Legislative Counsel for their work on this matter.

Mr. President, H.R. 232 will provide much needed assistance for some of our neediest veterans. I commend our chairman, Senator CRANSTON, for his hard work on this compromise and urge my colleagues to support this important legislation.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 243) was agreed to.

Mr. DIXON. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 232), as amended, was passed.

Mr. DIXON. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

SENATE JOINT RESOLUTION 35: TO RESTORE TRUE FREEDOM OF SPEECH IN FEDERAL CAMPAIGNS

Mr. HOLLINGS. Mr. President, the quest for campaign finance reform has gotten bogged down in partisanship, with Democrats and Republicans both trying to gore each other's sacred cash cows. I respect Senator BOREN's dogged effort to hammer out a reform package acceptable on both sides of the aisle. His bill is serious and well-intentioned effort. But Senator BOREN has failed to take the bull by the horns. His carrot-and-stick approach of public financing and voluntary spending limits is simply too vulnerable to the inevitable manipulations of sharp lawyers and clever campaign managers. It is the latest illustration of the dictum that campaign finance reform is the never-ending attempt to solve the problems that campaign finance reform creates.

As an alternative, I am attempting to cut through the clutter with a simple, straightforward, nonpartisan solution: A constitutional amendment empowering Congress and the States to set simple limits on the amount of money spent in campaigns for public office. As Prof. Gerald G. Ashdown has written in the *New England Law Review*, amending the Constitution to allow Congress to regulate campaign expenditures is "the most theoretically attractive of the approaches—to reform—since, from a broad free speech perspective, the decision in *Buckley* is misguided and has worsened the campaign finance atmosphere." Adds Professor Ashdown:

If Congress could constitutionally limit the campaign expenditures of individuals, candidates, and committees, along with contributions, most of the troubles * * * would be eliminated.

Right to the point, in its landmark 1976 ruling in *Buckley versus Valeo*, the Supreme Court mistakenly equated a candidate's right to spend unlimited sums of money with his right to free speech. In the face of spirited dissents, the Court drew a bizarre distinction between campaign spending and campaign giving. For first amendment reasons, the Court struck down limits on campaign spending. But it upheld limits on campaign contributions on the grounds that "the governmental interest in preventing corruption and the appearance of corruption" outweighs considerations of free speech.

I have never been able to fathom why that same test—"the governmental interest in preventing corruption and the appearance of corruption"—does not overwhelmingly justify limits on campaign spending. However, it seems to me that the Court committed a far graver error by striking down spending limits as a threat to free speech. The fact is, spending limits in Federal campaigns would act to restore the free

speech that has been eroded by *Buckley versus Valeo*.

After all, as a practical reality, what *Buckley* says is: Yes, if you have personal wealth, then you have access to television, you have freedom of speech. But if you do not have personal wealth, then you are denied access to television. Instead of freedom of speech, you have only the freedom to shut up.

So let us be done with this phony charge that spending limits are somehow an attack on freedom of speech. As Justice Byron White points out, clear as a bell, in his dissent, both contribution limits and spending limits are neutral as to the content of speech and are not motivated by fear of the consequences of the political speech of particular candidates or of political speech in general.

Mr. President, every Senator realizes that television advertising is the name of the game in modern American politics. In warfare, if you control the air, you control the battlefield. In politics, if you control the airwaves, you control the tenor and focus of a campaign.

Probably 80 percent of campaign communications take place through the medium of television. And most of that TV airtime comes at a dear price. In South Carolina, you are talking \$2,400 for 30 seconds of prime-time advertising. In New York City, you are talking more than \$30,000 for the same 30 seconds.

The hard fact of life for a candidate is that if you are not on TV, you are not truly in the race. Wealthy challengers as well as incumbents flush with money go directly to the TV studio. Those without personal wealth are sidetracked to the time-consuming pursuit of cash.

Buckley versus Valeo created a double bind. It upheld restrictions on campaign contributions, but struck down restrictions on how much candidates with deep pockets can spend. The Court ignored the practical reality that if my opponent has only \$50,000 to spend in a race and I have \$1 million, then I can effectively deprive him of freedom of speech. By failing to respond to my advertising, my speechless, cash-poor opponent will appear unwilling to speak up in his own defense.

Justice Thurgood Marshall zeroed in on this disparity in his dissent to *Buckley versus Valeo*. By striking down the limit on what a candidate can spend, Justice Marshall said, "It would appear to follow that the candidate with a substantial personal fortune at his disposal is off to a significant head start."

Indeed, Justice Marshall went further: He argued that by upholding the limitations on contributions but striking down limits on overall spending, the Court put an additional premium on a candidate's personal wealth.

Justice Marshall was dead right. Our urgent task is to right the injustice of

Buckley versus Valeo by empowering Congress to place caps on Federal campaign spending. We are all painfully aware of the uncontrolled escalation of campaign spending. The average cost of a Senate race was \$1.1 million in 1980, rising to \$2.1 million in 1984, and skyrocketing to \$3 million in 1986, and \$4 million in 1990. To raise that kind of money, the average Senator must raise money at the rate of nearly \$12,000 a week every week of his 6-year term. Senators from large States such as California and New York are obliged to raise three or four times that amount. This obsession with money distracts us from the people's business. At worst, it corrupts and degrades the entire political process. Fundraisers used to be arranged so they didn't conflict with the Senate schedule; nowadays, the Senate schedule is regularly shifted to accommodate fundraisers.

I have run for statewide office 15 times in South Carolina. You establish a certain campaign routine, say, shaking hands at a mill shift in Greer, visiting the big country store outside of Belton, and so on. Over the years, they look for you and expect you to come around. They say, "Here he comes again. It must be election time." But in recent years, those mill visits and dropping by the country store have become a casualty of the system. There is very little time for them. I am out chasing dollars.

During my 1986 reelection campaign, I found myself raising money to get on TV to raise money to get on TV to raise money to get on TV. It is a vicious cycle. The rule was, if you had money, I had the time to meet with you.

After the election, I held a series of town meetings across the State. Friends asked, "Why are you doing these town meetings? You just got elected. You've got 6 years." To which I answered, "I'm doing it because it's my first chance to really get out and meet with the people who elected me. I didn't get much of a chance during the campaign. I was too busy raising bucks."

I remember Senator Richard Russell saying: "They give you a 6-year term in this U.S. Senate: 2 years to be a statesman, the next 2 years to be a politician, and the last 2 years to be a demagogue." Regrettably, we are no longer afforded even 2 years as statesmen. We proceed straight to demagoguery right after the election because of the imperatives of raising money.

Senate Joint Resolution 35 would change all this. It would empower Congress to impose reasonable spending limits on Federal campaigns. For instance, we could impose a limit of, say, \$700,000 per Senate candidate in a small State like South Carolina—a far cry from the \$2.2 million I spent in 1986.

And incidentally, Mr. President, let us be done with the canard that spending limits would be a boon to incumbents, who supposedly already have name recognition and standing with the public and therefore begin with a built-in advantage over any challengers. Nonsense. I hardly need to remind my Senate colleagues of the high rate of electoral mortality in the upper Chamber. And as to the alleged invulnerability of incumbents in the House, I would simply note that nearly 50 percent of the House membership has been replaced in the last decade.

I can tell you from experience that any advantages of incumbency are more than counterbalanced by the obvious disadvantages of incumbency, specifically the disadvantage of defending hundreds of controversial votes in Congress. Look at the experience of Democratic challenges in the 1986 Senate elections: Seven Democratic challengers defeated Republican incumbents. Five of those challengers won despite being outspent by \$1 million or more. Four of those five were outspent by a ratio of nearly 2 to 1. Based on this evidence, University of Virginia political scientist Larry Sabato has suggested a doctrine of sufficiency. As Professor Sabato puts it:

While challengers tend to be underfunded, they can compete effectively if they are capable and have sufficient money to present themselves and their messages.

Moreover, Mr. President, I submit that once we have overall spending limits, it will matter little whether a candidate gets money from industry groups, or from PAC's, or from individuals. It is still a reasonable—sufficient to use Professor Sabato's term—amount any way you cut it. Spending will be under control, and we will be able to account for every dollar coming in and every dollar going out.

On the issue of PAC's, Mr. President, let me say that I have never believed that PAC's per se are an evil in the current system. On the contrary, PAC's are a very healthy instrumentality of politics. PAC's have brought people into the political process: nurses, educators, small business people, senior citizens, unionists, you name it. They permit people of modest means and zero individual influence to band together with others of mutual interest knowing that their contribution is heard and known.

For years we have encouraged these people to get involved, to participate. Yet now that they are participating, we turn around and say, "Oh, no, your influence is corrupting, your money is tainted." This is wrong. The evil to be corrected is not the abundance of participation but the superabundance of money. The culprit is run-away campaign spending.

To a distressing degree, elections are determined not in the political marketplace but in the financial market-

place. Our elections are supposed to be contests of ideas, but too often they degenerate into megadollar derbies, paper chases through the board rooms of corporations and special interests.

I have been amused by the contention of the junior Senator from Kentucky that we spend too little in our Federal campaigns. He has edified the Senate and elevated the debate by propounding his eloquent "Kibbles 'n' Bits" defense, that is, the point that America spends more on cat food than it does on Federal campaigns. I submit that this fact speaks more to the number of overfed cats in our Nation than to the number of underfunded candidates. Moreover, to raise the "Kibbles 'n' Bits" banner is, in my opinion, one more unfortunate example of vulgar, marketplace values run amok. Federal offices are not like cat food; they should not be up for sale.

Mr. President, I repeat, campaign spending must be brought under control. The constitutional amendment I have proposed would permit Congress to impose fair, responsible, workable limits on Federal campaign expenditures.

Such a reform would have four important impacts: First, it would end the mindless pursuit of ever-fatter campaign war chests; second, it would free candidates from their current obsession with fundraising and allow them to focus more on issues and ideas; once elected to office, we wouldn't have to spend 20 percent of our time raising money to keep our seats; third, it would curb the influence of special interests; and fourth, it would create a more level playing field for our Federal campaigns—a competitive environment where personal wealth does not give candidates an insurmountable advantage.

Finally, Mr. President, a word about the advantages of the amend-the-Constitution approach of Senate Joint Resolution 35. Recent history amply demonstrates the practicality and viability of this constitutional route. Certainly, it is no coincidence that four of the last five amendments to the Constitution have dealt with Federal election issues. In elections, the process drives and shapes the end result. Election laws can skew election results, whether you are talking about a poll tax depriving minorities of their right to vote, or the absence of campaign spending limits giving an unfair advantage to wealthy candidates. These are profound issues which go to the heart of our democracy, and it is entirely appropriate that they be addressed through amendment of the Constitution.

And let us not be distracted by the argument that the amend-the-Constitution approach will take too long. Take too long? We have been dithering on this campaign finance issue since early 1970, and we have not advanced the ball a single yard. It has been 20

years now, and no legislative solution has done the job.

The last five constitutional amendments took an average of 17 months to be adopted. There is no reason why we cannot pass this joint resolution, submit it to the States for a vote, and ratify the amendment in time for it to govern the 1992 election. Indeed, the amend-the-Constitution approach could prove more expeditious than the alternative legislative approach. Bear in mind that the various public-financing bills that have been proposed would all be vulnerable to a Presidential veto. In contrast, Senate Joint Resolution 35, once passed by the Congress, goes directly to the States for ratification. Once ratified, it becomes the law of the land, and is not subject to veto.

And, by the way, I reject the argument that—if we were to pass and ratify this amendment—Democrats and Republicans would be unable to hammer out a mutually acceptable formula of campaign-expenditure limits. A Democratic Congress and Republican President did exactly that in 1974: We set reasonable, bipartisan limits, by law. We did it in 1974, and we can certainly do it again.

Mr. President, Senate Joint Resolution 35 will address the campaign finance mess directly, decisively, and with finality. The Supreme Court has chosen to ignore the overwhelming importance of media advertising in today's campaigns. In Buckley versus Valeo, it prescribed a bogus "if you have the money you can talk" version of free speech. In its place, I urge passage of Senate Joint Resolution 35, the freedom of speech in political campaigns amendment. Let us ensure equal freedom of expression for all who seek Federal office.

Mr. President, it has been extremely difficult in this campaign finance reform debate to make it known to all concerned that there is a real, credible alternative solution on the table.

With good reason, we all hesitate in amending the Constitution. But the fact is for 20 years now we have been trying our dead-level best to correct the flawed decision of Buckley versus Valeo.

I harken back to the original intent of the Federal Election Campaign Practices Act back in 1974. At that particular time, Mr. President, we were trying to limit expenditures, or the buying of public office. It was in the 1972 race for the Presidency that then President Nixon had his famous Maurice Stans calling the various corporate interests and told them to come up with the money.

For example, in my home State, 10 textile companies were told that they were down for some \$35,000 apiece, to come up with a total of \$350,000. Others were told to come with cash. And after the election, the Secretary of the Treasury, John Connally, allowed to

President Nixon, "Look, there are some who gave \$200,000, \$300,000."

There was a gentleman from Chicago named Stone who had given \$1 million or \$2 million. He said, "You haven't even met them," and they arranged then to have a thank-you barbecue down in Texas at the Connally ranch. Dick Tuck, the prankster from the opposition campaign, put a Brinks truck out there at ranch entrance as the guests turned in, and the scandal was obvious.

We had to do something about this mess, and in a bipartisan move we enacted the Federal Campaign Practices Act, and we limited spending. In the debate at the time, it was pointed out to some of the more affluent Members, Jim Buckley being one, that they would no longer be allowed to buy office. Mr. Buckley said, "Well, I will show you." And he challenged the legislation in court, and the Supreme Court found with him. It was a 5-to-4 decision whereby the Court equated speech with money, and money with speech.

We have been stalled dead in the water with this carrot and stick approach of you do so much, then you get so much public money. Or if you comply with a certain limit, then your opponent would have to also comply. Now we have gone to television advertising costs, and whether you get a 20-percent and a 50-percent subsidy. It is veritabily, Mr. President, a dog chasing its tail. We have gotten absolutely nowhere.

No one really believes, in the present debate, that if a bill did pass with public financing, the President of the United States would not veto that law. It would never become law.

We are tired of wasting time. We, being a bipartisan group, Republicans and Democrats, have proposed a constitutional amendment, one line, which says that the Congress is hereby empowered to control expenditures in Federal elections.

It has been held up in the Judiciary Committee, but I was told only on yesterday that it will be reported out next week.

For the last 3 years, the distinguished Senator from California has been a tremendous help; the distinguished Senator from Pennsylvania [Mr. SPECTER] and other Republican members; we have gotten a majority vote in favor of this amendment in the past. I am absolutely persuaded now—given the frustration present and the realization that we are not going to do anything, and particularly with the idea now that the States are ready to move on this constitutional approach and ratify it—that we can move forward with that amendment. We can refer it to the States. Four of the last five constitutional amendments pertained to elections. The average time for ratification was 17 months. We have

been on this issue 20 years, so let us not start talking about how an amendment could take too long. We have been on this since 1970.

So I ask everyone to understand that on next week when they report it out from the Judiciary Committee, we will have a solution presented, already approved by a majority of this body on a bipartisan basis, and now we need, of course, the two-thirds majority required by the Constitution. I am convinced that after this latest attempt—and Senators are now obliged to sort of beat up on each other for the rest of today and tomorrow, Friday, plus the early part of next week—we will all sober up and understand the trouble really is in the flawed Buckley decision itself, which says that if you do not have the money, then I can veritabily take away your speech in political campaigns.

JOINT MEETING OF THE TWO HOUSES—ADDRESS BY HER MAJESTY, QUEEN ELIZABETH II, OF GREAT BRITAIN (H. DOC. NO. 102-5)

The PRESIDING OFFICER. Under the previous order, the hour of 11:15 a.m. having arrived, the Senate will stand in recess until the hour of 2 p.m.

Thereupon, the Senate, at 11:14 a.m., preceded by the Vice President of the United States; the Assistant Secretary of the Senate, Jeri Thomson; and the Deputy Sergeant at Arms, Robert A. Bean, proceeded to the Hall of the House of Representatives to hear the address by Her Majesty, Queen Elizabeth II, of Great Britain.

(The address delivered by Her Majesty, Queen Elizabeth II, of Great Britain, to the joint meeting of the two Houses of Congress, is printed in the proceedings of the House of Representatives in today's RECORD.)

At 2 p.m., the Senate, having returned to its Chamber, reassembled, and was called to order by the Presiding Officer [Mr. FOWLER].

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, I understand that the order is to proceed to the consideration of S.3; is that the parliamentary situation?

The PRESIDING OFFICER. The Senator is correct.

Mr. COCHRAN. Mr. President, I ask unanimous consent to proceed for 5 minutes as in morning business.

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

BUSINESS INVOLVEMENT IN EDUCATION

Mr. COCHRAN. Mr. President, corporate America is showing an increasing interest in the President's education reform program.

Of particular interest to many companies is the centerpiece of the education reform strategy, the "New American Schools Development Corporation." Its challenge is to design and help communities create the best schools in the world.

Using business, private donations, and \$550 million in Federal funds, the President's plan calls for the creation of "break the mold" schools, as the Secretary of Education Alexander calls them.

The plan calls for one school for every congressional district, and all schools will be eligible to apply. Those selected will received \$1 million in startup funds from the Federal Government. The Secretary will make awards to those schools with innovative ideas for achieving progress toward the national education goals set by the Nation's Governors with the encouragement and leadership of the President.

Ten top U.S. business leaders have agreed to join the new nonprofit corporation that would support development of the new schools over the next 5 years.

They represent Xerox Corp.; IBM; Martin Marietta Corp.; Arvin Industries; RJR Nabisco; Herr Foods, Inc.; American Stock Exchange; Tenneco, Inc.; Boeing Corp.; and Eastman Kodak.

This group plans to raise up to \$200 million in private donations to finance the research aspect of the new schools program. Funds will be used to hire the best researchers in America to work with the President's Advisory Committee on Education, and the Department of Education to assist communities in designing the schools.

These schools will utilize the latest in state-of-the-art technology, and the President will be asking the Congress to provide additional Federal funding to help school districts access this technology. The schools will be designed to serve as models for other schools in the community. The goal of the President's plan is to make the operation cost of the schools no more than conventional schools after the startup costs are met.

The 1980's was a decade of unprecedented attempts to reform education in the United States. Schools that broke the mold popped up here and there, but when all was said and done, the gains were negligible. The Educational Testing Service, in a November 1990 report, proclaimed that it could find only "modest improvements in student outcomes."

Business and industry in this country spend \$25 billion in remedial training for workers annually. Seventy percent of American businesses have difficulty in locating skilled entry-level workers.

Investing more time and money in a system that is not keeping up with the needs of our time is a blueprint for failure.

Our educational system is outdated and must be dramatically restructured. What the President's new American schools plan will do is help local communities create a blueprint for success.

I have met with the Department of Education's new Deputy Secretary designee, David Kearns, to talk about his ideas for strengthening the linkage between our local community schools and businesses throughout the country. He likened the challenge of school reform to the reforms he initiated at Xerox Corp. in the 1970's.

He said:

It was a matter of survival for Xerox. Educational reform is a survival issue for our nation. It is the fundamental underpinning of the problems we have in this nation.

I am really excited about this new component of the President's educational strategy. If we are really serious about education reform, we are going to have to start from the ground up and redesign the schools. What better way than to involve our business and industry sector in the process? No one has more to gain, except the students themselves.

The President is serious about creating a new generation of American schools for tomorrow's students. I urge other Senators to join in offering support for this proposal which is very bold and far-reaching.

This is a wonderful opportunity for all of us in the Senate to join forces to really make a difference in education today and for tomorrow.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, I am glad to yield to the Senator from New Hampshire.

How long will the Senator be?

Mr. SMITH. Eight minutes.

Mr. DECONCINI. Mr. President, I ask unanimous consent that I follow the Senator from New Hampshire.

The PRESIDING OFFICER. Without objection, it is ordered.

Mr. SMITH. Mr. President, I ask unanimous consent to speak as in morning business for 8 minutes.

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

Mr. SMITH. Mr. President, I ask unanimous consent to display this flag during my remarks.

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

The Senator from New Hampshire is recognized.

Mr. SMITH. I thank the Chair.

(The remarks of Mr. SMITH pertaining to the submission of Senate Concurrent Resolution 38 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

SENATE ELECTION ETHICS ACT

The PRESIDING OFFICER. The Senate will resume consideration of S. 3 which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 3) to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits for Senate election campaigns, and for other purposes.

The Senate resumed consideration of the bill.

Pending: Boren amendment No. 242, in the nature of a substitute.

The PRESIDING OFFICER. The Senator from Arizona is recognized for as much time as he likes.

Mr. DECONCINI. Mr. President, yesterday we began debate on campaign reform. We have been here many, many times before.

I extend my compliments to the Senator from Oklahoma for the time and effort he has put into this. He has worked diligently. He has compromised in the effort to find a solution. The majority leader as well, Mr. MITCHELL, has worked tirelessly, as have many other Senators.

This Senator has only been in this body a mere 14½ years, and in every Congress I have pressed for campaign finance reform. Earlier this year I introduced my campaign finance reform bill, which is somewhat different than the bill before us here today. Nevertheless, in the spirit of trying to find some sanity in the process of being elected and reelected, if you can get reelected, and in the interest of the process of democratic involvement in elections, I am pleased to be here today in support of S. 3, the Senate Election Ethics Act.

The good news of the day is that I believe most of my colleagues agree that campaign finance reform is desperately needed. It is tempting to say, "Well, here we go again, what good will come out of this debate for several days?" But it is my sincere hope that today's debate and that which follows later this week and next week and the legislation that will hopefully result from it, will not go the way of the past efforts we have seen brought to the floor of the Senate.

We just cannot have business as usual. Campaign reform is long overdue. Now is the time. No one in this body is unaware of the millions of dollars it takes to run a successful Senate campaign. I will not take the time to repeat the percentages and comparative figures of the money that drives the current system in which we are so deeply involved. It is sufficient to say these immense costs for any one senatorial race are just outrageous and they need to be curtailed. We must have some reform.

Earlier this year I introduced my own version of what I believe campaign reform should look like, S. 53, which includes key provisions that will pro-

vide truly meaningful reform and will put the power of the electoral process back where it belongs, with the individual citizens, and not with special interest groups.

Many of these provisions have been included in the package we are examining today. Some of them are not. But I am willing to support this bill because I think it is necessary that we move ahead and pass something and put it on the books.

If we hope to curb the runaway cost of making a bid for the Senate, the bottom line is that we need spending limits. How anyone can argue that we can have campaign reform without some limits on what is spent is beyond my imagination. I cannot understand the logic that money is not a problem in campaigns. Indeed it is.

We need some form of public financing, in my judgment, to reduce the tremendous amount of time that candidates must spend raising funds. We all know the kind of time that has to be invested in order to raise the funds for a successful—or unsuccessful—campaign.

We need to increase the role of small in-State contributions so they really mean something. And we must deemphasize the role of special interest money that pours into campaigns, often from interests for when it is just absolutely hard to comprehend the reasons to be supporting some candidates.

I do not believe we need to eliminate political action committees entirely. PAC's were devised in previous reform efforts as a means of strengthening the power of individual contributions made to support the cause with which they are concerned. In their efforts to raise funds, PAC's perform an important educational function. Let me underscore the educational function of political action committees.

That is one of the primary purposes for which PAC's were created, to educate those who might join and those who do join, so that the issues are brought to the forefront of the voters' minds. What better process can we have?

I believe these roles still have some value, but PAC contributions need to be controlled in order to limit the perception of special interest influence. We have seen PAC's grow, and we have seen the statistics and heard them here; PAC's have grown and grown, and have really become influential.

Big money and influence was not the purpose of PAC's. The purpose was to educate those who voluntarily are members of the PAC, and others, as to issues that are important to the members of that political action committee.

Although this bill would eliminate PAC's entirely, I am supporting S. 3 in the interest of moving forward on this issue. If an amendment is offered to

preserve PAC's in a modest way, I have no objection and I will support that.

In addition, we need to reduce the high cost to Senate campaigns of broadcast media. We need to monitor the use of the so-called soft money. We need to protect the appropriate role of the political parties while eliminating the use of undisclosed contributions which circumvent the law. That happens. We are not kidding anyone to think that it is not occurring in each election that takes place.

The Senate Election Ethics Act of 1991 accomplishes these goals. It is time to act as representatives of the people, to set aside our own self-interests, and to pass a bill that eliminates these real problems. It is time to recognize that real reform requires all of the elements that I have discussed, not just some of them. Efforts to pass proposals that only go halfway simply deny to the public the reform which they are clearly demanding today.

Differences of opinion are important in any debate. I believe that the differences that have blocked enactment of this legislation in the past have led to new, innovative ideas.

Now it is our responsibility—the Members of this body—it is our duty to see to it that the time and effort that have been put in for hours and hours has not been wasted. The time has come to put partisan differences behind us.

I look forward to truly getting down to business and reaching an agreement on this issue to restore public confidence in the political process and in the institutions of Government. The people demand true reform. We must give it to them.

VICE PRESIDENT DAN QUAYLE

Mr. DECONCINI. Mr. President, I rise to take issue with the incessant and irresponsible attacks, in my judgment, that the press has made on Vice President DAN QUAYLE. Once you become a target of press attacks, a piling-on syndrome takes place. I know from personal experience exactly what that does to the individual, and to the family.

I did not vote for DAN QUAYLE for Vice President. I was not eligible to vote for him to be a Senator from the State of Indiana. Whatever one thinks of DAN QUAYLE's politics, the argument that he is unqualified to be President is ridiculous, and the press knows it; in their hearts, they know it.

He is an attorney. He was a successful businessman. He served as a Member of the House of Representatives for 6 years, more years than President Bush served, and as a Member of the U.S. Senate for 8 years. He has 2½ years of experience as Vice President. What better training could one have for the highest office in the land, if that should come about?

The facts just do not support the irresponsible attacks that have been made on this man and his family.

The office of Vice President is one that has historically been the butt of political jokes. President Bush was the object of these jokes when he occupied that Office. He was portrayed as a "wimp," and as the frequent flyer king for funerals. Those allusions were quickly dispelled once he assumed his current office, and he is now riding the wave of the most popular President in modern history. President Truman was the object of similar derision and scorn during his tenure as Vice President, yet he is now considered by most scholars to be one of the most important Presidents of this century. And Vice President Mondale, who was unsuccessful in his quest for the Presidency, was ridiculed for his performance in the No. 2 slot.

Part of the problem with the Vice Presidency lies in the office itself. There are only two qualifications for the job—age and citizenship. The Office has no constitutional responsibilities, unlike those of the President, the Congress and the Federal judiciary, which are clearly defined in the Constitution. Modern VP's are selected by Presidential candidates primarily to bring balance to the ticket. If elected, they perform whatever functions the President assigns to them. Vice President QUAYLE appears to have fulfilled those responsibilities to the full satisfaction of the President. I have no doubt that Vice President QUAYLE could admirably fulfill the responsibilities of the Presidency.

I admire the Vice President for not responding in kind to the vicious attacks being leveled against him. I admire the President for his unequivocal support of the Vice President, and I echo President Bush's words: "Let's get off DAN QUAYLE's back." I think it is time that we give Vice President QUAYLE the respect he is entitled to, not just because of the Office, but because of the individual that he is.

Mr. SPECTER. Mr. President, will the Senator yield for a question?

Mr. DECONCINI. I yield to the Senator from Pennsylvania.

Mr. SPECTER. I thank the distinguished Senator from Arizona for his comments about Vice President QUAYLE.

My question goes, in accordance with the rules of our body—and I know there are Senators waiting, so I shall take but a moment—goes to the observation of the distinguished Senator from Arizona on the performance of the Vice President when he was Senator DAN QUAYLE on this floor for some 8 years.

I concur with what the Senator from Arizona has had to say about the Vice President. That he is a man of ability has been established as a result of looking at his educational background and his business experience.

He is a member of the bar. He is an astute lawyer. And I make that comment based on having had quite a number of legal discussions with him, including discussion of very complex matters involving the ABM Treaty, where he was a major participant on this floor. He acted with distinction as chairman of the subcommittee which drafted the Job Training Partnership Act, in collaboration with the distinguished Senator from Massachusetts [Mr. KENNEDY] who is on the floor. And I would note that, when DAN QUAYLE was nominated for Vice President, Senator KENNEDY had made complimentary remarks about DAN QUAYLE's participation in the Job Training Partnership Act, which was very gracious, and as accurate as it was gracious.

The question I have for the Senator from Arizona is on his observations of then Senator QUAYLE on this floor, what did he observe with respect to competency and ability to perform as a Senator with the potential for higher office, including Vice President of the United States and, if circumstances call for it, the Presidency itself?

Mr. DECONCINI. I thank the Senator for what I might say is a loaded question. We did not discuss this before my remarks here. But DAN QUAYLE served well here. I debated him a few times. I was on the other side of a couple of issues with the then-Senator, and I cannot even remember who won or who lost. But he got pretty riled up, and he expressed his views very well.

He was well versed in opinions. As the Senator mentioned, he made a major effort on behalf on arms control. He knew the issue.

It is a shame that we do not here sign a petition, all 100 of us, to somebody upstairs, since nobody is upstairs in the press, saying: Is it not about time we stopped piling on? This is the Vice President of the United States, and he has done a good job. Even if you did not vote for him and you do not like him for some reason, he has done nothing that deserves this kind of ridicule that he is receiving.

You know, it is just time that we put life in perspective. We are here not to beat up on people, not to be mean-spirited, not to get even. We are here to do a job.

DAN QUAYLE is doing that job. He did it as a Senator. He has done it as a House Member. He did it as a lawyer. He has done it as a good citizen. And it just kind of makes me sick to see what is happening in the press.

So I wholeheartedly answer the remarks of the Senator from Pennsylvania in the affirmative; that I have witnessed it.

Mr. SPECTER. I thank my colleague for those comments.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized. Mr. KENNEDY. I thank the Chair.

(The remarks of Mr. KENNEDY pertaining to the introducing of S. 1088 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, parliamentary inquiry, what is the pending business?

The PRESIDING OFFICER. The pending business is S. 3.

Mr. BAUCUS. Mr. President, I ask unanimous consent that I be allowed to proceed as in morning business.

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

THE CLEAN WATER ACT

Mr. BAUCUS. Mr. President, yesterday, I, along with Senators CHAFEE, MITCHELL, and others, introduced legislation to extend, and strengthen the Clean Water Act. It marks the beginning of a renewal of this landmark legislation that will culminate next year during the 20th anniversary of the 1972 law.

That law was a remarkable break with past efforts because it put us on the road to a noble goal. It committed the Nation to cleaning up our lakes, streams, and estuaries so that by 1984 people could enjoy them for swimming, and fish could flourish. It also promised to eliminate pollutants by 1985.

That was a bold challenge, especially so during a time when some rivers were so notoriously polluted that one even caught fire periodically.

Unfortunately, those original goals were not met. But in the nearly two decades since the passage of that act, the Nation has made some outstanding progress.

Nearly three-quarters of our fresh waters now support the uses designated by the individual States. Those uses range from drinking water, to contact recreation, to warm and cold water fisheries.

But millions of Americans still cannot enjoy the full use of their local waters. And so our task is not complete.

The 1972 law marked a critical turning point in Federal efforts to clean up our waters. It established, for the first time, a minimum level of pollution control for industries and municipalities based on what technology could achieve.

Prior to 1972, variable standards often forced mayors and city councils to choose between economic development and clean water. But the new law eliminated that devil's choice by requiring each city and each factory to meet a national standard.

In addition, the law required a second level of controls if the technology-based standard could not ensure that a body of water would be restored to its intended uses. Those two concepts

were, and must remain, fundamental to the integrity of the Clean Water Act.

That early focus on treatment of sewage and industrial wastewater before it was discharged was instrumental in cleaning up much of the gross pollution that visibly marred our waters.

Today, many of the remaining pollutants that prevent us from achieving our water quality goals are increasingly expensive to remove. In some cases, so much so that the only logical alternative is to shift our focus to preventing the pollutants from entering the wastewater in the first place.

Pollution prevention is the new watchword and its inclusion into the Clean Water Act is overdue.

It makes good sense environmentally. And it makes good sense economically. After all, eliminating pollutants is another way of reducing waste.

In most cases, and especially for toxic materials, it is nearly always easier to prevent pollutants from entering the waste stream than it is to remove them afterwards.

And there is another benefit. Keeping pollutants out of the wastewater also reduces the volume and the toxicity of the sludge byproduct, thereby making it easier to dispose of, or use for constructive purposes, such as fertilizer.

Mr. President, some communities and companies are already ahead of the Federal Government. They recognize the advantages of pollution prevention. And those benefits will become even more valuable as firms look to streamline their operations and increase their efficiency to compete more effectively in the world marketplace. We need to encourage these efforts and create incentives for other industries and municipalities to do likewise.

During the next 2 months, my Subcommittee on Environmental Protection will be holding a series of hearings on the Clean Water Act reauthorization. These hearings will showcase the new approaches that I and some of my colleagues are advocating to finish the cleanup of our Nation's waters and make good on our promise of 20 years ago.

I encourage other members of the Senate to support our efforts and participate with us so that all citizens will soon be able to enjoy the benefits of clean water.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

SENATE ELECTION ETHICS ACT

The Senate continued with the consideration of the bill.

Mr. GORTON. Mr. President, as we are beginning debate on S. 3 and on the nature of election campaigns and their financing in the United States, it becomes more and more obvious that this is not only a highly controversial issue but a highly complicated issue as well. Because we are dealing with questions and issues that relate to the exercise of political debate, debate which is at the heart of the first amendment that guarantees the freedom of speech, it seems to this Senator to be particularly vital that we consider the constitutional implications of any proposal which we may consider or pass and that we consider the impact on the nature of political communication as well.

With that in mind, I wonder whether or not the distinguished Senator from Kentucky, who is managing the bill on this side of the aisle, would answer a few questions for me on the subject.

I recognize the fact that he is matched perhaps by no other Senator in this body with respect to the time and thoughtfulness which he has devoted to this issue. If he would enlighten me on the correct answers to several questions, I believe that it will help this Senator and others in dealing with what certainly will be a series of amendments on this bill before we get to a final solution of it. Mr. President, would the Senator from Kentucky be willing to answer a series of questions on the subject?

Mr. MCCONNELL. I will be happy to discuss the matter with my friend from Washington.

Mr. GORTON. Mr. President, while I was attorney general of the State of Washington and before I became a candidate for the U.S. Senate for the first time, the Supreme Court of the United States dealt with the election reform bill, the constitutional portions of which are in effect today. It came down with a classic decision in a case called Buckley versus Valeo.

I wonder if the Senator from Kentucky would outline some of the salient provisions of that Supreme Court decision as they apply to the political speech which is at the core of the first amendment, and explain to me what he means in some of the written communications he has directed to other Senators by the difference between a voluntary system and a coercive system of public financing, whether directly or indirectly, and how in his view the Constitution is implicated by the distinction between those two methods of securing compliance with a proposed law.

Mr. MCCONNELL. I will be happy to respond to my friend from Washington. The landmark case of Buckley against Valeo, as the Senator from Washington has indicated, was the culmination of

the campaign reform activity in the post-Watergate period. That legislation went up on expedited procedure to the Supreme Court and the results were widely awaited by all the candidates in 1976.

Essentially, what the Supreme Court said, the most important part of Buckley against Valeo, was that spending is speech. Spending is speech. And that the law cannot, consistent with the first amendment, put a restriction on speech; and that throughout our history, through a series of different Supreme Court decisions on that issue, it has become clear that you cannot sort of dole out speech in defined quantities and say, in effect, "The Senator from Washington, you are entitled to this much speech," and, "The Senator from Kentucky, you are entitled to this much speech," and that is all you get. That is unconstitutional.

The Buckley case proceeded to say, however, that if the Congress, in its wisdom, concluded that it was so important to try to restrict speech, that we were nervous about too much of this speech, we could provide a public inducement which a candidate could consider accepting in return for which he voluntarily agreed to restrict his speech. That is what we have in the Presidential system.

All of the candidates since 1976, with the exception of John Connally, have taken a look at the size of the subsidy and they have concluded that it is a subsidy that is so generous that they will accept it and in return for that, ostensibly at least, restrict their speech.

Mr. GORTON. In fact, have expenditures of Presidential campaigns been limited to any significant degree by this subsidy?

Mr. MCCONNELL. The irony is, it is the one race in America in which spending is increasing exponentially. As a matter of fact, spending has doubled between the 1984 Presidential race and the 1988 Presidential race because spending limits are like putting a rock on Jello. The Jello just oozes out to the side in unlimited and undisclosed amounts.

What has happened in the Presidential system since 1976, not only has over \$500 million of the taxpayers' money been spent not only on major candidates but on fringe candidates like Lenora Fulani and Lyndon LaRouche, but in addition to that, it has had no impact on controlling spending, but it is constitutional because when John Connally made what I thought was a very courageous decision to reject the public subsidy, nothing happened to him. No public subsidies were triggered for his opposition. He did not lose any benefits to which he might otherwise have been entitled. All he had to do was work hard to receive money from private donors at \$1,000 per person that other candidates got out of

the Public Treasury. He was not punished.

Mr. GORTON. Is there a distinction between that public subsidy and the public subsidy called for in S. 3?

Mr. MCCONNELL. There is a very important distinction. In S. 3, the bill before us, a candidate who accepts the spending limits—I must say it would be hard not to—receives a 20-percent subsidy up to the campaign limit in his or her State.

But for the candidate, like John Connally, who might decide for philosophical or other reasons that he found such a restriction on speech, such an effort to quantify how much he or she can talk, offensive and said, I reject the subsidy, I will go out and raise as much money as I can from donors at the current limit of \$1,000 per person—most people of course do not give that much—as soon as he encroaches \$1 above the limit, a lot of bad things begin to happen: Loses broadcast discount rate, loses a direct mail subsidy, and—

Mr. GORTON. These are all subsidies included in S. 3?

Mr. MCCONNELL. Yes. And out of what I call the punishment pool public subsidies are given to his opponent to combat his excessive speech. I would say to my friend from Washington as I wrote in an op-ed piece in the Washington Post today, this bill has about as much chance of surviving in the Supreme Court as Saddam Hussein would have at the Army-Navy Game. Clearly, under this scenario, candidates would be punished for exercising their first amendment freedoms, and this bill is clearly not even in the gray area; it is clearly unconstitutional.

Mr. GORTON. Is it the distinction which the Senator from Kentucky is making based on Buckley versus Valeo that it is constitutional under that decision to give benefits to those who will limit their spending on a political campaign but that it is unconstitutional to penalize the exercise of a constitutional right on the part of a candidate who does not wish to subject himself or herself to those limits?

Mr. MCCONNELL. The Senator from Washington is correct. The majority, if it were to be completely straightforward about this, could cure the constitutional problem by providing a very generous subsidy. In other words, full public funding.

Now, the suspicion of the Senator from Kentucky is that the reason that full public subsidy is not being provided is because of its cost. It would be expensive. We are, after all, if S. 3 becomes law, starting another Federal entitlement program which I have styled food stamps for politicians. Even if we begin with a mere 20 percent, have we ever seen a Federal program that did not grow? It will just continue to increase over the years.

Mr. GORTON. In the course of his answer to one of my questions, the Senator from Kentucky used the phrase "excessive speech." Is that word "excessive" taken from S. 3? Is it the belief of the Senator from Kentucky that under the Constitution there can be a concept such as an excessive use of speech in a political campaign?

Mr. MCCONNELL. The Supreme Court has been very clear in expressing the view that in this country one cannot speak too much; that we do not favor quantifying speech, doling it out, if you will, in set portions for one candidate or another. I do not think there is any question that the effort of S. 3 to punish a candidate who chooses to speak more would run afoul of Buckley versus Valeo and the Constitution.

I might just read a portion of the Buckley case:

The mere growth in the cost of Federal election campaigns in and of itself provides no basis for governmental restrictions on the quantity of campaign spending and the resulting limitation on the scope of Federal campaigns. The first amendment denies Government the power to determine that spending to promote one's political views is wasteful, excessive or unwise. In the free society ordained by our Constitution, it is not the Government but the people, individually as citizens and candidates and collectively as associations and political committees, who must retain control over the quantity and range of debate on public issues in a political campaign.

Straight from the Buckley decision. Mr. GORTON. Is it, based on that constitutional doctrine, the view of the Senator from Kentucky that in order to cause S. 3 to be effective, were it to pass, we would have to amend the Constitution of the United States, beyond that that we would have to amend the Constitution of the United States by eliminating first amendment rights of speech?

Mr. MCCONNELL. The Senator from South Carolina [Mr. HOLLINGS] earlier today took the floor to argue, once again, precisely the point the Senator from Washington alludes to in his question. Senator HOLLINGS made the point that you cannot do what S. 3 seeks to do without a constitutional amendment, and he is correct.

I must say, in all candor, I do not think the first amendment ought to be amended to quantify speech in political campaigns. I think, as a matter of policy, that is a terrible idea. But the proponents of quantifying speech have two choices: Either spend such a huge amount of public money that candidates are truly enticed into spending this limit on speech or passing a constitutional amendment amending the first amendment for the first time in history.

As my friend recalls, we just had a discussion about that in the last couple years with regard to the flag burning amendment, as to whether or not the first amendment may have outlived its

usefulness and should be amended to prevent that kind of speech. The majority around here felt that was not a terrific idea. Some of the arguments cited were that we probably should not fool with the first amendment, that it served us well for 200 years. But clearly the Senator from South Carolina this morning was correct. To seek to do what S. 3 seeks to do, quantify speech, would require an amendment to the Constitution which modifies the first amendment to the Constitution.

Mr. GORTON. Let me, if I may, ask the Senator from Kentucky to respond to another question about elements of this bill which clearly have policy implications but may well have constitutional implications as well. That is what I understand to be certain provisions of this bill which impose more restrictive contribution limits on persons living outside of the State or jurisdiction in which the candidate is running than are placed on individuals living within the boundaries of those States.

It is my observation—it is a trite observation, quite obviously as the two of us stand here on the floor—that while each Member of this body or, for that matter, each member of almost every legislative body in America, is elected by only a portion of the electorate of the United States of America as a whole, he or she passes laws which apply to all of the people of the United States. Thus, my ability to persuade the Senator from Kentucky to vote for something which I consider to be in the interest of my citizens is based on the proposition that he has as significant a vote on those issues as I have. Does that raise either policy or constitutional questions when there is an attempt to say that the out-of-State citizen has a more restrictive right to participate in the election in the State of the Senator from Kentucky or in my own?

Mr. MCCONNELL. It is the view of this Senator—and I might say there are some even on our side of the aisle who feel it—that one could make a legitimate distinction between in-State donors and out-of-State donors. As a matter of fact, some have even called the out-of-State donation the bad donation and the in-State donation the good donation.

It is the view of this Senator that it is very difficult to make that argument on either policy grounds or constitutional grounds. On policy grounds, it seems to me that the people who approach us who may oppose abortion, let us say, or oppose the opening of the ANWR reserve from all over the country are not necessarily representatives of what I would call bad money or bad influences.

They are simply petitioning the Government and its representatives thereof on behalf of their causes. So it is the view of the Senator that is a distinction very, very difficult to make from

a policy point of view and from a constitutional point of view. It would seem to me to have very little chance of surviving in the courts. The net effect, for example, would be that—let us take a hypothetical candidate, David Duke, running in Louisiana.

Mr. GORTON. I am not sure how hypothetical that is.

Mr. MCCONNELL. It certainly was the last time.

Let us take the situation of a candidate named Duke in Louisiana. Why should a member of the Ku Klux Klan in Louisiana be in a preferred position to support David Duke as opposed to say a civil rights activist from Pennsylvania or the B'nai B'rith in opposing David Duke. It is the view of this Senator that is a very difficult argument to make, that the in-State donor should be in a preferred position. People in State are already in a preferred position because they get to vote on whether we come here. They already have more influence over their representatives because they live there and vote for their representatives.

But to say that the right to petition, to influence, to support a candidate who lives in another State who may be voting on a matter of great importance to you should somehow be treated differently I think raises serious constitutional questions.

It has not been ruled on yet. This notion arose out of the group of six that was appointed last year. I agree with many of their suggestions, such as the need for special parties. I did find from the beginning that this argument that out-of-State donors were somehow harmful very difficult to substantiate.

Mr. GORTON. There appears to this Senator to be at least one additional area or section in S. 3 which may raise constitutional questions as well as the questions of policy.

Is this Senator correct in reading S. 3 as requiring certain content to be included in political advertising on the part of candidates who refuse to accept the limitations contained in the bill? And if it is correct, what is that content requirement? What kinds of constitutional questions does that requirement raise in the view of the Senator from Kentucky?

Mr. MCCONNELL. S. 3 further provides by way of penalty for those candidates who may seek to speak too much that their television advertising contain the following disclaimer: As a matter of fact, the candidate contained the following disclaimer: This candidate has not agreed to abide by the spending limits set forth in the Federal Election Campaign Act.

That is clearly designed to make it impossible for you to go out and speak too much without requiring you to put right in your own ad that you are somehow lobbying. I think nobody would want to run an ad that required that kind of statement. It sounds like

a loyalty oath to the Senator from Kentucky.

Clearly, that kind of content control, that kind of punishment, if you will, for excessive speech would not in my view have much chance in the Federal courts in this country.

Mr. GORTON. On another subject, perhaps one not so much from a constitutional point of view, but as to policy, the one overwhelming advantage that seems to this Senator is possessed by the Congress—the Senate bill, the Members of the Senate and the Congress which debated the bill, and which was judged in Buckley versus Valeo is—we have now had close to two decades of experience with a system of incentives in public financing for reelections for the Presidency.

In an earlier answer to one of my questions the Senator from Kentucky stated that he did not believe in fact the limited amount of money spent by Presidential candidates, or on behalf of Presidential candidates, is simply squeezed out like the soft Jello being pushed down by a rock.

I wonder if the Senator from Kentucky would follow up on that statement and tell us the way in which those campaign limitations are exceeded or avoided, the kind of money which is utilized to do it, the degree to which we have any knowledge of where that money comes from, or the limitations placed on the amounts we give individuals they can spend, and whether or not, to the extent there are evils inherent in the system of Presidential election campaigns, anything in this bill provides that.

Mr. MCCONNELL. I think former Presidential candidate Walter Mondale summed it up best when he said the Presidential system of taxpayer financing and spending limits is a joke. He said it is a joke, and the taxpayers are not amused. Why is it a joke? It is a joke because one out of every four of the dollars spent, public dollars, has gone to lawyers and accountants seeking ways to circumvent the system.

It is a joke because the arbitrary spending limits have created a growth industry in what is typically called soft money. There are two kinds of soft money. This is party soft money, and this is nonparty soft money. Party soft money obviously is spent by the political parties either at the Federal or State levels, and nonparty soft money is spent by tax-exempt groups like labor unions, corporations, trade associations and the like, which is completely unlimited and undisclosed. Sometimes party soft money is disclosed under State law. Occasionally you have a handle on what is being spent in party soft money.

The two Presidential candidates in 1988 actually voluntarily disclosed the party soft money. So we had a sense of how much there was. The great block market is over in the nonparty soft

money area. A little of that is used in the congressional system, but not much. Why? Because in the congressional system the money can be given directly to the candidate in limited and disclosed amounts. So you are encouraged to do it the right way.

But with arbitrary spending limits brought about, even though the system is constitutional because, it is so generous. And it is truly voluntarily, even though it is constitutional, it, of course, has been an abysmal failure because it is designed to limit spending and spending is not being limited. It was designed to limit private participation on the side and that is burgeoning.

There is not a recognized expert that I have been able to find. I have been in this debate now for 4 years still looking for one recognized expert from academia who thinks the Presidential system has been a success. It is difficult to find a single one who thinks spending limits are a good idea.

People were optimistic, I say to my friend, in the mid-seventies that this might be the way to go, but now we have had that 14-year experience. We have seen the money squandered, spent on lawyers, accountants, fringe candidates, and we have seen it has not stopped the increased spending.

To extend that failure to 535 additional races, I say to my friend, we had representatives from the FEC before the Rules Committee. I asked them how many auditors they currently had. The Republican leader said they are still not through auditing his race from 1988 for President. I asked how many auditors they had. They said they had about 25. I said how many would you need if we extend the similar system to 535 additional races. He scratched his head a little bit. He said, well, I think probably 2,500; 2,500 auditors out there trying to enforce a limit on speech, out there trying to quantify speech for every Republican, every Democrat, and every fringe candidate who may look in the record one day and say gee, I think I can see a Congressman in there, I think I can get my share of that public money, and go out and seek my day in the Sun.

Mr. GORTON. In connection with this Presidential subsidy, how many major Presidential candidates have managed to avoid violating the law, and how much of the money which goes into Presidential races goes to their own lawyers and auditors, rather than into a communication of ideas?

Mr. MCCONNELL. Only one major candidate for President has been able to avoid citations for major violations. In fact, it is a law incapable of being complied with. One out of every \$4 has been spent on lawyers and accountants dealing with compliance.

Mr. GORTON. One dollar out of every 4?

Mr. MCCONNELL. Right.

Mr. GORTON. That is a pretty good lot for them.

Mr. MCCONNELL. It has been great for lawyers and accountants.

Mr. GORTON. As we have engaged in this set of questions and answers, I heard loud and clear the criticism of the Senator from Kentucky against the public subsidies on policy grounds, against punitive measures designed to coerce candidates into accepting this limitation system on both policy and constitutional grounds, against a discrimination imposed upon out-of-State supporters of a particular candidate, and severe criticisms of the way or method in which the present Presidential system operates.

Does that indicate, from the perspective of the Senator from Kentucky, that the situation, at least outside of Presidential races, is really satisfactory at the present time and that reform is not needed? Or does the Senator from Kentucky himself believe that extensive reforms are appropriate and, if so, where does he see the heart of the vice of the present system to be? How would he deal with it all?

Mr. MCCONNELL. The Senator from Kentucky does not advocate the status quo, although I say this about the law under which we currently operate, from the post-Watergate legislation. It established two very, very important principles: limitations on individual donors to another, and full disclosure.

It is not very difficult for our friends in the press to write stories about where our money comes from in a congressional race, because with Republican candidates it is almost all on the FEC report. Many of our Democratic friends benefit from nonparty soft money, which is not on a report. It is the most disclosed system, but it needs fine-tuning, in the view of this Senator.

I would begin by eliminating connected PAC's—that is, those subsidized by corporations, unions, and trade associations. It is the view of this Senator that you could not constitutionally eliminate all PAC's, but at least you could eliminate those that subsidize their operations through corporations, unions, and trade associations.

The problem is not how much money is being spent, but where does it come from. If we want to diminish the influence of special interests, we can do something about that by reducing PAC contribution limits, say from \$5,000 to \$1,000, or eliminate the connected PAC's altogether and leaving the nonconnected PAC's to a \$1,000 limit.

Two, we ought to be strengthening the political parties. We talk a lot about competition around here. PAC's give over 80 percent of their money to incumbents, while individual donors give only 64 percent to incumbents. Being an incumbent is an advantage,

but not as much with individual donors as with PAC donors.

We ought to be strengthening parties. They are the one entity in America that are risk takers. Parties will support challengers. PAC's will not do it, unless it is a labor PAC. And individuals often tilt in the direction of incumbents. The one institution in America that is a risk taker is the party, and S. 3 seeks to adjust, grind the parties.

David Broder had an interesting comment about what S. 3 did to parties that just almost puts them out of business: One entity which has the courage to stand up to the incumbent, the party, is crushed in S. 3.

In the view of this Senator, we ought to expand the roll of the parties. They are the risk takers in our society.

Mr. GORTON. They are also the organizations to which all of us quite openly ascribe a degree of loyalty, and we even have it on the ballot itself.

Mr. MCCONNELL. In addition to that, periodically, we grant to those in the broadcast industry, free of charge, a license to operate in the public interest. I am told it is a very lucrative business. In 1971, Congress, in its wisdom, called upon the broadcast industry to provide us—meaning candidates for political office—discounted time in the 45-day period before the primary and during the 60-day period before the general election. We asked the broadcasters to sell us time at the lowest unit rate available to any commercial customer.

What that became was what is called preemptable time. Preemptable time, by its very title, means if somebody is willing to pay more for that spot than the candidate, the candidate loses it.

Preemptable time is a difficult thing for candidates to buy. Many are apprehensive because a campaign is a unique business. You have to make a sale in 1 day. Usually, you do not have to sell hamburgers, automobiles, or some other product in a 1-day period. So candidates typically end up buying fixed time at the highest unit rate time. But I say to my friend, in addition to not being able to use preemptable time very often, the FCC did a study last fall of five media markets around the country, and it discovered that the stations in those markets were not only not providing a discount, they were in fact charging political candidates more than commercial customers.

One of the markets studied was in my State. We estimate that in the last month of the campaign, after that study came out we saved about \$300,000, because the message began to filter around the State that candidates were indeed going to take a close look at whether or not they were getting a break.

I say that, since last year, we have received another refund. My opponents got refunds, and refunds are going on

all over the country. I am not saying that the broadcasters were intentionally doing that, but they clearly were doing it, or they would not be giving refunds.

We want to work with that industry to see that we are given a reasonable opportunity to buy time at a discounted rate. I must say that we are not.

In testimony on the bill I introduced 3 years ago on this subject, a representative from the National Association of Broadcasters indicated that political advertising represented only three-fourths of 1 percent of their overall advertising revenue. So we would be asking for a little break on three-fourths of 1 percent.

This year before the Rules Committee a representative from NAB said it was from 2 to 5 percent. We will accept those figures. We would like a little break in that 2 percent to 5 percent. What does that do? It makes access to the media, which is the most important thing in a contested race, in any statewide race, and in many congressional races, more affordable, thereby giving challengers a chance.

I do not think a meaningful broadcast discount ought to be held hostage, saying you can only get it if you agree to limit your speech. It ought to be available to candidates, even those who choose to exercise their first amendment right to speak as much as they want to. That is an important reform that would not tilt the playing field in either way.

In addition to that, there are a variety of other proposals in the bill I have introduced, and the Senator from Washington is a cosponsor of, dealing with the millionaire problem, dealing with election fraud, which is a big issue in a few States like mine—not everywhere, but in a few States that is still a problem.

We even have a provision on gerrymandering. I am not sure there is anything you can legislate there, but the reason the House of Representatives is not competitive, and does not have anything to do with campaign finance, has to do with where the districts are drawn.

It could be that that is an unsolvable problem, but we make an attempt in our bill to get at gerrymandering a little bit.

There are a variety of things, in the view of this Senator, which add up to significant campaign finance reform that could and should pass, and that would not tilt the playing field either way, would not trash the Constitution, nor dip into the Public Treasury. And it seems to me that this is what we ought to be doing, rather than trying to start a new Federal program or taking on the first amendment.

Mr. GORTON. Let me redirect the thoughts and words of the Senator

from Kentucky to one element of the discussion in which he has just engaged, and that is the subject of soft money. If I heard him correctly, he distinguished between soft money going through political parties and soft money being spent directly to influence campaigns for the Senate and for the House of Representatives.

Simply so that the CONGRESSIONAL RECORD can be clear, and even more Members and certainly future candidates can be clear about this, will the Senator from Kentucky give a brief definition of what he considers soft money to be: Where in general terms it comes from; how it is spent; and how it leads to cynicism and the lack of accountability in the present election systems?

Mr. McCONNELL. Party soft money is typically money that is spent pursuant to State law in an election year in which there are Federal races also on the ballot.

For example, in State X, it is permissible under that State law for a party to receive a \$50,000 contribution from a contributor from another State. A contributor, say, from another State, could give \$50,000 under the laws of, let us say, Kentucky—you cannot do this in Kentucky—but to that Senate party. And that money is spent in the very same election by the State party, typically on get out the vote and other activities.

Now, I do not think there is anything you can do at the Federal Government level to tell that State what its State laws ought to be. But I think you can, and we do under our bill, require the States to apportion so that whatever money they spent pursuant to Federal law is reported pursuant to Federal law and the rules of the Senate.

Most State political party soft money we have some awareness of, because it may be on a State reporting form. It is the other kind of soft money that we have no awareness of. We know it goes on, but it is never reported and disclosed. That is the political activities of labor unions, corporations, and trade associations.

Mr. GORTON. Individuals.

Mr. McCONNELL. No. These are tax-exempt groups that are 501(c); not 501(c)(3), but other 501(c)'s. And there are many of them quite active in the political process, and we do not know because there is no reporting or disclosure or limitation of any kind on exactly how to quantify that activity. There have been various reports of how much labor soft money is expended in a typical election, but it is very difficult to get a handle on.

I offered an amendment last year, and may well offer it again this year, that would say that the restrictions on political activities that currently apply to 501(c)(3)'s which are organizations like the United Way and the American Cancer Society, that those

restrictions be applied to other 501(c)'s, so that the organization can make a decision. If it wants to be tax exempt, then it should not be involved in the political process. If its wants to get involved in the political process, like all other Americans, it would have to set up another organization to be involved in the process. And that organization, presumably, could be required to report.

Mr. GORTON. Do I understand the Senator correctly that soft money which is spent through these various noncharitable 501(c) organizations, first, that neither the source of the money spent needs to be reported under most circumstances, nor the object; for instance, what they are spending it on? And that the limitations that apply to all of us as individuals, as we make donations directly to political candidates, also do not apply? So that a wealthy individual or group can give an unlimited amount of money to a 501(c), which can then spend that money to influence the political process, and not report either the source of the money, or how it was spent?

Mr. McCONNELL. The Senator is correct. The bill currently before us, S. 3, does nothing about nonparty soft money, a gaping loophole in the system that I predict would be exploited by Americans in the years to come in a post-S. 3. Assuming by some quirk it would become law or be found constitutional, neither of which I expect to happen, on the assumption that you know that would happen, this would be a gaping loophole through which the money would gallop. In order to be involved in the process, it would be forced in that direction by all of the artificial constrictions, restrictions, everywhere else. So this would become a gaping loophole.

And you can envision the landscape out there, I say to my friend from Washington: 501(c)'s springing up everywhere for the purpose of getting involved in the process, as Americans want to do, and in my view are entitled to do; jumping into the process behind the Tax Code, unlimited, undisclosed. That would be the environment, not at all dissimilar in some respects than we have in the Presidential system today.

Mr. GORTON. I thank the Senator from Kentucky for his lucid and persuasive outline of both S. 3 and his own proposals. And I may say I am more firm and more delighted than ever that I am a cosponsor of the bill, which he has himself so carefully crafted.

Mr. McCONNELL. I thank my friend from Washington.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

AMENDMENT NO. 244 TO AMENDMENT NO. 242

(Purpose: To express the sense of the Senate regarding funding)

Mr. BOREN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. BOREN] proposes an amendment numbered 244 to amendment No. 242.

At the end of the amendment add the following:

SEC. . SENSE OF SENATE REGARDING FUNDING OF ACT.

(a) FINDINGS.—The Senate finds that—

(1) this Act does not provide for a funding mechanism to pay for the provisions cleaning up Senate election campaigns;

(2) a funding mechanism is necessary to pay for such provisions; and

(3) it is the position of the House of Representatives that under the Constitution all bills affecting revenue must originate in the House of Representatives.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) legislation to clean up Senate election campaigns shall be funded by removing subsidies for political action committees with respect to their political contributions or for other organizations with respect to their lobbying expenditures;

(2) legislation to clean up Senate election campaigns shall not be paid for by any general revenue increase on the American taxpayer;

(3) legislation to clean up Senate election campaigns shall not be paid for by reducing expenditures for any existing Federal program; and

(4) legislation to clean up Senate election campaigns shall not result in an increase in the Federal budget deficit.

Mr. BOREN. Mr. President, I ask unanimous consent that the pending amendment be in order.

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

Mr. BOREN. Mr. President, a number of my colleagues have asked me, as we provide some incentives in this bill for candidates to accept the voluntary spending limits, how those incentives would be financed. That is an important question, and one which I think certainly deserves an answer, as far as we are able to give an answer under the parliamentary situation which we face.

As we all understand, the heart and soul, in the opinion of this Senator and many others, to real campaign finance reform, is stopping the runaway spiral of campaign spending, where millions and millions of dollars are now being raised and spent in election campaigns in the country. It is an upward spiral with no end in sight.

We have gone now almost to \$4 million as an average cost of a winning campaign to the U.S. Senate. This means that more Members of Congress are becoming part-time Senators, part-time Members of Congress, and full-time fundraisers. The time that ought to be spent on doing the Nation's business is spent raising money.

More and more, this money goes to incumbents, who are able to outraise and outspend challengers in the House by a margin of 8 to 1; in the Senate, by a margin of almost 3 to 1. So we have really been pushing competition out of the political process because of runaway spending, because incumbents simply have a greater capacity to raise funds as long as there is no limit on total spending.

Therefore, in an effort to get campaigns back where they should be, to competition on qualifications, on ideas, and on proposals to help solve the problems of this country, and to get it away from primarily being a competition as to which candidate can raise the most money, we have proposed in S. 3 a series of voluntary spending limits.

Under the Supreme Court decision in Buckley versus Valeo, the Court ruled that Congress may not enact a law which simply sets forth these limits and mandates the candidates accept them. You could pass a bill saying that in State X, for example, no candidate for the U.S. Senate can spend more than \$1.5 million, but it must be a voluntary system. Candidates must accept that spending limit voluntarily. To do so it is therefore necessary to have a series of incentives which would cause the candidate to be willing to at least consider the possibility of accepting a spending limit.

In this bill, we have a whole series of possible incentives. We say that a candidate that accepts a reasonable voluntary spending limit will, for example, be entitled to reduced broadcast rates, a 50-percent reduction from the usual cost of broadcast television or radio advertisements. We provide also that candidates that do not accept spending limits would have to have on their advertisements an indication to the American people that they are candidates who simply want to be able to raise unlimited amounts of money to try to influence the outcome of political elections. So that would have to be on the particular advertisements that were carried.

In addition, we provide that those candidates that accept voluntary spending limits will also be allowed a voucher to purchase additional broadcast time equal to an amount of 20 percent of the total spending limit and they will also receive some reduced mailing costs.

These are modest incentives in an effort to keep any kind of exposure to the Public Treasury to a minimum. We have made them very, very modest indeed. In fact, our bill has been modified to reduce the amount of vouchers from 50 down to 20 percent. But we still need a series of incentives strong enough to induce candidates to seriously consider accepting these spending limits.

We are also thinking about a series of incentives that would make it easier

for challengers and, again, level the playing field, as we are trying to level the playing field by doing away with unlimited spending. Another way of helping to level the playing field to encourage new people to come into the process and run for office, challengers to step into the process, is to provide these vouchers which give them, in essence, some seed money up front early on in the process if they decide to become candidates and accept the voluntary spending limits.

Some have said, why do we not spell out in the bill word for word exactly how these incumbents would be paid, before we run into difficulty. Under the procedures and rules of Congress, any revenue measure, anything which amends the Revenue Code, must come in a House-numbered bill and, if we were to pass a Senate numbered bill—in this case we have a Senate bill 3—send it to the House of Representatives with a revenue provision in, it would be subject to a point of order in the House of Representatives and it would be urged that this would be a matter to originate within the jurisdiction of the Ways and Means Committee in the House of Representatives.

Although we certainly anticipate a conference on the question of campaign finance reform with the House of Representatives, the development of a bill, which will be a merging of the bills that will come from the two Houses, if we are able to enact this bill in the Senate and they are able to enact a bill in the House, as we assume, we will write those provisions in the final conference committee before the bill goes to the President. But we do not have the latitude under the rules of parliamentary procedure to write those specifics on the floor of the Senate now. We must, therefore, turn to a sense-of-the-Senate expression as to the terms of our own intent as to how these modest provisions would be finalized.

This Senator certainly believes that we should not finance them by turning to general taxes on the public, that we should not look at any general revenue increase on American taxpayers to fund these modest inducements for campaign finance reform. Nor would we want to increase the deficit of this country in order to finance these provisions. Nor do I believe would we want to be forced to cut back on any of the major educational programs and other programs which are so vital to the future of this country.

So we have simply said in this sense-of-the-Senate resolution that it would be our sense that the revenue committees, those committees with jurisdiction on revenue matters—the Finance Committee in the Senate, Ways and Means Committee in the House—would be urged to develop, and it would be assumed that they would develop, a

mechanism to fund these programs in other ways.

How could that be done? There are a number of ways it could be done. You could adopt a voluntary checkoff system under which taxpayers would be able to make contributions over and above the amount they owed in Federal taxes. This Senator has to believe—some will not agree with this—that there is a real chance that the level of voluntary contributions would be up very substantially if we were to adopt a clean campaign system, and if the American people knew that by checking off and contributing an extra dollar on their tax returns that they could really get competition back in the political process, that they could stop the influence of large special interest contributions, the massive flow of money that is now pouring into the system, I believe the people would respond.

But there are other alternatives, as well. We exempt from taxation the income of political action committees. In a way it is a form of tax subsidy to the political action committee. We allow various institutions to deduct lobbying costs as business expenses. When an average citizen flies up to Washington or goes across the State to have a meeting with their Congressman or Senator, a private citizen who just becomes concerned about some issue and wants to talk to a Congressman or Senator, that taxpayer cannot deduct the cost of coming to Washington, DC, to let their elected Representative know how they feel. They cannot deduct that cost as a business expense on their individual tax returns. But we allow other institutions to do that, to hire a fleet of lobbyists at very high salaries to be paid to come and lobby Members of Congress on behalf of their special interest. And we do that by allowing that expense as a tax deductible business expense to the entity making that expenditure.

Now the cost, it has been estimated by the Joint Tax Committee, of the latest version of S. 3, in terms of all the incentives provided, is a very modest \$25 million a year. That is the latest estimate we received from the Joint Tax Committee. I am told, for example, that if we were—again I cite the Joint Tax Committee as a reference here—to decide to totally do away with the right to deduct lobbying expenses as a business expense under the Internal Revenue Code, we would save \$500 million of lost revenue over the next 5 years, or \$100 million a year. Certainly, that is an option that should be examined and we in essence say that in this sense-of-the-Senate resolution, that instead of imposing general revenue burdens on the American taxpayer, we should look at ways that the communities which are trying to influence the outcome of legislation can bear the cost of helping us clean up the political process themselves. After all, why

should we have fully deductible costs of hiring large lobbying firms? Why should that be fully deductible as a business expense if the average citizen who wants to influence his Congressman or Senator or her Congressman or Senator does not have the same right?

So, Mr. President, we are here dealing with a very, very serious problem. All of us realize that something is badly wrong. We know that it is wrong when it costs an average of \$4 million to win a U.S. Senate seat. We know that it is wrong when the cost of campaigns keep going up. In the last general election cycle, the average amount spent to win a U.S. Senate race was \$1.87 per voter, up from \$1.41 per voter just 2 years before that. The spiral continues. The pressure for increased spending continues to go on. Members of Congress cannot possibly raise that kind of money in their home States or home districts. They crisscross the country going into different cities and States where they barely know people to try to raise money, and oftentimes they have to raise money from people whose reputation they do not really know, and sometimes embarrassment can really occur when those people who made large contributions or whose Federal fundraisers end up to be the kind of person who have ethical questions raised about their conduct.

What does that do to confidence in this institution?

So, the Members themselves are being victimized because they are forced to raise so much money from so many sources that are really, in many cases, unknown to them. The public is disserved, because people look at the process and they say, do we count for anything any more? If most Members of Congress who are elected are getting half of their money from people who do not live in our State or our district, how much does our one vote count? When we look at the fact that the special interest groups, for example, give to incumbents at a rate of \$16 for every \$1 given to challengers; for every \$1 given to challengers \$16 is given to incumbents, something is badly wrong. We do not have real competition and it is no wonder we have reelection rates of 97 and 96 percent in the House and Senate. Something is wrong. We must change it. A cancer is eating at the heart of the election process itself.

It is on the election process that the legitimacy of our Government rests. We are not here to make laws ourselves and impose them on the people. We are here as the people's representatives.

The cry at the beginning of our country was "no taxation without representation," without a right to vote. It was the election process. It was the heart and soul giving legitimacy to the laws. Only people elected by the people themselves should serve here and should make the rules which govern our society.

When that election process itself gets so distorted by having more and more money pour into it, then we have to do something about it. The American people realize it. Well over 80 percent of the American people in every single poll that has been taken have said: Enough. We are sick and tired of reading about the millions and millions of dollars that people are having to raise to run for public office in this country. It is not right. A new person trying to get a fresh start simply does not have a chance to break into that kind of system.

So we have to find a way, we must find a way, it is our responsibility to stop this money chase, to stop the pervasive influence of money and politics, and to allow fair competition based upon the qualifications and the ideas and ideals of candidates.

That is what we are trying to do in S. 3 and to do that within the bounds of the current Supreme Court decisions we must find a way, therefore, to offer inducements. What we are saying with this sense-of-the-Senate resolution, Mr. President, given the concern of many Members—and it is a concern that this Senator has—this Senator is not particularly enamored of causing the average American taxpayer to have to come up with funds in order to change the system. There are ways of doing it that will not require that, Mr. President; that will not require us to go to the average American taxpayer and ask them to help clean up the system.

Stop the subsidies to the special interests that we are now giving them through the Tax Code. Stop the subsidies that we are now giving to the high-paid lobbying organizations by changing the Tax Code or allow citizens to make voluntary contributions to a clean election system over and above what they owe in tax liability.

These are alternatives. They are very clear alternatives to trying to go out and say to the taxpayers, all of the U.S. taxpayers are going to be mandated to pay for changing and revitalizing the election process. This simply expresses the sense of the Senate, which we can do under the rules of parliamentary procedure, that other alternatives should be used, including ending the current tax subsidy for lobbying and for special interest activity. Other alternatives should be used that do not result in either increasing the deficit, cutting vital programs that we now have in place, or imposing general revenue or tax burdens on the taxpayers as a whole.

I think it makes sense for us to make this expression. There will be differences of opinion about what these incentives should be. There will undoubtedly be amendments offered, perhaps on both sides of the aisle, that would change the package of incentives that are offered. It might in some cases reduce the package of incentives that

are offered. That would affect the total cost of this bill, or any impact it might have on the Treasury. But regardless of the outcome of the vote on those amendments, I think it is important for the Senate to go on record that we do not want whatever series of incentives are still left on the table when our deliberations are finished, paid for by imposing a general revenue burden on the taxpayers at large. I think that is a point that needs to be made and, therefore, I offer this amendment for that reason.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I have taken a look at the sense-of-the-Senate resolution from the Senator from Oklahoma. It is simply a sense-of-the-Senate resolution, no more, no less, and illustrates the scrambling that is going on in this body, trying to figure a way to call public funding something else. In fact, there is public funding in this bill and the Senator is clearly making the point that money has to be found somewhere, whether it is a new tax or adding to the deficit.

Nevertheless, it is a sense-of-the-Senate resolution only and I say to my friend from Oklahoma I have no objection to the sense-of-the-Senate resolution. I am prepared to accept it.

Mr. BOREN. Mr. President, I thank my colleague from Kentucky for his remarks. I do appreciate the constructive spirit with which he has viewed this amendment.

Mr. President, I would like to ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. You need to have a sufficient second.

There is a sufficient second.

Mr. EXON. Point of order. The Senator from Nebraska suggests that there is not a sufficient second. Does the Chair so rule?

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. GORTON. Mr. President, noting no one here debating this amendment at the present time, I ask unanimous consent to proceed for a few minutes as in morning business.

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

THEY HAVE GONE TOO FAR

Mr. GORTON. Mr. President, today in the Pacific northwest working families are saying with justice, "They've gone too far." The U.S. Fish and Wildlife Service, prodded by national environ-

mental organizations and their supporters in Congress, have gone too far in proposing protection for the northern spotted owl.

Specifically, on May 6, the U.S. Fish and Wildlife Service announced a proposed rule to set aside 11.6 million acres as so-called critical habitat for the spotted owl beyond the millions of acres already preserved in national parks and wilderness areas. That 11.6 million acres includes some of the most productive timber producing land in the world. 11.6 million acres, over 18,000 square miles, is a land mass as large as New Jersey, Massachusetts, Rhode Island, and Delaware combined. A swath of land 2 miles wide stretching from Washington, DC, to Sydney, Australia, encompasses 11.6 million acres—the size of the areas set aside for spotted owls. Under current Fish and Wildlife Service guidelines, no economically productive human activity will be allowed on this land.

The clearest proof that the Endangered Species Act goes too far in ignoring people can be seen in Forks, WA. Forks is a timber town of 3,000 people on the Olympic Peninsula. The owl habitat maps slice the city in two. Incredibly, the Forks City Airport is within the U.S. Fish and Wildlife Service's proposed designation, as are the City Water Building and its wells, Ford City Park, acres of residential family homes, trailer courts, farmland, cow pastures and, most poignantly, the city's Timber Museum.

The city of Forks, with a population of 3,000, is no more an old-growth forest than is New York City. Even the forest land nearest Forks contains trees that are no more than 40 years old. The U.S. Fish and Wildlife Service includes all of this under Endangered Species Act critical habitat mandates.

As Mr. Bumble said in Charles Dickens' "Oliver Twist," "If the law supposes that, the law is an ass—an idiot." People in timber communities do not express this view so politely.

When asked by private landowners, the Fish and Wildlife Service will not even inform its victims whether their property lies within its critical habitat designations. There are undoubtedly other communities in Washington, Oregon, and California that are not yet aware that they lie within the critical habitat proposal.

More appalling is the fact that when a private landowner's property is designated "critical habitat," the owner bears the burden of proof that his or her land is not critical to the owl's survival. Where is the fairness or equity, the due process, the justice in this burden of proof?

There is an important point to note here. An 11.6-million acre set-aside is not necessary to save spotted owls from extinction. No, indeed. This proposal is expressly designed dramatically to expand the number of owls be-

yond today's estimated count of over 6,000.

Three million acres of the critical habitat is private land. Almost none of this private land is old growth timber. Some national environmental organizations have invested millions of dollars to finance public relations campaigns to persuade the media and the public that timber harvesting in the Northwest is a bad thing and that we are liquidating our productive Northwest forests.

We in the Northwest are not liquidating our forests. Families that had members harvesting timber 120 years ago, are still engaged in the harvesting and replanting of our productive timberlands. National parks and wilderness protections assure that we will always have millions of acres of old growth forests untouched by timber harvesting.

Northwest forestry is entirely different than the timber cutting that strips the Amazon rain forests. In the Northwest there are legal mandates and economic incentives to replace each tree with many seedlings, assuring a perpetual forest.

If we accept the right of farmers to sow and harvest wheat, potatoes and corn we should recognize that timber—properly managed in Northwest forests—is also a crop.

If this proposed 11.6 million acre set-aside becomes law, more than 40,000 working families in the Northwest will lose their jobs. It may not be politically correct to suggest that the shutting down of our forest industry is extremism. But, make no mistake, when we close the forests we appropriate jobs, we damage families and we cripple communities. That, by any definition, is an extreme solution.

I have criticized the U.S. Fish and Wildlife Service, the Endangered Species Act and national environmental organizations, but the blame does not end there. Members of Congress have provided precious few solutions for these problems. Now the administration must reduce the proposed critical habitat designations and Congress must pass legislation that will provide some certainty and predictability for Northwest working families.

The only response from some members of Congress to the Fish and Wildlife Service proposal to stop timber harvesting on 11.6 million acres of land has been to criticize President Bush for not supporting welfare programs for all of the working families who will be unemployed if that proposed rule is adopted. That response does not go to the heart of the problem, which is jobs, communities, the lives of hard-working people.

Resolving—or ducking—this challenge will decide, for better or worse, the fate of families who have spent useful and productive lives producing valuable forest products for America and

the world. The fate of these families is at risk, not because they are unwilling to work or because their ability, training or productivity is lost. Their jobs are at risk because of the extreme enforcement of laws that ignore human and community values entirely.

In the story of Robin Hood, the working people hated the tyrannical king who stopped the people from using Sherwood Forest. This body must act to prevent the creation of a king's forest in the Northwest, a forest off limits to ordinary citizens and reserved only for the king's protected bird—the spotted owl. If we create such a forest spanning 11.6 million acres, we will become a latter day sheriff of Nottingham. Now is the time for the administration and the Congress to stand with the yeoman, to work for a resolution of this issue that reflects a fair and proper balance between people and owls.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

SENATE ELECTION ETHICS ACT

The Senate continued with the consideration of the bill.

Mr. BOREN. Mr. President, I renew my request for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second. There is a sufficient second.

The yeas and nays were ordered.

Mr. BOREN. Mr. President, I am told that we need to have a brief consultation before the roll is actually called now on this amendment since the yeas and nays have been ordered.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BIDEN. Mr. President, I ask unanimous consent that I may be able to proceed as if in morning business for 5 minutes.

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

ALINE GEHRINGER HARRISON HARKINS' BIRTHDAY

Mr. BIDEN. Mr. President, I take this opportunity to rise on the floor to

do something I do not think I have done in my 18 years here in the Senate, that is, to pay special tribute to one of the great ladies of the State of Delaware who will turn 75 years of age on May 17.

I have a very parochial reason for doing this. This lovely lady, Mrs. Harkins, Aline Gehringer Harrison Harkins, is a woman of great grace, wit, and wisdom, and she had the good grace to teach; she has been a schoolteacher for 30 years. She has had the good grace to put up with teaching the Bidens in grade school, and hopefully, at least to my brothers, she has imparted some wisdom. That was too much to expect to be imparted to me.

In addition, this woman has had significant impact on me beyond the impact she has had on her daughter and two sons. I feel as though I am one of her adopted sons for she is the mother of one of the most prominent Republicans in the State of Delaware who was a classmate of mine in high school.

I can only assume the reason why I have been, in part, able to survive politically in the State of Delaware these last 20 years is in large part because Mrs. Harkins has probably said to her son, "Michael, you be careful about Joe Biden. He is my friend."

So Mrs. Harkins first made her mark in New Jersey where she was a beauty queen. She was a beauty queen from Ventnor, NJ, "Ms. Ventnor," but fortunately for us she emigrated, crossed the river into Delaware in 1939, and married her husband, Eugene Harkins. Together they raised three children, and they now boast seven grandchildren.

Through it all, Mrs. Harkins has maintained strength, spirit, and warmth of heart which has touched everyone who has come in contact with her. She makes us all feel like we have been part of her family.

Aline Harkins is a blessing in the lives of those of us who know her. She has shared her great strength and her contagious wit with her entire family and the entire State.

Some would suggest, like me, that she would be required to have great strength and wit and a sense of humor having to raise her eldest son, my friend. But others would suggest it is something she just comes by naturally.

We in Delaware, and I personally, pay tribute to Mrs. Harkins on her 75th birthday which will occur on the 17th of this month, when we are not in session. We do it with a great deal of pride and a great deal of joy and sincere thanks for all she has done for all of us. I wish her a happy birthday and I am sure all our State does.

I might add at 75 she continues to donate her time in the school libraries, and working for churches in our region in a way few do when they are in so-called prime of their lives and in their early thirties and early forties.

So, Mr. President, I thank my colleagues for allowing me to interrupt the proceedings to, as I said, do what I have done I think for the first time in 18 years—in a sense take a point of personal privilege, and wish happy birthday to one of the great ladies of the State of Delaware.

I thank the Chair.

The PRESIDING OFFICER. Does any Senator seek recognition?

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from Pennsylvania is recognized.

SENATE ELECTION ETHICS ACT

The Senate continued with the consideration of the bill.

Mr. SPECTER. Mr. President, I believe that there is urgent necessity for campaign reform, because the cost of campaigns for Congress—the Senate of the United States and the House of Representatives—have gotten out of hand, and there ought to be limitations on the expenditures which are made for those who seek election or reelection to either body of the Congress of the United States.

Mr. President, I think it is undesirable to have campaign costs borne by the Treasury of the United States, because the deficit is very high; and it is not a good idea as a matter of public policy to have those costs paid by the taxpayers of the United States.

There have been a variety of bills introduced during the course of the last several Congresses on public financing. One bill, S. 2, would have provided for public financing which would amount, in a State like mine, the Commonwealth of Pennsylvania, to \$3.8 million for each candidate, or a total, in one senatorial campaign, of \$7.6 million. And it is my thought that that is most unwise.

I believe that a fundamental change has to be made on campaign financing with the appropriate limitations, which requires overruling the decision of the Supreme Court of the United States in Buckley versus Valeo, because any approach for campaign finance reform which calls for a candidate to submit to the limitations on the conditions that the candidate has set public financing is ineffective, if any candidate chooses not to accept that limitation.

The Supreme Court decision in Buckley versus Valeo, handed down in 1976, mandates that any individual can spend as much money as he or she may

choose, regardless of what legislation is enacted. The only way to deal with this threshold fundamental problem is to deal with that decision, to authorize the Congress to act to accept limits on campaign expenditures.

Senator HOLLINGS is the principal sponsor, and I have cosponsored such constitutional amendments with him in the 100th Congress and the 101st Congress. And such a constitutional amendment is now pending in the 102d Congress. Notwithstanding the fact that I am the ranking Republican on the Constitutional Law Subcommittee of the Judiciary Committee, and that I have pressed repeatedly to have a markup of this constitutional amendment out of our subcommittee, so that there can be action in the full committee, and ultimately action by the Congress, the Hollings-Specter constitutional amendment has not proceeded.

But unless we deal with this fundamental threshold issue, we are not going to be in a position effectively to limit campaign financing. I believe it is urgently necessary that such campaign financing limitations be imposed.

Mr. President, as I have said on the floor of the Senate on a number of occasions, I support the elimination of political action committees not because they are invidious or because they buy votes, but because there is a strong public perception that there is undue influence from political action committees. And that is why I have expressed myself on this floor in the past on a number of occasions when this body has considered campaign finance reform and stated my unequivocal support in that regard.

Mr. President, there is a widespread perception that political action committees have undue influence which, as I say, I believe to be untrue. The maximum amount that a political action committee can contribute to any campaign, as we all know, is \$5,000 in the primary and \$5,000 in the general election. That maximum contribution on my campaign in 1986 would amount to 0.0012 percent.

So, while political action committees are not insubstantial, they are quite substantial, in the aggregate, as you look at the total financing picture, it is not an amount of money which is going to buy votes in this body or in the other body, in my judgment, under any circumstance. But as I travel my State and as I hear people talking, the political action committees are viewed by the public as having undue influence, and I think, because of that I would support the abolition.

Mr. President, we need to do something about soft money, called sewer money. Any campaign finance reform that does not include a reform of soft money would be very unwise. Soft money ought to be covered and ought

to be excluded so we know precisely what we are doing.

I believe that there ought to be an accounting of in-kind contributions because an in-kind contribution is an item of value just as much as is a dollar, and an in-kind contribution should count, in terms of limitation on campaign expenditures, just as much as dollar contributions should count.

Mr. President, while we were in a quorum call I took advantage of this opportunity to come over and make this brief statement. I refer to other statements which I have made, on August 1, 1990, at page S1163; on July 31, 1990, on page S11200; on May 18, 1990, on page S6556, which more fully state my views. I do not think it is necessary to repeat them at this time, in the interest of brevity.

I would like to have a discussion with the distinguished manager of the bill when he concludes some business he has undertaken. So at this point, Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. SPECTER. Mr. President, before I made a brief statement, which I have just concluded, I was having a discussion with the distinguished manager of the bill, the distinguished Senator from Oklahoma, with whom I have had a very extended relationship in the 10½ years I have been in the Senate. I have worked with him on the Intelligence Committee, which he has chaired forever, I do believe, at least the last 5 or 6 years. He has been a very important leader on many items in this body, including campaign finance reform. We were talking about the issue of tax deductibility and the ability of a businessman to deduct the payment which he made for a lobbyist. As I understood the distinguished Senator from Oklahoma, that businessman cannot deduct the cost of traveling, say, to Washington to see me, to talk to me about a legislative change which related to his business. I had expressed the opinion to the distinguished Senator from Oklahoma that I believe the businessman from Pennsylvania who came to Washington to tell me his views on a pending matter could deduct the cost of that trip. I have had some experience in the field of Federal income tax, wrote a Law Review article on the subject of deferred compensation one time, and had a very distinguished Professor Resbecker, of the Yale Law School, many years ago. I thought it would be useful to have a discussion in this field while we were in a quorum call waiting for other Senators to come to the floor.

Who knows, there may be someone watching C-SPAN II, and it might be possible someone watching may know the answer to this tax issue. I would like to continue that discussion and ask my learned colleague from Oklahoma if in fact it is not true that, if a businessman from Oil City, PA, drives down to talk to me about an issue pending on the tax laws, he can deduct his mileage and cost as reasonable and necessary expense incidental to his business?

Mr. BOREN. Mr. President, I thank my colleague for the question. I am somewhat intimidated now in trying to respond to my colleague as he has recited his expertise in the field of tax law. I served with him on the Intelligence Committee in other capacities, and time and time again I have found him to be very expert in many areas of the field of law. He is a very able practitioner of the law, and he makes an immense contribution because of it. I would have to contrast his well-known knowledge of the law with my own.

I was in a discussion not too long ago with some of our colleagues, and I suggested a certain point of interpretation of law and cited some judicial interpretation of statutory language, at which point a Member turned to me and said, "Senator, are you a lawyer? Do you have a law degree?" I said, "Yes, as a matter of fact I do." And he said, "You know, in all these years we served together, until today I did not know that and did not even suspect that." So I think that probably that is some indication of my reputation as a practitioner of the law compared to the Senator from Pennsylvania, who is well regarded in this area.

But I think that the Senator is correct. I think, in looking back at the section of the code itself, that if a businessman were to come, be that person an individual proprietor or partnership or a corporation, if a business person were to come to lobby the Senator, or to communicate with the Senator about some pending legislation that had a direct effect upon his own business operations, that might have a direct impact upon the profitability of his operation or the tax burden on that operation, if that would be the case, a deduction could be made.

We are dealing here principally with section 162(e) of the code, and the language here talks about communication with Members of Congress preparation of testimony before Congress, and so on, and it talks about proposed legislation of direct interest to the taxpayer, and that has been defined in essence as a direct business interest. If that same individual should simply be concerned about some other pending legislation, let us say the person is in business but has an opinion he or she wants to present to the Senator on, let us say, a pending education bill, just as a citizen, or the Brady bill or some other

piece of legislation that happens to be pending here, then of course that trip would not be tax deductible, it would not be a tax deduction for a person to come here and lobby for a purpose other than that which would have a direct impact on the business of that person. So, that would be the distinction.

We have asked the Joint Tax Committee for an estimate in terms of how much revenue would be raised if we totally did away with the deductibility for business expense purposes of lobby activity, whether lobbying activity deducted by the individual himself or herself, let us say a proprietor or head of a business organization, or if it is an expense made in terms of hiring a lobbying organization or retaining a lobbyist to work for that business operation. If we were to totally repeal that deductibility section of the law, we are told, something in excess of \$500 million would be raised for the general fund of the Treasury as a result of that repeal.

What we have said in the language here, and as I indicated in my opening comments on the floor, if there are some—and we do not know the course of debate. It may well be that action on this floor will either add to or subtract from the current provisions of this bill. We may end up with some incentives that have some impact upon the Treasury, or we may end up with no incentives that impact on the Treasury in terms of reducing voluntary spending limits. But if we do end up with some, it would be my feeling and my hope, and that expressed by several colleagues on both sides of the aisle, that we find a mechanism for paying for whatever is left in this bill which would not involve general tax increases on the American people.

There are a lot of alternatives. It is possible and it is my hope that, if we come up with a system that really works in really attractive terms, you can have a voluntary tax checkoff plan that would be a contribution over and above any tax bill owed and would raise a substantial portion of money. You might want to consider the, in essence, subsidy we give to political action committees. That is another section of the law. We do not charge political action committees taxes. We deem them to be tax-exempt entities on their income. So there is some indirect benefit here being given to PAC's and their operations. I am not suggesting here in this sense that we would be necessarily totally repealing the whole business deduction. We might want to modify it some way. We might want to say over and above the first \$100,000 a year expended for lobbying activities. We might want to say those very massive, very sensitive and lucrative lobbying operations should help bear some of the cost of campaign finance reform.

So we are simply setting out here a whole series of possible options that

might be considered by the Ways and Means and Finance Committees if, indeed, something remained in this bill, a mutual agreement, and I suspect that a lot of final provisions of this bill will be written in conference. Let us say we end up having a bipartisan agreement on a bill that does require us to find some way to fund some of the incentives. Then we are saying we want to tax-writing committees charged with the jurisdiction to look for ways that do not go under general revenue increases on the taxpayer, that we find other alternatives for dealing with it, but we do not specify any particular arrangement. I do not want to be hearing we will automatically say we will just totally repeal. That is not what we are saying. It is one of the range of things we should look at.

Mr. SPECTER. If the distinguished Senator would yield for a question and a comment in advance. I am very reluctant to give any general power of attorney to the conference committees on any subject. I think that the conference committees may exercise too much authority. So I would not want any bill on this or, frankly, on any other subject to leave this floor with the expectation that the conference committees are going to work it out.

When my distinguished colleague from Oklahoma makes the comment about the possibility of eliminating deductions for contacts with Congressmen, I do not like the word "lobbying" so I am going to leave that word out as I describe the factual situation. If we were to consider denying deductibility when that constituent has a contact with his Senator on a matter relating to his business, I think that would be very, very, very, very unwise because that is a very fundamental aspect of the democratic process. And there is a constitutional right to petition your Government. There is no constitutional right to have a deduction if you take a customer out for lunch, even without a martini.

So that if you are going to allow a businessman to have an ordinary and necessary deduction when he spends money driving to see a customer to try to make the sale, but deny him deductibility when he drives to see his Senator to influence legislation or to talk to his Senator to petition his Government about that kind of an issue, I think that would be very unwise, because that is such a fundamental part of the democratic process. One thought occurred to me that it might even be unconstitutional to allow a deduction to drive to a customer but no deduction to drive to a Congressman in the context of the right to petition your Congressman under the first amendment, the right to petition. But I do not want to get into that because of the general line of cases which say that the deduction is strictly a matter of statutory grace. If it is not in the stat-

ute, you do not have it. You are going in very deep water on equal protection of law and the right to petition.

But, suffice it to say that I would not wish to entertain any limitation on the issue of deductibility between where the taxpayer has the right to make an analogous deduction for driving to see someone else but not to see his Congressman.

The point of concern that I had been addressing originally in the discussion with the distinguished Senator from Oklahoma related to deductibility on expenditures for lobbyists contrasted with no deductibility on contacts with a Senator. The question that I am coming to—and I know the Senator from Oklahoma has responsibilities in connection with the management of the bill. Whenever Senators are on the floor, there are other Senators who need to talk to him about other managerial functions, but let me pose this issue.

Where the Senator from Oklahoma said in our informal discussion earlier that the taxpayer could deduct the payment to a lobbyist, where he could not deduct it for going to see his Senator, I would disagree that if there is a business relationship in seeing the Senator it is deductible, and the Senator from Oklahoma is nodding in the affirmative. If the taxpayer paid a lobbyist for something that was unrelated to his business as, for example, public policy on education, something that he had an interest in as a public-spirited citizen, then he could not deduct that for the lobbyist as well. I ask the Senator from Oklahoma to confirm that.

Mr. BOREN. I think the Senator from Pennsylvania is correct in both of the statements that he has made. Let me go back to a point that I made earlier. The reason we are even here discussing possible options in sense-of-the-Senate language is that under the principles of parliamentary procedure under which we operate, we are simply not allowed in an S-numbered bill to specify exactly how funds for the Treasury would be raised. Only H-numbered bills originating in the House of Representatives can do that.

So, if an S-numbered bill goes to the House, it is automatically subject to a point of order under that provision, and I am sure would certainly be inserted by the House Ways and Means Committee. So certainly whatever we finally enact will have to be the product of action by the Ways and Means Committee, Finance Committee on the Senate side, the full Senate on both sides would have to be involved in this particular matter. Because it has an S number we cannot write tax law in this particular bill. So we will have to come back with companion vehicles or other vehicles to do that. That is the reason we wanted some extension that we not go into a general revenue source which would in effect impose a tax burden on

the taxpayers at large to fund any provision remaining in this bill by mutual agreement, passage by majority action, that we seek other alternatives.

That is, in essence, it seems, what we are saying here with the sense-of-the-Senate resolution. We are not here enacting any particular change in the tax law.

I would say to the Senator that I do not know that I would fully agree with him that because every citizen has a right to contact his or her elected officials—of course that is the heart and soul of the democratic process—on any issue whether it has to do with this bill or anything else, a matter of personal conviction or philosophy, that is certainly the case.

I do not know that I would say that I agree that we have an unlimited obligation up to multi, multimillion dollars of obligation; for example, for the taxpayers of this country—and that is what we do with the tax deductions—to subsidize to an unlimited amount, business lobbying or any other special-interest lobbying before the country. We are talking about what is appropriate to have taxpayers fund.

I do not know whether I would agree with him philosophically that this should be done without limit. I do understand what he is saying in terms of maintaining a reasonable level of deductibility for contacts for businesses to protect their interest. I would not necessarily disagree with the Senator at all on that point.

Mr. SPECTER. If the Senator would yield, there is no possibility of having an unlimited amount under the existing laws of the Tax Code which only allow deductibility for ordinary and necessary expenditures. So you cannot go beyond ordinary and necessary. So that possibility does not exist.

Mr. BOREN. I suppose ordinary and necessary, though, would certainly vary in terms of the expenditures various groups make. Some corporations are very, very frugal in their operations in terms of what they spend on lobbying. Others of similar size and interests are less frugal in terms of what they do.

Mr. SPECTER. And their effort at deductions are disallowed if they go beyond ordinary and necessary.

Mr. BOREN. That is possible.

Mr. SPECTER. The case law on ordinary and necessary is even longer than the CONGRESSIONAL RECORD.

Mr. BOREN. I certainly would be prepared to believe the Senator. I think this has been useful in terms of what is allowed or not allowed under the law.

Let me say the law does not allow—this is an interesting point—the law does not allow a deduction for business expense, an attempt by, let us say, a business organization to contact the general public and influence public opinion for or against a pending piece of legislation.

Let us say there is a piece of legislation pending here that affects the business. And there is deductibility for the cost of preparing, let us say, testimony or writing letters to Members of Congress, making visits to Members of the Congress. If that same company wanted to launch an advertising campaign to reach the general public to try to get the general public to side with it in passing or defeating a certain piece of legislation, that is not deductible under the tax law. So there is a distinction drawn.

Let me ask the Chair and let me ask my colleague, the distinguished manager of the bill on the other side of the aisle, because of the fact that we are having difficulty in getting all the Senators here to the floor—we have had consultations between the majority leader and minority leader—and I am told that there are some Members on both sides of the aisle unavoidably away from Capitol Hill at this moment and, in a desire to complete this amendment—would it be agreeable to him if I withdrew my request for the yeas and nays and simply allow this amendment to be acted upon at this point?

Mr. MCCONNELL. I would say to my friend from Oklahoma, we have been engaged in further discussions about his amendment and I simply cannot answer his question at this moment. I should be able to do that shortly.

Mr. BOREN. Mr. President, are there others wishing to speak? I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania retains the floor.

Mr. SPECTER. Just to complete a comment, I want to thank the distinguished manager of the bill for the colloquy we just had and commend him on his search for items where we might reduce Federal expenditures. That, I think, is a very meritorious service. But I would make that service in the name of deficit reduction as opposed to making that search in the name of finding money to spend for political campaigns.

We could save a lot of money in this country. The distinguished Senator from Oklahoma has itemized a number of possibilities, and I would like to join him in that pursuit. But the object I would have in mind would be to reduce the deficit and to deal with campaign expenditures differently; to limit the amount of moneys the candidates can spend by taking the lawful steps necessary to do that which does require reversal of Buckley versus Valeo and then to have a limit on the expenditures but leave it up to the candidates, even without PAC limitations, to take the actions necessary to fund their own campaigns, limit the amount but without public costs.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Mississippi [Mr. LOTT].

Mr. LOTT. Mr. President, first, I would like to associate myself with the remarks made by the distinguished Senator from Pennsylvania. I certainly agree with that.

There are many places where we need to find some savings or find some tax revenue that can help us deal with the deficit. But I never dreamed we would be looking with this amendment, or other amendments, at ways to pay for costs associated with campaign finance reform.

Campaign finance reform should not have costs involved. I hope we would not go forward with this amendment even though it is in the form of a sense-of-the-Senate resolution; and that we instead deal with the substance of the bill in a way that it would not have a cost factor involved. So I commend the distinguished Senator from Pennsylvania for what he had to say.

I also want to say I think this is certainly worthwhile debate. It is legislation that has been brewing, I guess, for the last 5 years. I know the Senator from Oklahoma spent untold hours trying to come up with legislation that is acceptable to the Congress as a whole. He has labored, I guess, in behalf of all of us, to try to find real, genuine campaign finance reform.

I certainly hope that whatever we come up with is bipartisan in nature, overwhelmingly bipartisan. If it is not I hope it would never leave this body.

But I particularly want to pay attention to and give credit to the Senator from Kentucky, Senator MCCONNELL, who has been the leader on this issue on our side of the aisle. He has done yeoman work. He has all the credentials needed to do with this issue. He studied it, he taught it, he used it—the campaign finance system—to get elected to the Senate and reelected. He has given lots of time to try to find ways to improve our campaign finance system. So I certainly commend him for what he has done.

When I go home and go around to small towns and bigger towns, at meetings with different groups, student groups, civic groups, labor organizations, all kinds of organizations, nobody says to me I demand that you pass campaign finance reform. They complain about the floods, and the fact we have not had enough dams and levees to protect us from being flooded. They complain about the deficit. They always say why can you guys not get the deficit under control? Why do you spend so much? And by the way, do not reduce the deficit by raising my taxes. They want to talk about education and transportation and inadequate roads but they do not talk about campaign finance reform.

So this is not a burning, hot issue outside of this city except in some media organizations; some newspapers I guess editorialize on that. But in spite of that it is a good effort. We need the best possible, understandable, reasonable, legitimate, honest campaign system and ways of paying for our campaigns. It is the toughest part of running for political office in America, I guess. Particularly if you are running for Congress.

We already have very strict, tight limits. Most people really do not realize the limits on what you can give as an individual to a Senator's campaign is \$2,000; \$1,000 for the primary and \$1,000 from an individual in a general election. You can do that once in a 2-year period. Yet if you are running for Governor from a State you might get \$50,000 from one individual.

So what is the big uproar about Federal campaign finance reform when maybe we need a lot more of it at the State level to begin with? There are already a lot of very strict limits and controls on the books. The system has worked pretty well but it is not perfect. If you can find a way to improve it, great. Let us do it.

I have been looking at S. 3, the alternatives that others have offered. I have been looking very carefully at Senator MCCONNELL's work, and the comparisons between the two bills, and I see some good things and bad things based on my own experience. Some of the good things I might refer to: I have noticed in the alternative plan that Senator MCCONNELL has been working on there would be a flexible cap placed on contributions according to the State's voting population, such as out-of-State contributions of more than \$250,000 and stop candidates spending \$250,000 of their own money or borrowed money so there would be some controls on out-of-State contributions.

I am not sure that can be done very easily. I am not sure we want to cut that off entirely. There should be some system, I guess, for a person to get some out-of-State contributions. But if we could find ways to, in effect, discourage that and give more incentives, perhaps allow for larger contributions from individuals within your own State, that is something we ought to work on.

When I see a proposal that would in some way limit these out-of-State contributions, I am attracted to that. The biggest problem I have found with campaign financings is not how much money you spend but how much it costs to get your message across. A big part of that cost is television. Like it, love it, or hate it, you have to have it.

If you get into certain markets—I know every Senator can cite an example—where there is a newspaper maybe pounding your head in every day, criticizing your campaign and philosophy and election efforts, if you cannot find

a way to get your message across personally, and that is with hand-to-hand combat or television, you are going to lose.

So there are proposals, I believe in both bills we are considering here, that would be something about the television avenue and the cost involved there. The Boren proposal as I understand it would require broadcasters to charge candidates 50 percent of the lowest unit charged. Senator MCCONNELL's approach would require broadcasters to charge the lowest unit charge.

I am not interested in trying to take anything away from television. I am just trying to find some way—and maybe as a public service proposal—that we make it possible for candidates to get their message across on television at a lower rate or less of a cost. It makes it impossible for a challenger or a person who is, in effect, running against the establishment, to tell his story. I think that is a good part of what we are considering now, trying to find some way to deal a little bit with the television costs.

I also am particularly attracted by a proposal that would limit soft money, or what has been referred to as sewer money. Senator MCCONNELL has a proposal that would ban special interest indirect aid, but it would strengthen State political parties' influence. It would require full disclosure by the State parties.

Some people want to reduce the influence of the parties. I do not understand that at all. I think to help a competitive system we should be doing more to help and encourage State and local parties and the national parties. That helps ensure some competition at a very minimum. If we count on business and labor to get out there and support the challengers, forget it. But a party at the State level in Virginia or Kansas or Mississippi or New Jersey might be inclined to go out there and find some good candidates and help them get organized and support them financially. So I think we should be encouraging a stronger two party system in America. Unfortunately over the years we have lost a lot of that. Members of the House and Senate feel very little loyalty to their parties.

And that makes it very hard to get the job done around here. But the other part of it is that soft money that goes to the candidate's campaign. He may not even know about this money being used to help him, and the worst part of it is, it is not even reported. I experienced it in my own campaign, and I am not talking about just labor. It can also be corporations that through an education process are involved in a candidate's campaign, and there is no disclosure, no limits. I just think it is one of the most blatant, unfair, questionable things that contribute to mis-

conduct in campaigns in America today.

The S. 3 proposal would limit indirect funds from State political parties in Federal elections, but it does not touch labor or corporate soft money. I just have to ask the American people: Do you want corporations and labor involved in campaigns for the Congress without any real limits or controls and not even disclosure? Why in the world could we call this campaign finance reform and we do not require disclosure of one of the most blatant abuses of political funds? Soft money, at a very minimum, ought to be reported, but yet it is not in this base bill. I strictly do not understand that.

So let us get some control, some reporting, some disclosure of this soft money in campaigns. I think that would be good.

On the bad side, we have spending limits. First of all, it just cannot be done constitutionally. You cannot restrict speech. You cannot tell a Senator in Iowa that he can only spend a million dollars and yet a Senator in New Jersey can spend \$6 million, whatever the figure might be. We cannot limit speech, and we cannot punish people if they exceed an imaginary or an arbitrary limit.

Let me tell my colleagues this, too. If we want to discourage candidates who are challengers to incumbents, tell them they are limited in a small State to \$950,000; limit them in what they can spend in getting a message across. In a State like mine where I was having to go against history, establishment, the courthouse gang, the news media, if I could not have raised the money to get my message across, I certainly would not be here. There are some people who would say, let us limit that spending so we will not have guys like this in the Senate. But I received 510,000 votes in the State of Mississippi. I guarantee, if we put some limit in the range of \$150,000 or \$1 million, I could not have gotten my message across because my message would have been distorted by the establishment and by the media.

So any bill that has spending limits on it, this Senator will not vote for.

Public financing. I have been hearing this ever since I have been in Washington; public financing of congressional campaigns. I think the Senator from Kentucky described it most appropriately as food stamps for politicians. That is great, we are going to have our campaigns paid for us. When I go home and say to people, guess what we are talking about; we have this public financing of Presidential campaigns. "That has been a good idea, has it not?" They say, "I do not know; I do not think so."

I have seen very strange people get money to run for President, and also I do not check off a nickel. If I am going to give \$1 or \$5 to a candidate running for President, I will give it to BOB DOLE

directly, or George Bush or DAVID BOREN, whomever it may be. They say, "Let me ask you now, are you saying that you are going to start coming up with a way to have public financing, using my tax dollars to pay for House and Senate campaigns? Forget it." That is all we need is to get into, paying for congressional campaigns out of the General Treasury or some public financing scheme.

You say, well, it has worked so great for the Presidential campaigns. Have you checked it lately? It is broke. The fund is broke. In the next two Presidential campaigns, the funds for public financing for Presidential campaigns are going to be in the red to the tune of hundreds of millions of dollars probably. I do not know what the amount will be, but it is definitely going in the red.

They say, well, we need to raise the checkoff or we need to start taking it out of the General Treasury. Boy, if there has ever been a camel nose under the tent, this is it. If we have one nickel of public financing for congressional campaigns, even if we sneak into the tent just a little bit, it will be no time until we will pay for our campaigns out of the Federal Treasury.

Some people say, well, it will not be tainted that way. That will be honest money.

Since when is it dishonest for an individual to contribute \$50 to the candidate of his choice? That is the way it ought to work. We need to encourage people to participate, not eliminate it, or, as a matter of fact, not take away the responsibility to participate. If we have public financing, the responsibility, the involvement, the whole process will be dead very soon and there will be a lot less answerability for us and responsibility from us to the people because the people would have had even less involvement in getting us here.

In looking at that legislation, it seems to me that maybe both sides are taking hard positions. I just took one. If you have spending limits, public financing of campaigns, I am out of touch on this. There are some good things we can do, though, and I think we ought to try to find those.

So I encourage the leaders on both sides of the aisle, and our leaders from the committees, let us take the hard positions, the things that we say on the Republican side, look, we just cannot do that, or things on the other side that you say we just cannot do that, let us take those things that we absolutely cannot accept and let us put those off the table; let us just get them off the table, then let us see what we can agree on. If we really want a bipartisan package, that is the way to do it. Find the hurdles over which we cannot go on each side. Then let us just take those off the table, take spending limits off the table, take public financing off the table, and let us get down to

talking about some real things that will make campaigns better, fairer and more honest.

We can find some agreements. It will not be necessarily as big as some people would like to have. It may not be perfect, but that is the way the legislative process works. What we are dealing with right now is a formula for failure or, even worse, a formula for disaster and the American people will be the losers because the campaigns will not be better. They will be worse.

I will be glad to yield to my distinguished leader from Kentucky.

Mr. MCCONNELL. I just want to thank my friend from Mississippi for his outstanding remarks and make one brief observation about a portion of his comments.

In reality, the public funds for Presidential races really do come from the General Treasury because when John Q. Citizen checks that checkoff box, it takes that money away from child nutrition, or for deficit reduction, or for defense, or for a whole lot of other things.

So this notion that is perpetrated by the tax return itself, it looks like it sort of miraculously appears from somewhere since it does not add anything to your tax bill, it really does take away from other programs that are worthwhile programs that Americans probably feel very strongly about. Those folks in Mississippi might like to see it spent on flood control or something else.

Mr. LOTT. Sounds like a good idea to me.

Mr. MCCONNELL. I commend my friend from Mississippi.

Mr. LOTT. I thank the Senator for his leadership. I think we can find a way to have good campaign finance reform. There are some good provisions in here, but I still think we have a good piece to go before we can come up with something to really improve the system. In fact, a lot of what we are talking about would hurt the system and there will be less democracy in our elections process.

Mr. President, I yield my time at this point.

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. GRASSLEY. I also ask unanimous consent to address the Senate for 12 minutes as if in morning business.

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

ALTERNATIVE FUELS PRODUCTION

Mr. GRASSLEY. Mr. President, as part of my activities with the U.S. Alternative Fuels Council, a council created by the Alternative Motor Fuels Act of 1988, and through studies generated by a series of this session's energy bills, I have become encouraged by some good news for emerging energy policies in general and for alternative fuels production in particular. I would like to take a few minutes to share these observations with my colleagues as we begin to consider the merits of the various energy bills which are being brought forward out of the committees of this and the other body.

As a backdrop for these comments, consider for a moment that the world population is forecast to double by the mid-21st century. Even more dramatic, the world economy which is now at \$16 trillion could increase fivefold in that period. A recent Congressional Research Service issue brief makes the dire estimate that if world oil exploration and production continued at the present pace achieved in the United States, then it could be sustained for only another 65 years before a declining resource base would force down yearly world oil production. Many of us, of course, have children or grandchildren who will witness these developments in the middle of the next century; 60 years is not that distant.

Given our current production and consumption practices, we cannot sustain such growth without causing serious harm to our environment. Nor can we indefinitely plan to live off our capital—our nonreplaceable natural resources. We must look for ways to live on our income—our renewable fuels. As a matter of Government policy, we must look for ways to combine economic development and production with environmental control. The obvious options are by either increasing research funding—as the Alternative Fuels Council advises—or by tax policies that tax social evils—pollution, waste, nonconservation—and award tax credits for social goods—exceeding standards for environment, conservation, or efficiency—as the National Academy of Sciences recommends. At present it seems we continue to exploit our natural resources with little comprehension of the consequences. This period of expansion of population, economy, and productivity must be accompanied by even better pollution control in order for the environmental degradation prophesied by greenhouse warming observations to just remain at the status quo.

The first piece of good news is that Department of Energy-funded studies at Oak Ridge National Laboratory and the Resources for the Future are underway to investigate the net social or societal costs of energy and consumption. These studies were begun in July

1990, and are expected to be completed late this year or early next year. These studies will investigate the net social costs for oil, natural gas, coal, uranium, and renewable fuels such as solar, biomass, hydroelectric, and wind. These studies are a first step in defining a fuel's external costs as part of the total cost of the fuel. Therefore, those costs due to environmental impact, health cost, or national security will be included as part of the total cost of the fuel. Fuel cycle costs are of considerable interest to the international community as well and these studies will be coordinated with those in Europe and other interested governments. The studies will be an important ingredient for informed policy decisions in encouraging particular energy options. It is hoped that these studies will put all fuels on a level playing field and discussions of hidden subsidies or unfair tax incentives can be realistically evaluated.

The objectives of the DOE study mesh with recommendations by the National Academy of Sciences in its recent report on greenhouse warming. The Academy [NAS] also recommends determining the full social cost pricing of the various energy types and sponsorship of the optimum fuels. They state that such a study may lead to unexpected winners and losers. The Academy, however, clearly states the difficulties in assuring that such studies are fairly and accurately conceived and executed. It is my hope that these studies will not have the effect of foreclosing on some of the innovative breakthroughs that are beginning to emerge. These economic models must be flexible enough to predict the cost savings of innovative alternative fuel approaches which are emerging.

In Hardin's "Tragedy of the Commons" scenario, it is shown that underpriced public goods inevitably lead to overuse of those goods whether they are public grazing lands, village dumps, free water, or, in our case, a fuel which enjoys hidden subsidies and external costs. Fossil fuels in this country have not borne their true externalized cost. Now the environmental costs of fossil fuel use are reaching staggering estimates. In addition, national security costs, if included, are conservatively estimated to treble the cost per barrel of imported oil. A recent economic study put the cost of a barrel of oil imported in 1989 over four times higher—at \$77 per barrel instead of the \$17.41 per barrel we only thought we paid. The additional cost is for the peacetime deployment of forces in the Middle East. These cost data are independent of the costs of either Desert Shield or Desert Storm. The expense is measured in dollars, health, and human life. Further, terrorist attacks in more than 50 countries confirm that the reliance on fragile alliances and long-distance logistics is precarious and expen-

sive and not very inductive to a sound national security policy.

The security and environmental concerns about fossil fuels increase the importance of renewable sources of energy. In virtually every renewable energy source, existing advances are being made. The economic costs for production are steadily dropping. In the area of biomass research much study has gone into the conversion of grains, sugars, and woody mass to ethanol. Recently, a microbiologist at the University of Florida was awarded the Nation's 5 millionth patent on an economical means to develop ethanol from organic matter using genetically derived bacteria. The process has the potential to reduce ethanol production costs by 50 percent. Due to this process's applicability to biomass and waste materials, undue strains on either acreage demands or fluctuations in supply of biomass will no longer be the concerns they were in previous DOE studies.

Biomass and corn production have been criticized because of the amount of energy taken to produce a crop. Initially, economists predicted that more energy was used in producing corn than was recovered by ethanol conversion. Although new studies show this conclusion was false, the complaint that the energy used to produce corn for ethanol processing was high was valid. The major contributor to energy loss in corn production was due to the amount of chemicals used in farming practice. In the area of sustainable agriculture development—this is a new trend in agriculture that we all have to pay more attention to—new studies and farm practices are showing trends that reduce energy consumption as well as the use of pesticides and fertilizers with minimal effects on productivity. In a study of Iowa farms it has been shown that since 1975, gasoline use on farms has dropped by 290 million gallons per year by 1989. During this period diesel fuel use increased only 2 million gallons per year. The acreage farmed remained approximately even. The biggest change has been in the reduced energy used in tillage. In 1975, only 10 percent of the farmers had abandoned moldboard plowing. In 1989, 35 percent had abandoned moldboard deep plowing. The new techniques use methods that reduce depth of plowing and, therefore, erosion. When erosion is reduced then the need for adding some chemical nutrients back into the soil is also reduced. Other studies are underway whose early results show less fertilizers, more crop rotation, and high management skills can be combined to further reduce dependence on chemicals. These developments bode well for farmers who are attempting to cultivate crops in an increasingly environmentally responsible manner.

It also shows that one of the key problem areas in ethanol production—

high chemical use in farming—is receiving vigorous attention. The time is rapidly approaching when biomass production will not only compete economically with fossil fuels but will have the added advantages of being environmentally responsible, secure, and renewable.

My primary interest has been in husbanding Iowa's resources in the alternative fuel market. I am mindful, however, of the exciting advances in other alternative fuel areas. I welcome these advances since, together, I believe these alternative fuels offer the potential to solve a host of economic, environmental, and security issues. I am particularly pleased to see the progress made in renewable fuels. It is not a wise policy for this country to continue to consume fossil fuels without a proper respect for the environment during production, delivery, and consumption.

Indeed, the question goes beyond environment and security to the basic question of how long can we continue to rely on an energy resource that is nonreplaceable? Already, the Alaskan North Slope oil has been depleted to the point where secondary and tertiary sources are needed to make the 800-mile trans-Alaskan pipeline system [TAPS] an economical operation. The economics for obtaining oil from the North Slope is now tied to the contentious ANWR [Arctic National Wildlife Refuge] development.

I commend those who are working to develop alternative fuels. These efforts will mean much to our environment and security. It is heartening to see breakthroughs beginning to emerge as a result of those efforts. It is also heartening to see economic studies evolving that will guide us in developing prudent energy policies.

Thank you, Mr. President. I yield the floor.

I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

SENATE ELECTION ETHICS ACT

MR. PACKWOOD. Mr. President, I rise in objection to the sense-of-the-Senate resolution before us, this tax increase, and that is what it is. We might as well call a spade a spade. The majority is making every attempt to publicly finance campaigns to take taxpayer money when we have not enough money for nutrition, Head Start, and the U.S. Forest Service. The majority Democratic Party is trying to

find a way to take tax money for our campaigns.

It takes an awful lot of gall, to me, to look someone in the eye and say we cannot fund nutrition or Head Start but we do have one new entitlement program for you, and it is us, we are going to take money from your pocket, even though you do not like it, and fund our campaigns so we do not have to work so hard having people voluntarily give us money for campaigns. But, in this sense-of-the-Senate resolution they attempted to disguise the fact that it is a tax increase. Let me read the relevant paragraph:

Legislation to clean up Senate election campaigns shall be funded by removing subsidies for political action committees with respect to their political contributions wherever that is I am not sure, or for other organizations with respect to their lobbying expenditures.

Let me read it carefully again.

Legislation to clean up Senate election campaigns shall be funded by removing subsidies * * * for other organizations with respect to their lobbying expenditures.

First, we are saying to any normal organization that would like to come back here and lobby us whether that is the Connecticut Legislative Association or the United Mine Workers or the retail druggists or the stationary storeowner, who only want to exercise their first amendment right—and let me read the first amendment, Mr. President.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of people peaceably to assemble, and to petition the Government for redress of grievances.

That means if you are from Portland, OR, somehow getting to Washington, DC—maybe you bicycle, maybe you take the train, maybe you fly, maybe you drive, it costs money to get here to petition us. That is a constitutional right. What the majority party wants to do is say fine, you go ahead and exercise your constitutional right, but we are not going to allow you to deduct any expenses to do so. And they are attempting to say this is not a tax increase, so let me put it in a more common vernacular, clearly understandable.

Let us say you make \$10,000 a year. One of the deductions you are allowed to take is your mortgage interest deduction. Let us say your mortgage interest deduction is \$1,000. So you deduct that from your \$10,000 income; you now have \$9,000 left. Let us assume you have no other deductions and assume the tax rate is 10 percent. So you pay 10 percent of \$9,000; you pay \$900.

Now let us say Congress were to pass a law that says you can no longer deduct your mortgage interest deduction. You make \$10,000; you cannot deduct your mortgage interest anymore. You pay a 10-percent tax on \$10,000, \$1,000.

You have a \$100 tax increase. Rates have not gone up, but you have lost your deduction. That is exactly what this resolution is aiming at.

For every legitimate organization in America, no matter what it is, that wants to come here and exercise their first amendment right to petition us for a redress of grievances, they will lose the right to deduct those expenses or, to put it another way, because they now can no longer make the deduction, they will pay more taxes. If that is not a tax increase, I do not know what a tax increase is.

I understand what the Democrats are trying to do. They want the taxpayer to fund our campaigns, but they want to say it in such a way that it does not seem like the taxpayers are funding our campaigns.

Then there is one last little hook in here that will hit at all charitable organizations; Boy Scouts, Girl Scouts, the Red Cross. I will read it once more.

Legislation to clean up Senate election campaigns shall be funded by removing subsidies, for organizations * * * with respect to their lobbying expenses.

Every charitable organization has a postal subsidy. And we are going to say that we are going to remove their subsidy, if they are in any way using it to exercise their constitutional right to contact us. Those organizations are technically tax exempt, but if they lose their postal subsidy, that means that they are going to have to in one way or another find a tremendous other source of revenue.

So I am prepared, Mr. President, to vote on this so long as we understand what it is. It is a tax increase in the guise of eliminating deductions rather than raising rates, in order to produce enough money to fund partially our campaigns for the Congress.

And with that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Mr. President, I will not prolong the debate because many of our colleagues are due to go to other locations and other meetings. I will not engage in extended debate at this time. We have had quite a discussion of this amendment.

As the author of the amendment, I must say that I did not recognize it from the description just offered by the Senator from Oregon. In the first place, this is a sense-of-the-Senate resolution. It does not enact into law any change in the tax code; it talks about the fact—I want to read the operative portion. It says that if there are any costs associated with the bill which we finally end up passing—and there are costs in the bill in terms of additional compliance costs—that instead of imposing those burdens on the general taxpayers of the United States we look for other alternatives.

As I have said, one of the alternatives we should consider is a voluntary checkoff over and above other tax liability. He said here we should simply look at the tax deductible, which is in a sense a subsidy of certain forms of lobbying, if the average American citizens come here and just have a commitment to a cause, not something related to their own business or financial self interest, but to something they think is for the good of the country, those taxpayers cannot have a tax deduction for coming here and lobbying the Congress of the United States. That average citizen who comes here, or flies up here, or goes to a town meeting, or drives across the State to see his congressman or Senator, because he might happen to be for something that might benefit education or law enforcement or some other public purpose not associated with his own self interest as a business, that form of lobbying activity by citizens themselves is not tax deductible.

So we do not subsidize every form of citizen contact. The citizen who just wants to participate in government as a citizen, unrelated to his business activities, is not given a tax deduction. He cannot deduct the cost of his airline fare.

Here what we are talking about is simply looking at the possibility of making some modifications in what is now a multimillion-dollar tax subsidy by the taxpayers to large lobbying organizations.

I think it is only prudent that we should say that, before we impose additional tax burdens of a penny on the taxpayers of this country, we look at other possible alternatives. Never do we suggest, never in conversations have I said it is my intent, or we would suggest to the tax writing committees, the Ways and Means Committee, or the Finance Committee, that we take away subsidies for mail for charitable organizations, for example.

This does not enact a change. It simply says, look for alternatives. Here are the operative words. We are saying rather than finding a way of financing whatever this bill might cost at the end, whether it is our proposal or the Dole proposal, because there is some cost associated with both, that we look at a way to do it without adding to the deficit, without cutting any vital or existing programs that are necessary for the country and without imposing a general tax burden on the American people.

So if you vote against this amendment, I want to remind my colleagues you are voting against the operative language. You are voting against a sense of the Senate that the legislation not increase the deficit. You are voting against a sense of the Senate that we not reduce expenditures for vital Federal programs. You are voting against a sense of the Senate that there not be

a general tax increase to pay for it. If you want to be on record, instead finding alternatives to pay for it by adding to the deficit or raising general taxes on the American people or cutting some other program that is needed in the country, that is fine. This Senator does not want to do it that way.

I think we should explore other alternatives. In other words, should we continue to subsidize lobbying expenditures? We ought to take a look at that. It does not mean that we do away with all business deductions. Absolutely not. It does not say that in here. It talks about the alternatives that we should consider before we impose any cost burden on the taxpayer. That is all in the world this says.

I urge my colleagues to read it, to understand it, to listen to the explanation that I offered of it in the beginning. But do not, I urge my colleagues, do not vote against the sense of the Senate that we explore other alternatives for whatever costs might be associated with this resolution, other alternatives to general Federal tax increases, or to increases in the deficit, or to do away with programs that are necessary and vital to the country.

As I said, I do not want to prolong the debate. I am prepared to vote. I yield the floor.

Mr. MITCHELL. Mr. President, I wonder if I might direct an inquiry to the distinguished Senator from Oregon, the ranking Republican member of the Finance Committee, the former chairman of that committee, and I think one of our body's most knowledgeable Members on tax matters. I understood the Senator to state just moments ago that the sense of the Senate calls for a tax increase. Am I correct in that respect?

Mr. PACKWOOD. That is the way I read subsection (1) on page 2.

Mr. MITCHELL. Do I understand the Senator's assertions that this calls for a tax increase because it may call for the elimination of a tax deduction for those persons or institutions who may be subject to the provisions of the language?

Mr. PACKWOOD. That is correct. A tax increase for some or the loss of subsidies for others if they happen to be tax exempt.

Mr. MITCHELL. So as I understand the assertions of the distinguished Republican Senator, it is that legislation which includes a provision that may cause the loss of deductions to some taxpayers who fall into the category of the legislation is legislation that calls for a tax increase.

I would simply note for the information of the Senate that under that standard—the standard of the distinguished Senator from Oregon, the ranking Republican member of the Finance Committee, former chairman of the Finance Committee—both of the Republican bills on campaign finance

reform now before the Senate call for tax increases, because they would revoke the tax exemption of certain persons who fall within the category defined in the legislation and therefore would increase taxes on those persons or institutions or organizations.

So I think it is interesting that if that is to be the standard, then we now have two Republican bills pending before the Senate which call for tax increases based upon the standards set forth for us by the former Republican chairman of the Finance Committee in assessing the amendment offered by the Senator from Oklahoma. I hope Senators will consider that as they consider these various measures.

I yield the floor.

Mr. PACKWOOD. Mr. President, there is one little point the majority leader leaves out. The provisions in the bill submitted by the Republicans do not call for tax increases to finance our campaign. I would be perfectly willing to say that there are increases in revenues, but not to pay for us.

But I will just read this then we can close and vote. I am fascinated—and you have to think backward to understand this. Here are the things that are not to be done. Now there is going to be money to be spent on campaign in the Democrats' bill, there is going to be public money to be spent. But the public money, first, shall not be paid for with any general revenue increase on the American taxpayer. That is out. Second, it will not be paid for by reduced expenditures for any Federal program. That is out. Third, it shall will not result in any increase in the Federal budget deficit. That is out.

Now let us not fool ourselves. If we are going to spend money on ourselves in this bill, and we are not going to do it by increasing the general taxpayers or cutting any programs or increasing the deficit, how on our Earth do you think we are going to do it? This sense-of-the-Senate resolution is self-defeating on its face, and I am delighted to vote against it.

Mr. MITCHELL. Mr. President, I accept the distinction stated by the distinguished Republican Senator from Oregon. What is now said is that yes, the Republican bills do call for a tax increase but they do not provide that the revenues from that tax increase will be used to finance political campaigns for Senators. I accept that distinction. He is correct in that respect.

I think, therefore, that Senators ought to consider that as they evaluate these bills. I thank the Senator for his clarification. I think it is accurate. The former Republican chairman of the Finance Committee has now stated that the Republican bills before us call for a tax increase.

Mr. President, I yield the floor.

Mr. DOLE. I think there is one other difference. I think in our bills we are trying to end abuse. We are trying to

get people to elect. If they want to be a 501(c) corporation, then they ought to be a corporation. If they want to be engaged in partisan political activities, then they should not have the exemption.

So we are trying to end the abuse. They can make an election. If they elect to be nonpartisan, stay out of politics, it does not affect them at all.

In this case you are going to lose a legitimate tax deduction. There is a rather great difference.

It seems to some of us that the first amendment should not be a tax increase in campaign finance reform. This is the first shot out of the box.

If we would add to the list here maybe one other source, taking it out of Senate funds, other Senate funds. Maybe we can finance it out of other Senate funds, staff allowance or other allowances, then we will not have to raise anybody's taxes. We could pay for it ourselves. Take it out of our allowance or take it from somewhere. Or if we could make it not be paid for by any revenue increase, strike out the word "general," that I think would make it more attractive on this side.

I do not want to delay the debate. I know there are commitments on the other side. But I want the record to reflect that it ought to be amended to say, "No. 5, to pay for any costs out of other Senate allocations." A lot of taxpayers think we have a lot of allocations that could be reduced. That would be a potentially good source. Then amend No. 2 by taking out "general" and say "any revenue increase." And it is a revenue increase for a lot of people in legitimate businesses to take away their deduction. On the other hand, the tax exemption loss in the Republican proposals is only if you engage in partisan political activity and you are a 501(c) corporation.

Mr. SANFORD. Mr. President, I rise today to speak in support of S. 3, the Senate Elections Ethics Act of 1991.

I have addressed the need for comprehensive campaign finance reforms on a number of occasions: Last August when this bill was being considered by the Senate, and in March when I testified before the Senate Rules Committee on this bill and on my resolution addressing spending limits.

It may come as something of a surprise for some of my colleagues to learn that campaign spending, one of the most important aspects of this debate, was considered by this Chamber in 1922. The Senate, while finding that Senator Truman Newberry was duly elected, was presented with resolution condemning Mr. Newberry for excessive campaign expenditures. The resolution, which passed the Senate at that time, is applicable to today's debate and is a sound reflection of the current sentiment regarding campaigns. The resolution stated:

The expenditure of such excessive sums (\$195,000) in behalf of a candidate, either with or without his knowledge and consent, being contrary to the sound public policy, harmful to the honor and dignity of the Senate and dangerous to the perpetuity of a government, such excessive expenditures are hereby condemned and disapproved.

I encourage my colleagues to keep the language used in this resolution in mind throughout the debate on campaign finance this week.

After Senate passage, Mr. Newberry resigned his seat. The Senate made it clear that excessive campaign spending was inappropriate and debilitating. We have the opportunity to send the same message today by voting in favor of S. 3.

It is clear to me, from traveling in my State and talking with North Carolinians, that the public expects the Congress to act to limit campaign spending—to find solutions to the perception that campaign contributions buy access. While the public has clearly voiced its support for meaningful campaign reform, we, the Members of the Senate of the United States, are in the unfortunate position of playing catch up in yet another area of public policy.

The Senate debated this same measure just 8 months ago, and I believe we will continue to debate campaign finance until significant reform is enacted. This issue will not go away. The public wants and deserves swift passage of this important legislation. My hope is that this debate will stay on track, in spite of the fact that there are a number of philosophical differences between the two sides of this body. Regardless of our differences, we must come together and give the people what they demand, and deserve.

Mr. President, I came to the floor last August and offered my view of this issue. My views have not changed. One of the worst aspects of being a U.S. Senator is the constant scramble to raise money. It is a task that none of us enjoy or want to do. The status quo, however, requires us to do just that.

A Senator on average spends over \$4 million in a campaign for a Senate seat. In a larger State such as North Carolina, campaign spending is much higher. The last Senate campaign resulted in a national record for expenditures by the winner; \$25 million were spent in the Senate race in my State last year.

In 1986, when I was elected to this Chamber, each candidate spent about \$6 million each. This means that at a minimum, a Senator has to raise \$1 million each year he serves in this body to maintain a viable campaign presence.

Simply put, this is indefensible. We need to resurrect the spirit of the Newberry resolution mentioned earlier and reassert that this excessive amount of money expended in support of a candidate for the U.S. Senate is

contrary to good public policy, and harmful to the honor and dignity of this institution. We should bring an end to a system that puts such a high premium on raising money. We must enact significant reform so we can cease being professional fundraisers, and begin to concentrate on the job we were elected to do: representing our constituents in the U.S. Senate.

A system that requires ever increasing campaign spending by Senators gives the appearance to the public that we are dependent on private funds, special interests, and rich friends to finance our campaigns.

The reason we need to set a ceiling on what can be spent in a campaign is not because anybody serving in this Chamber is corrupted, but because it gives the impression that undue influence is being exercised on the U.S. Senate.

The time has come, Mr. President, for us to reaffirm that we are an honorable people. We want to avoid even the impression that we are anything less. We do not want to give an impression that we can be unduly influenced by a contribution.

The truth is that the Members of the U.S. Senate are honorable people. They do not sell their votes. They do not sell their influence. That is the reality. Unfortunately, the debate today is driven by perceptions, not reality.

So I hope we can examine the process by which we are elected to this storied institution. I expect us to limit what can be spent in a campaign. I hope we can put an end to this demeaning task of scrambling around in a constant search for additional contributions.

We must examine a campaign process that is so exorbitantly expensive that many qualified challengers simply decline to seek the office.

The legislation under consideration can accomplish these things. It can help to restore a sense of public confidence in the political process.

If, however, we cannot come together in support of S. 3, if we cannot catch up to the American people and support significant campaign reform, I will aggressively push for a new direction for campaign finance. I have introduced Senate Resolution 70 which recognizes that the Senate should make and enforce its own rules, and establish its own campaign code of conduct for the dignified election of its Members. My resolution does not offer public financing in exchange for compliance of spending limits. Instead, it offers sanctions, in some cases mandatory, ranging from loss of seniority advantages to censure and even expulsion for failure to abide by the rules.

I hope that my resolution will not be necessary. I hope that we can enact significant reform through passage of S. 3.

I congratulate the Senator from Oklahoma and the majority leader for

their perseverance in bringing this legislation to the floor early in this Congress.

Thank you, and I yield the floor.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Delaware [Mr. BIDEN] and the Senator from Colorado [Mr. WIRTH], are necessarily absent.

I also announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. DURENBERGER] and the Senator from Kansas [Mrs. KASSEBAUM], are necessarily absent.

I further announce that the Senator from Missouri [Mr. DANFORTH], is absent due to a death in the family.

The result was announced—yeas 50, nays 44, as follows:

[Rollcall Vote No. 63 Leg.]

YEAS—50

Adams	Exon	Metzenbaum
Akaka	Ford	Mikulski
Baucus	Fowler	Mitchell
Bentsen	Glenn	Moynihan
Bingaman	Gore	Nunn
Boren	Graham	Pell
Bradley	Harkin	Reid
Breaux	Hollings	Riegle
Bryan	Inouye	Robb
Bumpers	Kennedy	Rockefeller
Burdick	Kerry	Sanford
Byrd	Kerry	Sarbanes
Conrad	Kohl	Sasser
Daschle	Lautenberg	Simon
DeConcini	Leahy	Wellstone
Dixon	Levin	Wofford
Dodd	Lieberman	

NAYS—44

Bond	Grassley	Packwood
Brown	Hatch	Pressler
Burns	Hatfield	Roth
Chafee	Heflin	Rudman
Coats	Helms	Seymour
Cochran	Jeffords	Shelby
Cohen	Johnston	Simpson
Craig	Kasten	Smith
Cranston	Lott	Specter
D'Amato	Lugar	Stevens
Dole	Mack	Symms
Domenici	McCain	Thurmond
Garn	McConnell	Wallop
Gorton	Murkowski	Warner
Gramm	Nickles	

NOT VOTING—6

Biden	Durenberger	Pryor
Danforth	Kassebaum	Wirth

So, the amendment (No. 244) was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the amendment was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. FORD. Mr. President, on behalf of the majority leader I wish to an-

nounce that there will be no more votes this evening, but we will be in session tomorrow and there will be votes tomorrow. So I want to put my colleagues on notice on behalf of the majority leader.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that the Senate go into morning business and that Senators be allowed to speak therein.

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

HARDLINERS VETO DEMOCRACY IN YUGOSLAVIA

Mr. DOLE. Mr. President, in Yugoslavia, for over a year now, we have witnessed a struggle between communism and democracy. During this time, I have cautioned that while democracy has taken root in Eastern European countries like Poland, Czechoslovakia, and Hungary, in Yugoslavia a victory for democracy was much less certain. I have said, time and time again that in Yugoslavia, democracy has not spread far enough—that two Republic Governments, the central government and the Yugoslav Army are still controlled by the tight fist of communism. And, today I am here to say that democracy has suffered a major setback in Yugoslavia.

Yesterday, the scheduled transition of the Presidency in Yugoslavia did not take place—the head of the Yugoslav Presidency was supposed to rotate from the hardline Serbian representative to the democratic Croatian representative. Although all previous rotations of the Presidency have occurred with unanimous pro forma votes—this critical vote for democracy—was blocked by the hardliner from Serbia, Borisav Jovic, and his puppets from Kosova and Vojvodina—who are appointed by the Serbian Government.

Mr. President, what happened is that the hardliners refused to give up power and vetoed democracy. As a result, today, Yugoslavia is without a president, without a commander in chief of the staunchly pro-Communist Yugoslav Army.

When I was in Belgrade last summer and met with then President Jovic to voice my concerns about democracy and human rights, he claimed that he supported democratic reform. Well

Jovic failed the test yesterday and showed his true communist colors to the world. Yesterday was a day of reckoning for Yugoslavia—tragically the forces of freedom were not victorious.

But, Mr. President, I am hopeful that the democratic forces in Yugoslavia will ultimately be victorious in spite of the great obstacles they face. The Communists must know that the United States will not support a Yugoslavia in which the army and hardliners rule.

Mr. President, the administration has bent over backward to give the central government time to live up to its promises of reform. They made the judgment that the highest priority of our policy was to avoid doing anything which might be seen as undermining the unity of Yugoslavia. While I have criticized aspects of this policy particularly our failure, at times, to take clear steps to show our support for the democratic republics, I do understand the rationale for the administration's position. However, now is the time to get off the sidelines and unequivocally support the democratic forces in Yugoslavia.

Last month the Senate passed unanimously a resolution I sponsored, Senate Resolution 106, which called on the hardliners and the army to refrain from the use of coercion or force against the democratic republics. It also urged the President to immediately suspend all economic and technical benefits to Yugoslavia in the event of a military crackdown. Senate Resolution 106 reflected the consensus in the Senate that United States policy toward Yugoslavia should be based on support for democracy and human rights.

So, if yesterday's vote was designed as a prelude to martial law, the Communists know where we stand—on the side of the democratic republics—and they ought to know that if they move to crush democracy, there will be grave repercussions.

TRIBUTE TO THE BELMONTE FAMILY, WORCESTER, MA

Mr. KERRY. Mr. President, I rise today to extend a congratulatory hand to a very dedicated, patriotic, and truly American family, the Belmonte family of Worcester, MA. The six brothers of this proud family are the sons of Italian immigrants who bestowed a high sense of honor and dedication upon their faithful sons. This strong perception of character would not only benefit the city of Worcester and the Commonwealth of Massachusetts, but it would also, in fact, have a profound influence on the remarkable tradition of our country.

Alexander, Bruce, John, Nicholas, Emanuel, and Albert Belmonte, together as a family, have a military service record which spans three wars—World War II, Korea, and Vietnam—the

only family in the entire State who can make that claim. These three conflicts involved many men and women over the three-plus decades in which they occurred, but the Belmontes had to endure all three together—each one pulling for the others, while caught up in the middle of his own separate struggle.

Col. Alexander Belmonte was a career Army officer and a West Point graduate, who was a battalion commander in Korea with the United States 2d Infantry Division, as well as an executive officer of the United States 2d Field Force in Vietnam.

Pfc. Armand "Bruce" Belmonte is an Army veteran of World War II. He served with the 7th Army artillery in France, Belgium, and Germany.

Chief Gunner's Mate Oresto "John" Belmonte is a Navy veteran of World War II, who served on amphibious assault ships in the Mediterranean theater of operations. He also took part in the invasion of Europe on D-day, June 6, 1944.

Pfc. Nicholas Belmonte is also a veteran of World War II. As a member of the United States Marine Corps, he served as a light weapons infantryman with the 6th Division at Tsingtao, China.

Fireman 1c Emanuel Belmonte is a Navy veteran of the Korean war. He served aboard the U.S.S. *Macomb*, a destroyer-class minesweeper.

Cpl. Albert J. Belmonte is an Army veteran of the Korean war. A squad leader, he served with the 24th Infantry Division at Heartbreak Ridge and Old Baldy Ridge. He is a disabled veteran.

All too often, many Americans overlook the sacrifices that our military veterans have made for the preservation of our freedom, including the most vital sacrifice anyone could offer—their very lives. Freedom is something that most of America takes for granted. However, you can be well assured, Mr. President, that the Belmonte brothers do not take their freedom with a grain of salt, nor does anyone who knows and appreciates the heroism of this distinguished family.

I am certain that my colleagues join me with great gratitude and admiration as I salute the sextet of brave brothers from the patriotic Belmonte family of Worcester, MA. Their heed to the Nation's call to duty in its times of need is a legacy that will endure forever.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,252d day that Terry Anderson has been held captive in Lebanon.

THE DEEPENING CRISIS IN
YUGOSLAVIA

Mr. PELL. Mr. President, yesterday the crisis in Yugoslavia deepened as a result of a totally irresponsible action of Serbia, one of the six constituent Republics of Yugoslavia. Under normal rotation procedures, Stipe Mesic, the Croatian representative on the country's eight member collective Presidency, was scheduled to assume the Presidency for the next year. However, the outgoing President, Borisav Jovic, who represents Serbia, used the four votes that Serbia controls to block Mesic's installation as the new President.

All indications are that hardline Communist, Slobodan Milosovic, the leader of Serbia, was behind this dangerous power play—a transparent move to violate longstanding constitutional procedures in an effort to assert Serbian dominance in Yugoslavia's political system. Apparently believing that his ambitions would be thwarted if Mesic became President, Milosovic opted to resort to the ruthless strong-arm tactics that he has employed time and again to impose his self-serving, nationalist agenda which is a threat to the continued unity of Yugoslavia. Mesic has accused Serbia of staging "a soft coup d'etat" and has warned that "at this moment, there is no Yugoslavia."

As a result of yesterday's actions, Yugoslavia has been thrown into a constitutional crisis at a time when age-old ethnic antagonisms and divergent political and economic outlooks had already brought the country to the brink of civil war.

In the last few months, the Presidency has grappled with the issue of Yugoslavia's political future, and through 11th-hour negotiations, it has thus far succeeded in averting full-scale conflict and bloodshed. Just weeks ago, the Presidency prevented the Yugoslav Army, which it commands, from unilaterally assuming responsibility for quelling ethnic violence between Serbs and Croats. Now, because of Serbian obstructionism, the chances for a nonviolent solution to Yugoslavia's problems have diminished, and the threat of civil war has increased significantly.

Mr. President, the members of the Presidency are scheduled to meet again today, and there are some predictions that another vote on Mr. Mesic will be taken. Mr. Milosovic must understand that continuing his actions will likely bring down the Federal systems, undoubtedly provoking violence and bloodshed. The balance is delicate, and if war is to be prevented, Croatia must be allowed to assume the Presidency as called for in the Constitution.

RENEWAL OF CHINA'S MOST-
FAVORED-NATION TRADING STA-
TUS

Mr. KENNEDY. Mr. President, I give my strong support to the bill introduced by Senator MITCHELL that would condition President Bush's renewal of most-favored-nation trading status to the People's Republic of China.

Since the Chinese Government's brutal crackdown in Tiananmen Square in June 1989, a peaceful democratic revolution has swept Eastern Europe, military regimes in Chile and Nicaragua have yielded power to civilian rule through free and fair democratic elections, and the South African Government has entered into negotiations with its opposition to strengthen the country's democratic institutions and end apartheid.

Yet even as the rest of the world moves toward greater democratic freedoms, China's leadership continues to pursue a path of violent despotism, blatant disregard for human rights, and ruthless repression.

Recently, nearly 2 years after the bloody Tiananmen Square massacre, the Premier of China, Li Peng, commented upon that great tragedy. Rather than expressing concern over the loss of life or committing his regime to peaceful rule, Premier Peng asserted that the military crackdown had been an appropriate response to the peaceful student protest and that the Government would be justified in responding similarly to such demonstrations in the future.

To renew China's MFN status in the face of this barbaric policy would signify our country's acquiescence in the murder of the courageous students at Tiananmen Square and make our Government a silent accomplice to future killings.

Yesterday, however, President Bush announced his intention to continue trade benefits to that regime.

President Bush claims he must renew MFN to reward China for its role in the United Nations in the Persian Gulf resolution and to ensure that China supports our effort to obtain a United Nations security force to protect the Kurds. But how can we support freedom in Iraq while ignoring it in China?

Only a month after the Tiananmen crackdown, President Bush began lifting the sanctions imposed against China. He sent National Security Adviser Brent Scowcroft on a secret mission to toast senior Chinese Government officials, vetoed legislation that would have extended the visas of Chinese students in the United States, and waived sanctions suspending the export of satellites, the sale of aircraft, and the delay of international loans to China.

In response to these gestures, the Chinese Government detained up to 30,000 dissidents, executed an undisclosed number of these courageous in-

dividuals, sentenced more than 800 to prison, and brought charges against those who supported the democracy movement—including the world-renowned astrophysicist Fang Lizhi, who was forced to take refuge in the United States Embassy.

President Bush subsequently sent Brent Scowcroft on a second secret visit to Beijing, waived prohibitions on the export of licenses for satellites and United States support for Export-Import Bank loans for China, vetoed congressional sanctions regarding OPIC, trade assistance, and nuclear cooperation, and vetoed a bill to provide visas to Chinese students in the United States.

In response, the Chinese Government continued its crackdown on pro-democracy advocates, purged moderate elements from the Government, harassed students and business entities abroad which were supportive of the democratic movement, and tightened restrictions on foreign press and reporters.

Now the President wants to renew China's MFN status. In light of Beijing's prior responses to his overtures, a renewal of MFN is likely to lead only to further repression.

Time and again, President Bush has extended a carrot to the Chinese leadership. Time and again the Chinese Government has rejected the path of reform and rejected President Bush's pleas for moderation. It is time for the United States to take a more active role in opposing China's violation of basic human rights and in supporting greater freedom for the long-suffering Chinese people.

The first step, proposed today by Senator MITCHELL, is to condition the renewal of China's MFN trading status upon a determination by the President that the Government of China is honoring internationally recognized standards of human rights, ending unfair trade practices against the United States, and demonstrating good faith participation in international efforts to control the proliferation of weapons of mass destruction.

In order to renew China's MFN status, the President is required by law to certify to Congress by June 3 that China grants its citizens "the right or opportunity to emigrate."

President Bush will be hard pressed to make the case that China permits free emigration, when thousands of its citizens are detained in jail and the State Department itself reports that the Government restricts foreign travel. Since the Tiananmen Square massacre the Chinese Government has imposed new, even tighter, emigration restrictions, designed to ensure that only the most politically reliable individuals with a history of cooperation with the party are permitted to travel abroad.

One of these new measures requires citizens seeking to leave the country to obtain an exit visa. This step clearly targets the Chinese democracy movement. Applications for exit permission are submitted to the security bureau of the national police—the Chinese equivalent of the Soviet KGB. This bureau maintains the black list of prodemocracy demonstrators which has put so many dissidents in political prisons during the past 2 years.

In deciding whether to renew MFN, the President should also consider the larger question of human rights. American trade policies must not support the repressive policies of the Chinese Government.

During the past year, thousands of democratic activists detained in connection with the Tiananmen Square crackdown have been sentenced to prison or sent off to labor in reeducation camps. Harsh sentences—often exceeding 10 years—have been meted out to prodemocracy leaders. Last month, Zhang Yafei and Chen Yanbin, students who supported the democracy movement, were sentenced to 11 and 15 years, respectively, for forming a prodemocracy group and distributing a newspaper.

More than 50 prodemocracy demonstrators have been sentenced to death, and many of them have now been executed.

Although Government officials claim that the trials of democracy advocates have been basically completed, hundreds of dissidents, including Han Dongfang, a labor leader, Wu Jiaxiang, a poet and political theorist, and Li Minqi, a former student at Beijing University, are still detained without trial.

Those who have been sentenced are frequently sent off to forced-labor camps. There are 4,000 to 6,000 such camps in China and Tibet, and between 10 and 20 million people are detained in these camps.

Prisoners work up to 15 hours a day and are not allowed to speak to one another. They are beaten and tortured with cattle prods for disobedience. Liu Gang, a physics graduate student sentenced to prison for supporting the prodemocracy movement, was recently put in heavy leg irons and handcuffed with one arm bent backwards over his head and the other bent behind his back for a full week as punishment for having a bad attitude. The State Department confirmed more than 300 cases of torture in 1990 alone.

The Chinese Government also continues to violate the fundamental human rights of the people of Tibet and uses the army and police force to intimidate and repress Tibetans seeking independence and peaceful democratic change. Current Chinese policy is designed to subjugate the Tibetan people and destroy their national identity through systematic cultural genocide. The Bush

administration has refused to challenge this policy and appears willing to sacrifice the Tibetans to the expediency of convenient relations with Beijing.

If we have learned anything from our policy toward Iraq, it is the need to stand up to tyranny and repression wherever they occur. Support to China's Government will once again be interpreted as American complicity in the abhorrent practices of the Chinese leadership. Conditioning MFN status on China's recognition of basic human rights is a simple and effective way to demonstrate that America is willing to offer more than lip service to fundamental human rights.

The purpose of granting MFN trading status is also to promote free trade, a goal we all share. Yet, even while our trade benefits flow to China, China has shut its gates to our products. Since President Bush renewed MFN a year ago, China has raised import barriers 170 percent. At the same time, it has refused to protect United States patents and copyrights and resisted American access to Chinese markets.

China has continued to use prisoners as slave labor to lower the price of exports, and has hidden the origin of these products by transshipping them through Hong Kong. The human rights organization, Asia Watch, recently uncovered official Chinese documents that call for intensified labor-camp production targeted especially at United States, Japanese, and German markets.

China has blatantly used trade barriers and slave labor to open a large trade surplus with the United States. In 1980, China exported \$1.1 billion in goods to the United States, compared to United States exports to China of \$3.7 billion. In 1990, however, China exported \$15.2 billion in goods to the United States, compared to United States exports to China of only \$4.8 billion—giving China a trade surplus of \$10.4 billion with the United States.

This year, despite promises by Government officials that China would open its market to United States goods, that gap is likely to rise to at least \$15 billion, ranking China's trade advantage over the United States behind only Japan and Taiwan.

Even as the administration seeks to control the spread of nuclear weapons in the Middle East, the Chinese Government consistently undermines that goal. Despite promises to restrain the export of such weapons, it has expanded sales of nuclear and missile technology and equipment.

During the 1980's China sold millions of dollars worth of nuclear and missile technology to South Asia, South Africa, South America, and the Middle East. Recently, China was discovered to be secretly selling M-11 missiles to Pakistan, which can carry a nuclear warhead 185 miles. China has also en-

tered into an agreement to sell missiles to Syria. In addition, China is building a nuclear reactor in Algeria that could fuel nuclear weapons, and has reportedly entered into agreements to sell uranium and heavy water to Argentina, South Africa, and Brazil.

That these sales are still occurring—after a decade of United States efforts to stop them—shows how United States policy has failed, and underscores the importance of tying MFN status of China's willingness to make a genuine commitment to arms control.

With the cold war over, the United States no longer needs China to counter the Soviet Union. The main threat to world security, as the gulf war recently showed, now comes from Third World dictators who gain power by brandishing weapons of mass destruction.

To treat as a friend a country that brutally represses its own citizens and supplies other countries with weapons capable of mass destruction is to risk complicity in repression around the world. If America is to champion the forces of freedom, it must take a stand against such repression. We can do that by conditioning the renewal of China's MFN status.

I urge my colleagues to join me in supporting this timely and important legislation.

A TRIBUTE TO SHIRLEY L. BLACKBURN, CHIEF CAPITOL OPERATOR

Mr. WARNER. Mr. President, on behalf of the Senate, I rise to pay tribute to Shirley L. Blackburn, chief operator of the U.S. Capitol telephone exchange, who is retiring after 22 years of loyal and dedicated service.

Since Mrs. Blackburn began her career on the Hill as a Capitol operator in 1969, the telephone exchange has progressed from a cord-type switchboard to a highly sophisticated computerized operation. As supervisor and later as chief operator, Mrs. Blackburn kept pace with these changes and implemented them, bringing the U.S. Capitol switchboard to a level of competence and professionalism unsurpassed on Capitol Hill and throughout the country. The excellent reputation shared by the U.S. Capitol operators is due in part to Mrs. Blackburn's knowledge and pride in her work.

As chief operator, Mrs. Blackburn showed understanding, a sense of humor and a genuine concern for others which translated into an atmosphere of good will and cooperation. She has been an outstanding leader and friend and is admired by all who know her. She is highly respected and each of us is saddened at her departure.

Mr. President, we would like to thank Shirley Blackburn for her valuable contribution to the U.S. Capitol telephone exchange and extend our

warmest regards for a happy and healthy retirement.

HENRY MORGENTHAU, JR.

Mr. PELL. Mr. President, Saturday, May 11 of this past weekend marked the centennial of the birth of Henry Morgenthau, Jr., one of the most distinguished and accomplished of those who have served as Secretary of the Treasury of the United States. It is a fitting time for us to recall some of the contributions of Henry Morgenthau to our Nation and, indeed to the world.

It is a particular pleasure for me to offer this tribute since the Morgenthau family have been family friends for many years.

Henry Morgenthau, Jr., was Secretary of the Treasury under President Franklin D. Roosevelt for 12 years, the second longest tenure of any of our Nation's Treasury Secretaries. He was at the time only the second Jew to have served in a Cabinet-level position in our Nation's history.

He served as Secretary of the Treasury during President Roosevelt's epochal New Deal era, and played a leadership role in financing of the U.S. effort in World War II through unprecedented and highly successful war bond drives. After the end of World War II he played a major role in developing the policies and institutions that provided worldwide financial stability in the postwar decades, presiding over the Bretton Woods international monetary conference that resulted in the establishment of the World Bank and the International Monetary Fund.

After retiring from Government service, Henry Morgenthau devoted himself to raising funds for the newly created State of Israel, and in recognition of his efforts the Tal Shachar settlement in Israel was named in his honor. Secretary Morgenthau died in 1967.

I am happy to say that Henry Morgenthau, Jr.'s, oldest son, Henry Morgenthau III, is my old friend and a resident of Rhode Island. My colleagues I think will be interested to know that as a centennial tribute to the late Treasury Secretary he has written a book entitled "Mostly Morgenthaus: A Family History" scheduled for publication in August of this year. I might add that I have read, enjoyed it and commend it to my colleagues.

ORDER FOR STAR PRINT—S. 1043

Mr. FORD. Mr. President, I ask unanimous consent that S. 1043 be star printed to reflect changes I now send to the desk.

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

EXTENSION OF PUBLIC LAW 100-582

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed

to the immediate consideration of Calendar No. 86, S. 1083, a bill to extend the Medical Waste Tracking Demonstration Program.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1083) to extend Public Law 100-582.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. LAUTENBERG. Mr. President, I rise in support of S. 1083, an act to extend Public Law 100-582, which was reported by the Senate Environment Committee on May 15. I developed this bill to extend the Medical Waste Tracking Demonstration Program which the Congress established in 1988 for another 2 years until the Congress can address medical waste issues during its consideration of RCRA. The bill has the support of Senators CHAFEE, BRADLEY, MOYNIHAN, LIEBERMAN, D'AMATO, PELL, and DODD who represent the States participating in the program. I want to thank Senators CHAFEE, LIEBERMAN, and MOYNIHAN for their help in developing this bill and I appreciate the assistance I received from Senators BURDICK, CHAFEE, and BAUCUS for expediting the committee's consideration of this bill.

Public Law 100-582, the Medical Waste Tracking Act, which I authored in the Senate, took the first step toward addressing the problem of improper disposal of medical wastes which has affected our beaches and shorelines and which threatens the health of health care and waste management workers. It ensures that regulated medical wastes which are generated in one of the four demonstration States of New Jersey, New York, Connecticut, and Rhode Island, as well as Puerto Rico, and which may pose an environmental or aesthetic problem are delivered to treatment or disposal facilities with little or no exposure to waste management workers and the public. It also ensures that regulated medical waste will be packaged securely and labeled to reduce the chance of waste handlers and the public being exposed to these wastes and to deter improper management.

This bill was enacted to respond to a series of beach washups of medical waste. During the summer of 1987, the New Jersey shoreline was invaded by a sea of garbage, an invasion which included hypodermic needles, syringes, blood bags, gauze dressings, vials of blood, and other medical wastes. From August 13 through August 16, beaches along a 50-mile area were closed because of the garbage washup which included these medical wastes. These closings ruined summer vacations, caused an estimated \$1 billion damage

to the tourist industry, and cost thousands of dollars to clean up. More importantly, the washup undermined the confidence of those who go to the shore about the safety of the water and beaches.

The medical wastes may have been the work of illegal dumpers. These dumpers threaten the well-being of their fellow citizens to save a few dollars in disposal costs. Fortunately, incidents of such magnitude have not reappeared and medical waste found on New Jersey beaches have declined significantly.

But the illegal disposal of garbage and medical waste affects not only New Jersey. Medical waste has washed ashore along all of our coasts. Numerous beaches have been closed. Beach cleanup programs in 1989 sponsored by the Center for Marine Conservation, in most cases over just 1 day, collected almost 2,700 syringes in our Nation's coastal beaches, almost 0.1 percent of the wastes found on our shorelines. Syringes were found in all but two of the 25 coastal States. Florida, Louisiana, Mississippi, New York, Puerto Rico, Rhode Island, Texas, and Washington all had higher levels of plastic syringes than the national average. Other medically related items found on our shores include surgical gloves, tubing and transfusion bags, blood vials, and bandages. It is clear that more needs to be done to prevent this illegal disposal.

When medical wastes are disposed improperly, beaches are closed, vacations are ruined and our tourist economy is injured. Medical waste on the shore is repulsive.

Our concern is not limited to beach washups. There have been incidents of careless management of medical waste disposal in open dumpsters. And improper disposal poses serious occupational risks to waste handlers. While there is virtually no chance of being infected by the AIDS virus because of the virus' poor ability to exist outside the human body except for those persons in a health care setting, there is a danger of infection from these wastes including infection by hepatitis B. According to the Agency for Toxic Substance and Disease Registry's 1990 report, "The Public Health Implications of Medical Waste: A Report to Congress"—

Because hepatitis B virus remains viable for an extended time in the environment, the potential for hepatitis B infection following contact with medical waste is likely to be higher than that associated with HIV.

Even for the general public, needle stick injuries may cause local or systemic secondary infections, similar to injuries from nails.

Some States have moved in to fill this void. But wastes travel across State boundaries so State programs by themselves are inadequate. According to EPA, medical waste covered by the Medical Waste Tracking Act comprises approximately 0.3 percent by weight of

the municipal solid waste stream, roughly 500,000 tons a year. And as our existing solid waste capacity problem grows, the risk of illegal dumping increases. Without a system to track wastes on a regional basis, we make it easy for the illegal dumper to improperly dispose of his wastes. A tracking system will ease our ability to catch illegal dumpers and deter those who contemplate illegally disposing of medical waste.

The Medical Waste Tracking Act required EPA to set up a 2-year demonstration program for the tracking of medical waste generated in New Jersey, New York, and Connecticut. Rhode Island and Puerto Rico voluntarily joined the program. The program was limited to 2 years because we anticipated that the RCRA reauthorization, which would address medical waste disposal, would be considered in the following Congress. Unfortunately, we were unable to get to RCRA during the last Congress because of the time required for the Clean Air Act. The Tracking Act will expire this June 22, before we have an opportunity to enact amendments to RCRA, unless we act quickly to extend it.

S. 1083 simply extends the Tracking Act for another 2 years to continue the program until the Congress has a chance to address the problem of medical waste in the RCRA reauthorization. It requires EPA to prepare a report on the results of the program. And it requires EPA to determine whether the Agency needs to make any changes to the interim final rules EPA promulgated in 1989.

While EPA is still evaluating the effectiveness of the act, the Agency has in its second interim report identified a number of positive effects that the program has had. Among these effects have been the development of standards for tracking and managing medical waste which has led to the development of model practices within the regulated community, expanding the state of knowledge about medical waste generation, management and disposal, encouraging innovation in treatment technologies, reevaluation of home health care waste management, reduction of the severity of beach washups, and the contribution to program development in noncovered States.

Both EPA's second interim report and a recent OTA report, "Finding the Rx for Managing Medical Wastes," have identified a number of issues for congressional consideration regarding medical waste management. S. 1083 is not intended to preclude consideration of those issues. It merely keeps the existing program going while these issues are considered during the RCRA reauthorization process. I look forward to working closely with Senators BAUCUS and CHAFEE on medical waste provisions in RCRA.

Our oceans and beaches are precious resources. They provide aesthetic, recreational and economic opportunities for our citizens and habitat for wildlife resources. We must protect them, for this and for future generations.

I urge my colleagues to support S. 1083.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1083

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 "Act to Extend Public Law 100-582".

SEC. 2. AMENDMENT.

Subtitle J of the Solid Waste Disposal Act (42 U.S.C. 6992 et seq.) is amended as follows:

(1) in section 11001(d), delete "24 months" and insert in lieu thereof "48 months";

(2) in section 11008(a), delete "3 months after the expiration of the demonstration program," and insert in lieu thereof "September 22, 1991,";

(3) in section 11012, delete "1991" and insert in lieu thereof "1993"; and

(4) at the end of section 11002, add the following new subsection:

"(C) REGULATIONS.—The Administrator shall consider the comments received on the interim final rule published pursuant to subsection (a) and, after consultation with each of the States covered by such program, the Centers for Disease Control, and other interested parties, in a manner considered appropriate by the Administrator, shall within one hundred eighty days of enactment of this subsection, determine whether to modify the interim final rule, promulgate final regulations, or take no additional action."

(5) At the end of section 11003, add the following new subsection:

"(e) REGULATIONS.—The Administrator shall consider the comments received on the interim final rule published pursuant to subsection (a) and, after consultation with each of the States covered by such program, the Centers for Disease Control, and other interested parties, in a manner considered appropriate by the Administrator, shall within one hundred eighty days of enactment of this subsection, determine whether to modify the interim final rule, promulgate final regulations, or take no additional action."

Mr. FORD. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 2:59 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1578. An act to amend title 38, United States Code, with respect to employment and reemployment rights of veterans and other members of the uniformed services.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

S. 248. An act to amend the Wild and Scenic Rivers Act to designate certain segments of the Niobrara River in Nebraska and a segment of the Missouri River in Nebraska and South Dakota as components of the wild and scenic rivers system, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore [Mr. BYRD].

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 1578. An act to amend title 38, United States Code, with respect to employment and reemployment rights of veterans and other members of the uniformed services; to the Committee on Veterans' Affairs.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, May 16, 1991, he had presented to the President of the United States the following enrolled bill:

S. 248. An act to amend the Wild and Scenic Rivers Act to designate certain segments of the Niobrara River in Nebraska and a segment of the Missouri River in Nebraska and South Dakota as components of the wild and scenic rivers system, 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-1184. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the cumulative report on budget rescissions and deferrals dated May 1, 1991; pursuant to the order of January

30, 1975, as modified on April 11, 1986, referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Armed Services, the Committee on Banking, Housing, and Urban Affairs, the Committee on Commerce, Science, and Transportation, the Committee on Foreign Relations, and the Committee on Labor and Human Resources.

EC-1185. A communication from the Secretary of Agriculture, transmitting pursuant to law, a report on violations of the Anti-Deficiency Act; to the Committee on Appropriations.

EC-1186. A communication from the Chief of the Special Actions Branch, Congressional Inquiry Division, Department of the Army, transmitting, pursuant to law, a report on the decision at the Military Ocean Terminal, Sunney Point, North Carolina, to retain the Base Supply function as an in-house operation; to the Committee on Armed Services.

EC-1187. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to repeal sections 2464 and 2466 of title 10, United States Code, to remove restrictions on contracting out core logistics functions and certain depot maintenance workload competitions; to the Committee on Armed Services.

EC-1188. A communication from the Acting Under Secretary of Defense (Acquisition), transmitting, pursuant to law, notice that the Department of Defense intends to remove and dispose of United States World War II chemical projectiles found on the Solomon Islands; to the Committee on Armed Services.

EC-1189. A communication from the Secretary of Commerce, transmitting, pursuant to law, the annual report of the Export Administration for fiscal year 1990; to the Committee on Banking, Housing, and Urban Affairs.

EC-1190. A communication from the Executive Director of the Securities and Exchange Commission, transmitting, pursuant to law, the Commission's request for authorization of appropriations for fiscal years 1992 through 1994; to the Committee on Banking, Housing, and Urban Affairs.

EC-1191. A communication from the Acting Secretary of the Interstate Commerce Commission, transmitting, pursuant to law, notice of extension of the time period for issuing a decision in National Starch and Chemical Corp. versus The Atchison, Topeka, and Santa Fe Railway Co.; to the Committee on Commerce, Science, and Transportation.

EC-1192. A communication from the Secretary of Commerce, transmitting a draft of proposed legislation to amend the National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act to authorize appropriations for fiscal years 1992 and 1993; to the Committee on Commerce, Science, and Transportation.

EC-1193. A communication from the Secretary of Transportation, transmitting a draft proposed legislation to reauthorize the National Boating Safety Advisory Council; to the Committee on Commerce, Science, and Transportation.

EC-1194. A communication from the Secretary of the Interior, transmitting, pursuant to law, the 20th annual report on the operation of the Colorado River; to the Committee on Energy and Natural Resources.

EC-1195. A communication from the Secretary of the Interior, transmitting, pursuant to law, notice of the receipt of a project proposal under the Small Reclamation

Projects Act; to the Committee on Energy and Natural Resources.

EC-1196. A communication from the Secretary of the Interior, transmitting, pursuant to law, the annual report of the National Park Foundation for fiscal year 1990; to the Committee on Energy and Natural Resources.

EC-1197. A communication from the Administrator of the Environmental Protection Agency, transmitting a draft of proposed legislation to amend the Solid Waste Disposal Act to prohibit the export from and import into the United States of hazardous and additional waste except in compliance with the requirements of this bill; to the Committee on Environment and Public Works.

EC-1198. A communication from the Administrator of the Environmental Protection Agency, transmitting a draft of proposed legislation to amend and extend certain provisions of the Safe Drinking Water Act, as amended, for two years; to the Committee on Environment and Public Works.

EC-1199. A communication from the Administrator of the Environmental Protection Agency, transmitting a draft of proposed legislation to amend and extend Title I of the Marine Protection, Research, and Sanctuaries Act, as amended, for two years; to the Committee on Environment and Public Works.

EC-1200. A communication from the Administrator of the Environmental Protection Agency, transmitting a draft of proposed legislation to amend and extend the Toxic Substances Control Act, as amended, for two years; to the Committee on Environment and Public Works.

EC-1201. A communication from the Administrator of the Environmental Protection Agency, transmitting a draft of proposed legislation to amend and extend the Federal Water Pollution Act, as amended, for 2 years; to the Committee on Environment and Public Works.

EC-1202. A communication from the Administrator of the Environmental Protection Agency, transmitting a draft of proposed legislation to authorize appropriations for environmental research, development, and demonstration for fiscal years 1992 and 1993; to the Committee on Environment and Public Works.

EC-1203. A communication from the Administrator of the Environmental Protection Agency, transmitting a draft of proposed legislation to extend the Solid Waste Disposal Act; to the Committee on Environment and Public Works.

EC-1204. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the fifth annual report on the impact of the Medicare Hospital Prospective Payment System; to the Committee on Finance.

EC-1205. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the 1991 annual report of the Social Security Administration; to the Committee on Finance.

EC-1206. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to April 25, 1991; to the Committee on Foreign Relations.

EC-1207. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the

United States in the sixty day period prior to May 9, 1991; to the Committee on Foreign Relations.

EC-1208. A communication from the Governor of the United States Soldiers' and Airmen's Home, transmitting, pursuant to law, the fiscal year 1990 report on the Federal Managers' Financial Integrity Act; to the Committee on Government Affairs.

EC-1209. A communication from the United States Postal Rate Commission, transmitting, pursuant to law, a report on the postal rate and fee changes for 1990; to the Committee on Government Affairs.

EC-1210. A communication from the Executive Director of the Neighborhood Reinvestment Corporation, transmitting, pursuant to law, a report to Congress regarding compliance with the Sunshine Act; to the Committee on Government Affairs.

EC-1211. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the Feasibility of Sharing Medical Facilities and Services between the Indian Health Service (IHS) and the Department of Veterans Affairs (DVA); to the Select Committee on Indian Affairs.

EC-1212. A communication from the National Legislative Commission of the American Legion, transmitting, pursuant to law, statements describing the financial condition of the American Legion as of December 31, 1990; to the Committee on the Judiciary.

EC-1213. A communication from the Director of the Administrative Office of the United States Courts, transmitting, pursuant to law, a proposal to amend the Judicial Survivors' Annuities System; to the Committee on the Judiciary.

EC-1214. A communication from the Assistant Secretary of Legislative Affairs of the Department of State, transmitting, pursuant to law, the annual report for calendar year 1990, in accordance with the Freedom of Information Act; to the Committee on the Judiciary.

EC-1215. A communication from the Executive Director of the Neighborhood Reinvestment Corporation, transmitting, pursuant to law, the annual report for calendar year 1990, in accordance with the Freedom of Information Act; to the Committee on the Judiciary.

EC-1216. A communication from the Director of Legislative Affairs and the Assistant Secretary of the Non-Commissioned Officers Association of the United States, transmitting, pursuant to law, the financial report for 1990; to the Committee on the Judiciary.

EC-1217. A communication from the Assistant Attorney General, transmitting, pursuant to law, the Annual Report of the Office of Justice Programs, fiscal year 1990, in accordance with the Omnibus Crime Control and Safe Streets Act of 1968; to the Committee on the Judiciary.

EC-1218. A communication from the Secretary of Education, transmitting, pursuant to law, a notice of final selection criteria for the National Science Scholars Program; to the Committee on Labor and Human Resources.

EC-1219. A communication from the Chairman of the Advisory Committee on Student Financial Assistance, transmitting, pursuant to law, a draft of proposed legislative language that implements recommendations contained in the report of the Advisory Committee on Student Financial Assistance, Priorities for the 1990s; to the Committee on Labor and Human Resources.

EC-1220. A communication from the Chairman of the United States Commission on Libraries and Information Science, transmit-

ting, pursuant to law, a draft of proposed legislation to amend the National Commission on Libraries and Information Science Act; to the Committee on Labor and Human Resources.

EC-1221. A communication from the Secretary of Education, transmitting, pursuant to law, the thirteenth annual report to Congress on the Implementation of the Individuals with Disabilities Education Act; to the Committee on Labor and Human Resources.

EC-1222. A communication from the Administrator of the Small Business Administration, transmitting, pursuant to law, a draft of proposed legislation, a section-by-section analysis, and a statement of need and purpose which would implement the President's fiscal year 1992 budget with respect to the programs of the Small Business Administration; to the Committee on Small Business.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

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

S. 272: A bill to provide for a coordinated Federal research program to ensure continued United States leadership in high-performance computing (Rept. No. 102-57).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

S. 929: A bill to authorize the Secretary of the Interior and the Secretary of Agriculture to undertake interpretive and other programs on public lands and lands withdrawn from the public domain under their jurisdiction, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. MITCHELL (for himself, Mr. MOYNIHAN, Mr. CRANSTON, Mr. WALLOP, Mr. KENNEDY, Mr. FORD, Mr. INOUE, Mr. DECONCINI, Mr. KERRY, Mr. BIDEN, Mr. DODD, Mr. PELL, Mr. BRYAN, Mr. WIRTH, Mr. LEAHY, Mr. AKAKA, Mr. D'AMATO, Mr. LEVIN, Mr. SARBANES, Mr. METZENBAUM, Mr. HOLLINGS, Mr. WOFFORD, Mr. DIXON, Mr. GLENN, Mr. WELLSTONE, Mr. SASSER, and Ms. MIKULSKI):

S. 1084. A bill to deny the People's Republic of China nondiscriminatory (most-favored-nation) trade treatment; to the Committee on Finance.

By Mr. SMITH:

S. 1085. A bill to suspend the mandatory withholding of State income taxes from pay of certain Federal employees whose regular place of employment is within an area affected by a boundary dispute; to the Committee on Governmental Affairs.

By Mr. HOLLINGS:

S. 1086. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to impose sanctions on any State that does not have, or is in violation of, a capacity assurance plan under that Act, and to amend the Solid Waste Disposal Act to give certain States authority to deny permits for hazardous waste facilities which

provide unneeded capacity and to impose restrictions on the interstate transportation of waste; to the Committee on Environment and Public Works.

By Mr. HARKIN (for himself and Mr. GRASSLEY):

S. 1087. A bill to require the Secretary of the Treasury to mint coins in commemoration of the 100th anniversary of the Pledge of Allegiance to the Flag; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. KENNEDY (for himself, Mr. BINGAMAN, Mr. BRADLEY, Mr. BURDICK, Mr. COHEN, Mr. CRANSTON, Mr. DURENBERGER, Mr. DASCHLE, Mr. GLENN, Mr. HATFIELD, Mr. KERREY, Mr. KERRY, Mr. LAUTENBERG, Mr. LEAHY, Mr. METZENBAUM, Mr. MOYNIHAN, Mr. PELL, Mr. SIMON, Mr. WIRTH, and Mr. WELLSTONE):

S. 1088. A bill to amend the Public Health Service Act to establish a center for tobacco products, to inform the public concerning the hazards of tobacco use, to provide for disclosure of additives to such products, and to require that information be provided concerning such products to the public, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. ROBB (for himself and Mr. WARNER):

S. 1089. A bill to require an environmental impact statement regarding the federally owned I-95 Sanitary Landfill at Lorton, Virginia, prior to the expansion of such landfill, and for other purposes; to the Committee on Environment and Public Works.

By Mr. KASTEN:

S. 1090. A bill to amend the Agricultural Act of 1949 to clarify that a refund in the price received for milk shall not be considered as any type of price support or payment for purposes of certain highly erodible land and wetland conservation requirements, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. ADAMS:

S. 1091. A bill to require that certain information relating to nursing home, nurse aides and home health care aides be collected by the National Center for Health Statistics and the Bureau of Labor Statistics, and for other purposes; to the Committee on Labor and Human Resources.

By Mrs. KASSEBAUM:

S. 1092. A bill to permit national banking associations to establish and operate branches in States other than the States in which their main offices are located, subject to applicable State statutory law; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BIDEN (for himself, Mr. HATCH, Mr. PELL, Mr. HELMS, Mr. SARBANES, Mr. CRANSTON, and Mr. DODD):

S. 1093. A bill to establish a commission to study the feasibility, effect, and implications for United States foreign policy, of instituting a radio broadcasting service to the People's Republic of China to promote the dissemination of information and ideas to that nation, with particular emphasis on developments in China itself; to the Committee on Foreign Relations.

By Mr. DOMENICI (for himself and Mr. NUNN):

S. 1094. A bill to amend title 5, United States Code, to provide that service performed by air traffic second-level supervisors and managers be made creditable for retirement purposes; to the Committee on Governmental Affairs.

By Mr. CRANSTON (for himself, Mr. SPECTER, Mr. DECONCINI, Mr. GRAMHAM, Mr. AKAKA, and Mr. DASCHLE):

S. 1095. A bill to amend title 38, United States Code, to improve reemployment rights and benefits of veterans and other benefits of employment of certain members of the uniformed services; to the Committee on Veterans Affairs.

By Mr. KOHL:

S. 1096. A bill to ensure the protection of motion picture copyrights, and for other purposes; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SMITH:

S. Con Res. 38. Concurrent resolution granting the consent of Congress to the States of New Hampshire and Maine to negotiate and enter into a compact for the purpose of ascertaining and establishing the true jurisdictional boundary line between the two States in the Piscataqua River and inner Portsmouth Harbor; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MITCHELL (for himself, Mr. MOYNIHAN, Mr. CRANSTON, Mr. WALLOP, Mr. KENNEDY, Mr. FORD, Mr. INOUE, Mr. DECONCINI, Mr. KERRY, Mr. BIDEN, Mr. DODD, Mr. PELL, Mr. BRYAN, Mr. WIRTH, Mr. LEAHY, Mr. AKAKA, Mr. D'AMATO, Mr. LEVIN, Mr. SARBANES, Mr. METZENBAUM, Mr. HOLLINGS, Mr. WOFFORD, Mr. DIXON, Mr. GLENN, Mr. WELLSTONE, Mr. SASSER, and Ms. MIKULSKI):

S. 1804. A bill to deny the People's Republic of China nondiscriminatory (most-favored-nation) trade treatment; to the Committee on Finance.

(The remarks of Mr. MITCHELL and others and the text of the legislation are printed earlier in today's RECORD.)

By Mr. HOLLINGS:

S. 1086. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to impose sanctions on any State that does not have, or is in violation of, a capacity assurance plan under that act, and to amend the Solid Waste Disposal Act to give certain States authority to deny permits for hazardous waste facilities which provide unneeded capacity and to impose restrictions on the interstate transportation of waste; to the Committee on Environment and Public Works.

TRANSPORTATION AND DISPOSAL OF HAZARDOUS WASTE

● Mr. HOLLINGS. Mr. President, a little over a month ago, I joined my colleague from Alabama, Senator SHELBY, in introducing the Solid and Hazardous Waste Management Act. At that time, I reviewed many of the problems South Carolina is having with other States

which are refusing to deal with the disposal of waste in a responsible manner.

Mr. President, I cannot stress too strongly the need for substantive legislation which addresses the management of hazardous waste. Today, I am introducing legislation which is different from, yet entirely compatible with, the bill that Senator SHELBY, Senator THURMOND, and I introduced earlier. This legislation is a companion bill to H.R. 2216 which has been introduced by Congressman SPRATT in the House of Representatives.

As I have noted frequently in the past, South Carolina has borne more than its fair share of the burden of dealing with hazardous waste. Let me cite several statistics that demonstrate the magnitude of the problem South Carolina is battling. During the period 1985-89, South Carolina accepted from other States 627,000 more tons of hazardous waste than we exported. In 1989 alone, we accepted a net surplus of 148,000 tons of out-of-State hazardous waste. South Carolina has one hazardous waste landfill and three incinerators. Over 90 percent of the waste disposed of at one of those incinerators in 1988 was from out-of-State. The landfill is responsible for fully 17 percent of all waste disposed of nationally under the Superfund Program.

Mr. President, those statistics just scratch the surface of the overall dismal picture of South Carolina's disproportionate burden. Now, let me be more specific in regard to the lack of equity under current law. South Carolina accepts waste from 40 States. Of those 40 States, the largest single contributor to our problem in North Carolina. South Carolina accepted 257,000 tons of hazardous waste from North Carolina between 1985-89. In 1987, 65 percent of the total waste North Carolina exported came to South Carolina. No one denies that North Carolina has a waste management problem. However, the palliatives offered by North Carolina during this 1985-89 time period did nothing to address the disposal of their hazardous waste. To the contrary, the North Carolina Legislature actually passed a law which prevented any commercial waste facility from opening and operating in the State. North Carolina refuses to permit a commercial landfill or incinerator to operate within its borders, yet the Federal Government did not challenge or protest this law. Meanwhile, the South Carolina Legislature approved a rule banning waste from any State which refuses to accept South Carolina's waste. Simple equity, Mr. President. A Federal judge overturned this rule as unconstitutional. The State has tried to prevent the expansion of existing facilities since they are already more than adequate to accommodate South Carolina's generation of hazardous waste. Yet, these efforts, too, have been blocked.

Mr. President, Congress began taking action in 1986 regarding the need for fairness in interstate waste disposal by requiring each State to come up with a Capacity Assurance Plan [CAP]. All but three States met the deadline for submitting a CAP. North Carolina was one of those three delinquent States, and has failed to this day to submit a CAP. Yet, again, the Federal Government has not acted. South Carolina attempted to address this issue at the State level by refusing waste from the noncomplying States. However, the Federal courts ruled that this was in violation of the interstate commerce clause. States like South Carolina are caught between EPA's refusal to enforce existing law and the court's refusal to allow States to do the enforcement job that EPA has abdicated.

We must put an end to this practice of rewarding States for refusing to handle their waste responsibly while punishing States with existing facilities. Existing laws are not working, and we must find a better, more equitable solution. I am introducing legislation today which I think will address these problems.

This bill contains three sections. The first section provides EPA with a broader range of sanctions against States violating the CAP requirement. EPA would be required to withdraw RCRA- and HSWA-delegated authority to any State not complying with the CAP requirement. This provision also gives EPA the flexibility of either withholding all Superfund grants from a noncomplying State or suspending Superfund money gradually over a 1-year period.

The second section of this bill allows a State with an approved CAP to reject permits for new or expanded waste facilities if that State does not need the additional capacity.

The third section of the bill allows complying States to restrict imported waste so long as the restriction does not violate the State's CAP. This corrects the current problem of States having to "assure" a 20-year capacity even though they do not have the authority to control the importation of waste. Consequently, States cannot be certain that their capacity will not be exhausted prematurely by other States' waste.

Mr. President, this bill is not the final answer to hazardous waste disposal. We need to address further the problem of waste, both solid and hazardous, through reduction and recycling, but we also need to plan and manage. Every State has an obligation to plan and manage. The burden cannot continue to be placed on a few responsible States. This bill and the legislation introduced earlier by Senator SHELBY and myself move in this direction of equity and fairness.●

By Mr. HARKIN (for himself and Mr. GRASSLEY):

S. 1087. A bill to require the Secretary of the Treasury to mint coins in commemoration of the 100th anniversary of the Pledge of Allegiance to the Flag; to the Committee on Banking, Housing, and Urban Affairs.

PLEDGE OF ALLEGIANCE COMMEMORATIVE COIN ACT

● Mr. HARKIN. Mr. President, my colleague from Iowa, Senator GRASSLEY and I are introducing the Pledge of Allegiance Commemorative Coin Act. This bill provides for the mint to issue commemorative coins to celebrate the 100th anniversary of the Pledge of Allegiance. The legislation authorizes the minting of gold and silver coins in \$5, \$1, and half-dollar denominations. The proceeds from the sale of these coins will be evenly divided between reducing the Federal deficit and funding educational programs administered under the direction of the Capitol Historical Society, a congressionally chartered, nonprofit organization under the able guidance of our former colleague from Iowa, Fred Schwengel. In adopting this legislation, we will assist the Capitol Historical Society in the continuation and expansion of its excellent work.

On October 12, 1992, we will celebrate the 500th anniversary of Christopher Columbus' landing in the New World. On that same day we will celebrate the 100th anniversary of the Pledge of Allegiance. The Pledge was commissioned in 1891 on the occasion of the celebration of the 400th anniversary of Columbus' landing. Over the years, the Pledge of Allegiance has taken on a special meaning as it is now recited from almost every classroom in America to the Halls of this very Congress, every working day. In reciting the Pledge, we sometimes forget some of the important concepts that are embodied in that brief, 33-word oath.

When Francis Bellamy, a former Baptist minister and editor of the Youth's Companion magazine, wrote the Pledge in 1891, the memory of the Civil War was still fresh in the minds of many Americans. Consequently, when Bellamy spoke to the indivisibility of the state, he was addressing and reflecting a concern that many members of his generation had fought and died for. In last year's magnificent Civil War documentary broadcast on public television, we were reminded that many of the issues fought over in 1861 are still being worked out in 1991. We are still a nation of immigrants and minority groups that strives to solve our problems by inclusion and integration rather than seclusion and isolation. It is the great success of our Nation, a success that is replicated in only a very few other countries, that we have managed to forge a nation out of the most ethnically diverse population in the world. The indivisibility of this Nation

is a very real issue to us in modern America. Only by adhering to the principles of inclusion and integration will we guarantee the continued success of the ongoing experiment that is the United States of America.

Another issue of relevance to our modern state raised by the Pledge of Allegiance is the notion of republican government. James Madison made it very clear in the Federalist Papers that the Framers of the Constitution intended to establish a republican government in their design of the Constitution. For them, and for those of us on this side of the aisle, a republican government meant representative democracy. In this era of special interests, political action committees, television sound bites, and campaign fundraising we have had to consistently deal with the issue of what constitutes proper and democratic representation in the meaning of the Constitution. I hope we will find the wisdom in this session of Congress to adopt the type of campaign finance reform that will preserve the Republic that is brought to mind in the recitation of the Pledge of Allegiance.

The Pledge of Allegiance also makes it very clear that we are "one nation under God." This phrase speaks to a couple of characteristics of the United States. We are a deeply religious nation. But unlike the theocracies in other states, there is no official sanction in this country for any one religion. The Pledge of Allegiance speaks not to the God of the Christians, or of the Jews or of the Moslems or the Buddhists, but to the all encompassing deity that we worship in myriad ways. It is a commitment to tolerance of diversity in religious practice that is part of the glue that unites our country. Let us remind ourselves in every recitation of the Pledge, that tolerance of diversity is the cornerstone of our Republic.

Finally, the phrase "justice for all" speaks to the universality of the coverage of the Constitution. Ours is a Constitution of all the people. Guaranteeing this coverage sounds easier than it really is. For a person to have true justice under the Constitution, we must insure that individuals have the means and wherewithal to exercise their rights. This requires that everyone in the United States receive an adequate education, health care, housing, and nutrition as a right. It is impossible for individuals to enjoy their rights and the justice the Constitution provides if they cannot read, or if they are too sick or hungry, or if they cannot gain access to the kind of legal representation that guarantees their liberties. By providing for basic rights and needs, we empower people to reach their full potential. When we recite the Pledge, let us remember that with our liberties come the responsibility to insure that the coverage and protection

of the Constitution be available to all Americans.

The Pledge, therefore, is still very relevant today—100 years after its inception. I would expect that the Pledge will remain relevant for generations to come because "liberty and justice for all" are not time-bound principles. We expect and, yes, demand that these rights accrue to our children and to our children's children. I will do everything I can in my short time here in this institution to insure that end and I urge my colleagues to do the same.

I, Mr. President, pledge allegiance to the flag of the United States of America. And to the Republic for which it stands, one Nation, under God, indivisible, with liberty and justice for all. ●

● Mr. GRASSLEY. Mr. President, I rise today to join my colleague from Iowa, Senator HARKIN, as an original cosponsor of a bill to commemorate the 100th anniversary of the Pledge of Allegiance. To mark this historical occasion, we offer legislation to strike a commemorative coin.

When you stop to consider what the words to the Pledge of Allegiance mean, you can see why it has become our ultimate expression of patriotic spirit. Although, its words are simple:

I pledge allegiance to the flag of the United States of America and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.

Its meaning is great.

The flag itself is the very symbol of our Nation, our constitutional government and the morality of our people. Millions of school children begin their day by reciting the Pledge of Allegiance. These children will grow to learn the message embraced by the Pledge and as adults they will assume the responsibilities it bestows.

On October 12, 1992, our Nation will celebrate the 500th anniversary of Christopher Columbus' discovery of America. On that same day we will also celebrate the 100th anniversary of the Pledge of Allegiance. Many people are not aware that these two events have a great deal in common. One hundred years ago school children first recited the Pledge of Allegiance to honor the occasion of the 400th anniversary of the discovery of America. And now, 100 years later, we will celebrate two momentous occasions—the 500th anniversary of the discovery of America and the 100th anniversary of the Pledge of Allegiance. It seems fitting that we pay special tribute to the Pledge of Allegiance on this extraordinary occasion.

That is why Senator HARKIN and I have introduced this legislation. A uniquely designed coin to commemorate the centennial of the Pledge of Allegiance would raise awareness to the Pledge, its meaning and history. One-half of the total surcharge received from the sale of these coins would go toward reducing the Federal debt. The

other half would be devoted to educational programs administered by the U.S. Capitol Historical Society in consultation with an advisory board established by this bill. Under the leadership of the Honorable Fred Schwengel, former Congressman from Iowa, this chartered society has had a long history in producing educational films, books, periodicals, and assorted materials for children and adults.

Most of my colleagues are familiar with the society's guidebook to the Capitol, *We the People: The Story of the United States Capitol*, and the society's annual *We The People* calendar. The society also conducts an annual symposium that is widely regarded by historians as the best of its kind.

We must continue to recognize the ideals that our flag embraces, and to increase public appreciation for the history and meaning of the concepts embodied in the Pledge of Allegiance. As we celebrate the 100th anniversary of the Pledge of Allegiance it only seems appropriate that Congress authorize the Secretary of the Treasury to mint coins commemorating this great moment in history. ●

By Mr. KENNEDY (for himself, Mr. BINGAMAN, Mr. BRADLEY, Mr. BURDICK, Mr. COHEN, Mr. CRANSTON, Mr. DURENBERGER, Mr. DASCHLE, Mr. GLENN, Mr. HATFIELD, Mr. KERREY, Mr. KERRY, Mr. LAUTENBERG, Mr. LEAHY, Mr. METZENBAUM, Mr. MOYNIHAN, Mr. PELL, Mr. SIMON, Mr. WIRTH, and Mr. WELLSTONE):

S. 1088. A bill to amend the Public Health Service Act to establish a center for tobacco products, to inform the public concerning the hazards of tobacco use, to provide for disclosure of additives to such products, and to require that information be provided concerning such products to the public, and for other purposes; to the Committee on Labor and Human Resources.

TOBACCO PRODUCT EDUCATION AND HEALTH PRODUCTION ACT OF 1991

Mr. KENNEDY. Mr. President, on behalf of myself and Senators BINGAMAN, BRADLEY, BURDICK, COHEN, CRANSTON, DASCHLE, DURENBERGER, GLENN, HATFIELD, KERRY, KERREY, LAUTENBERG, LEAHY, METZENBAUM, MOYNIHAN, PELL, SIMON, WIRTH, and WELLSTONE, I am introducing the Tobacco Education and Health Protection Act of 1991.

More than a quarter century after the Surgeon General's first report on smoking, the bad news about tobacco use continues to pour in. For years, we have had ample information to convince us that there is a national problem of major proportions that demands attention. But revelations of the past year have revealed that the situation is even more drastic than we thought. A few months ago, we learned that deaths from tobacco use significantly exceed

the estimates we have been using. The current figure from the CDC is 434,000 deaths annually. This awesome toll does not include the cardiac deaths attributed to passively inhaled sidestream smoke, which is itself now deemed a class A carcinogen by the Environmental Protection Agency. Sidestream smoke has been cited in a report prepared for the EPA, and published in a major cardiology research journal, as the cause of an estimated 37,000 cardiac deaths and 16,000 cancer deaths per year.

If cardiac deaths attributed to passive smoking are included, the mortality rate becomes nearly 500,000 deaths a year. Tobacco is the second leading cause of death from all sources, surpassed only by heart disease.

Other recent bad news is that tobacco is a likely cause of cervical cancer in women, and that the average male smoker loses 18 years of life expectancy. In 1990, the Department of Health and Human Services, in a national status report, documented that tobacco use costs the country \$52 billion annually. This enormous expense drains public and private budgets every year.

The 1990 final report of the National Commission on Drug-Free Schools emphasized again that tobacco is a gateway drug in the progression of young citizens toward the use of illegal drugs.

Tobacco is also one of the most widely used addictive substances among young Americans today, even though its purchase is illegal for most adolescents.

Increasingly, to a degree we could not have foreseen a few years ago, government agencies, scientific researchers, medical and education professional organizations, citizen and consumer groups, religious organizations, and insurance companies share the view that tobacco use is one of the most dangerous—and most solvable—health challenges we face. It merits special attention, not only because of its magnitude, but because it can be so easily met with minimal but targeted efforts.

Currently, the responses of the Federal Government and most State governments and educational systems are extremely weak. The Federal Office of Smoking and Health has been funded at the same low level of \$3.5 million for over a decade. The resources expended by the private voluntary sector remain minuscule compared to the massive advertising and promotion expenditures of the tobacco industry, which exceeded \$3 billion in 1988. The saturation of the environment with tobacco ads and promotions is clearly designed to overcome adverse publicity about the dangers of tobacco.

In the past decade, only one Federal agency—the NIH—has increased its spending on the problem of tobacco use. The National Cancer Institute and the National Heart, Lung, Blood Insti-

tute have provided increasingly convincing evidence about the lethal effects of tobacco. We know that preventive strategies work, and that cessation efforts save lives.

A major reason for the current weak response is the ineffective dissemination of accurate knowledge about tobacco, compared to the insidious, unrelenting manipulation of the public by the advertising and promotion efforts of the tobacco industry.

In a sense, we have only ourselves to blame. Congress banned TV advertising of tobacco products 20 years ago. Yet tobacco logos are still widely seen on TV screens throughout the country by the use of devious advertising strategies designed to circumvent and mock the law. Congress required conspicuous warning labels on cigarette packages 25 years ago, and rotating labels 6 years ago, but those labels are barely visible on the package and they are invisible on outdoor advertisements.

The tobacco industry spends vast sums to associate itself in the public mind with activities that by any rational basis are the antithesis of smoking. Virginia Slims is synonymous with women's tennis, yet few women tennis players are willing to speak out against its sponsorship, because their livelihoods depend on it. Recently the Mets baseball stadium in New York hesitated to sell the billboard space, which has previously gone to Marlboro, to an antismoking coalition because of concern about the loss of a steady source of revenue.

Knowledge is our most important weapon against tobacco. Educated citizens reject tobacco use. The young and the less educated do so to a lesser extent. Young women, who have been a prime target of increased industry recruitment over the last 20 years, still demonstrate an increase in rates of use, and so special education efforts are necessary.

In Minnesota, California, and the District of Columbia, where State health authorities have mounted campaigns to improve public knowledge, rates of tobacco use have fallen faster than the national average. Through widespread public advertising and increased excise taxes, California achieved an unprecedented decline of 14 percent in a year's time, surpassing every country in the world. In tobacco States, however, where too many individuals have been willing to make it public policy to deny the obvious truth, rates are not falling appreciably.

The Tobacco Education and Health Protection Act of 1991 is designed to make accurate knowledge much more widely available. This bill expands Federal education efforts on the hazards of tobacco use; provides assistance to the States to facilitate enforcement of State laws against sale to minors, and to enhance health education in the schools; improves the current cigarette

warning labels; returns to the States the power to regulate the advertising of tobacco products the way they regulate the advertising of other consumer products; and requires full disclosure of all harmful ingredients in tobacco.

The bill establishes a Center for Tobacco and Health in the Centers for Disease Control and an Office of Regulatory Affairs in the Public Health Service to administer these initiatives. The Center will oversee an annual \$50 million campaign to educate the public and get the antismoking message to the Nation, especially to those who do not yet know about the dangers of tobacco or who are at the highest risk from tobacco use.

Children and youth will be a principal focus of these efforts. Young women under the age of 23, the only group whose rate of smoking is rising, are a particular concern. Minorities, blue collar workers, military recruits, those with less education, and pregnant women are also on the high priority list.

The Center will implement a \$25 million program of grants to 10 to 20 States to support antismoking efforts focused on high-risk individuals and to assist States in enforcing local laws that ban the sale of cigarette to minors. Forty-four States have such laws today, but none are adequately enforced. Most of these laws were enacted in a different era, when smoking was a moral issue, not a public health issue.

As more States seek new means to enforce their laws, it is appropriate for the Federal Government to help. One effective way to do so is by providing authority to block shipments by distributors to retail establishments that sell to minors in defiance of state laws.

State education agencies will have access to a special \$5 million program to promote tobacco-free elementary and secondary schools. Another provision will expand comprehensive school-based education programs. The bill also adds tobacco to the Drug Free Schools and Communities Act, so that information about tobacco use as an addictive gateway to drug use can be part of the education every child receives.

The Center will also implement a \$5 million workplace education program of grants to reduce the incidence of smoking on the job. The Office of Regulatory Affairs will administer the provision which requires disclosure of ingredients and additives in tobacco products. Additives which significantly increase the health risk of the products may be restricted or eliminated. Disclosure will give consumers access to information which they should have had years ago, without violating industry trade secrets. It is time to end the glaring exception in which tobacco products are virtually the only products left on the market which are not required to provide this information to consumers.

Current tobacco warning labels on cigarette packages are barely visible and have little effect on consumers. The bill will move the labels from the sides of the package to the front and back, and increase their size to 20 percent of the package surface area.

The bill also partially repeals the current preemption of state power to regulate advertising. Tobacco products are unique among consumer products in being free from State advertising regulation. Under the bill, States will be able to regulate the placement and location of stationary outdoor advertising and local transit advertising.

The bill will also clarify that it is not, and never was, the intent of Congress to exempt tobacco producers from the liability standards to which all other consumer products are held. This provision would apply to cigarettes the same common law standards that apply to every other product sold in the market. It would allow juries to make the determination in each case as to what the manufacturer did or did not do to meet the general standard for responsible behavior.

Nothing in the bill will permit a judge to issue an injunction or other mandatory relief ordering tobacco companies to use any specific form or words. The provision in the bill does not and is not intended to give States the independent regulatory authority to require additional affirmative statements or warning labels pertaining to smoking and health on the packages or on the advertisements for tobacco products. The requirement for warning labels does not exempt industry from meeting the basic tests which pertain to State liability law. Such a provision already applies to smokeless tobacco products as a result of the 1986 Comprehensive Smokeless Tobacco Education Act.

Finally, the bill gives the Center for Tobacco and Health the authority to provide information to foreign countries about the hazards of tobacco use.

The total cost of the bill is \$110 million a year, a modest sum compared to the \$52 billion annual cost to society of tobacco use. If this initiative is authorized this year, I will seek room in the budget for it next year.

It is no accident that virtually all major medical and public health groups are united in support of this initiative. Increasingly, so are education groups, minority and women's groups, youth organizations such as the YMCA and the Junior League, veterans groups, religious groups, consumer organizations and major parts of the insurance industry.

The measures in this bill rely heavily on education and on efforts by the States. They will subject tobacco products to standards already accepted of virtually all other consumer products.

I ask unanimous consent that the full text of my remarks, introductory

statements of my colleagues, the list of 102 endorsers, an outline of the bill, supporting documents and the full text of the bill may be printed in the RECORD.

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

S. 1088

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 "Tobacco Product Education and Health Protection Act of 1991."

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) despite a steady decline in tobacco consumption, 52,000,000 Americans still use tobacco products annually;

(2) tobacco use causes over 434,000 deaths each year in the United States, the equivalent of over 1,000 deaths a day;

(3) tobacco use is the most important cause of death and illness in the United States today, causing one sixth of all deaths annually;

(4) in 1985, the private and public sectors in the United States spent approximately \$22,000,000,000 on smoking-related illnesses and absorbed \$43,000,000,000 in economic losses from such illnesses;

(5) over 50 percent of all smokers begin using tobacco by the age of 14, and 90 percent of all smokers begin using tobacco before the age of 20;

(6) tobacco products contain nicotine and are addictive;

(7) most young people initiate tobacco use and become addicted before they are sufficiently informed or mature enough to make an informed choice concerning such use;

(8) according to the National Commission on Drug Free Schools, the tobacco industry contributes significantly to experimentation with tobacco and the initiation of regular tobacco use by children and young adults through its advertising and promotion practices;

(9) in 1988 the tobacco industry spent \$3,250,000,000 on the advertising and promotion of tobacco products, ranking such products among the most heavily advertised and promoted products in the United States;

(10) the tobacco industry claims that the purpose of advertising is to influence consumer brand selection, but only 10 percent of tobacco users switch brands each year;

(11) convincing evidence demonstrates that tobacco advertising creates market expansion and retention;

(12) the tobacco industry must attract 6,000 new smokers daily to replace those who stop smoking or who die of smoking-related diseases and other causes, or who quit;

(13) tobacco product advertising and promotion appeal to the youth market through advertisements that suggest a strong association between smoking and physical fitness, attractiveness, success, adventure, and independence, and, according to the National Commission on Drug Free Schools, these advertisements have an influence on minors, who are more vulnerable to image-based advertising;

(14) serious gaps in knowledge about the harmful effects of the use of tobacco products persist in both minors and the adult population, with surveys showing that large numbers of citizens are unaware that smok-

ing causes lung cancer, heart disease and still births in pregnancy;

(15) education is effective in preventing and halting the use of tobacco products;

(16) the proportion of smokers among the most educated adults is less than half that among the least educated adults;

(17) the highest percentage of smoking is among those individuals with the least amount of education, including young citizens, blue-collar workers, high school dropouts and minorities;

(18) the total resources of the major voluntary organizations that sponsor educational activities on smoking have never exceeded 2 percent of tobacco industry expenditures for the promotion of tobacco;

(19) children and teenagers should be informed about the dangers of smoking and be discouraged from initiating the use of tobacco products;

(20) the American public and groups with high prevalences of tobacco use should be informed about the dangers of tobacco products;

(21) although most States prohibit the sale of tobacco products to minors, such laws are not uniformly enforced;

(22) in recent years, there have been efforts in some States to improve the enforcement of existing laws which prohibit the sale of tobacco products to minors;

(23) minors who live near the borders of States referred to in paragraph (22) still may cross into other States to obtain tobacco products;

(24) cooperative Federal-State efforts will encourage more effective action to limit the sale of tobacco products to minors;

(25) no Federal law currently requires public disclosure of the numerous additives in tobacco products.

(b) PURPOSES.—It is the purpose of this Act to—

(1) help educate citizens to prevent initiation and encourage cessation of tobacco use;

(2) inform the public about the harmful effects of tobacco products;

(3) provide that segment of the public that has the greatest prevalence of tobacco use, or is subject to the greatest risk from tobacco use, with image based educational messages that present accurate information about the hazards of tobacco use as an alternative to the misleading images and information contained in industry advertising;

(4) support State efforts to improve educational programs for the prevention and cessation of tobacco use;

(5) support State efforts to strengthen laws limiting the sale of tobacco products to minors;

(6) provide for the determination of the risk to individual health of additives to tobacco products and establish Federal regulatory authority over such additives; and

(7) ensure the disclosure of accurate information to the public.

SEC. 3. TOBACCO HEALTH AND EDUCATION PROGRAMS.

(a) REQUIREMENT.—The Public Health Service Act is amended—

(1) by redesignating title XXVII (42 U.S.C. 300cc et seq.) as title XXVIII; and

(2) by inserting after title XXVI the following new title:

"TITLE XXVII—TOBACCO HEALTH AND EDUCATION PROGRAMS

"Subtitle A—Center on Tobacco and Health
"SEC. 2701. ESTABLISHMENT OF CENTER.

"(a) IN GENERAL.—The Secretary shall establish a Center on Tobacco and Health within the Centers for Disease Control.

“(b) FUNCTIONS.—The Secretary, acting through the Director of the Centers for Disease Control, shall—

“(1) educate the public concerning the health consequences of using tobacco products, provide outreach services to youth, and promote cessation of tobacco use through the provision of technical and material assistance to States, workplaces, and the media;

“(2) support research efforts concerning patterns of tobacco use and cessation;

“(3) provide assistance to States to enhance their efforts to enforce existing State laws concerning the sale of tobacco products to minors within the State;

“(4) coordinate the education and research activities of the Federal Government with regard to tobacco products;

“(5) document the additives that are contained in tobacco products, determine the additives that represent a health risk, restrict the use of tobacco additives that represent a significant additional health risk to the public, and ensure the disclosure of such information to the public in a manner that assures the protection of proprietary information;

“(6) provide information about the hazards of tobacco use and about strategies for research, education, prevention, and cessation of tobacco use to foreign countries where tobacco use or mortality from tobacco use is on the rise; and

“(7) carry out the programs established under this title.

“(c) CONTRACTS.—The Secretary, acting through the Director of the Centers for Disease Control, may enter into contracts and cooperative agreements with Federal agencies within and outside of the Public Health Service in the exercise of the functions of the Secretary under this title.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$25,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 and 1994.

“SEC. 2702. EDUCATIONAL AND RESEARCH ACTIVITIES.

“The Secretary, acting through the Director of the Centers for Disease Control and in cooperation with non-Federal entities, shall carry out educational and research activities that shall include—

“(1) the preparation and distribution of materials to educate the public concerning the health effects of using tobacco products;

“(2) the preparation of public service announcements and the preparation and implementation of educational campaigns (that include paid advertising) to inform specific populations, including youth and the general population, of the health effects of using tobacco products and the opportunities for prevention and cessation of such use;

“(3) the provision of information to film makers, broadcast media managers, and others regarding the role of the media in promoting tobacco use;

“(4) the conduct of research on patterns of tobacco use, initiation, and cessation, and effective methods for disseminating such information;

“(5) the development of plans to effectively provide outreach services to high risk groups and youth with such information; and

“(6) the conduct of reviews of the effectiveness of information required to be contained in rotating warning labels on tobacco product packages and the undertaking of research to establish how to improve the effectiveness of such labels.

“Subtitle B—Anti-Smoking Programs “CHAPTER 1—PUBLIC INFORMATION CAMPAIGNS

“SEC. 2711. GRANTS FOR PUBLIC INFORMATION CAMPAIGNS.

“(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control, shall make grants to public or nonprofit private entities, or enter into contracts or cooperative agreements with private entities, to conduct public information campaigns concerning the use of tobacco products.

“(b) ACTIVITIES.—Assistance under this chapter shall be used for the development of a public information campaign that may include public service announcements, paid educational messages for print media, public transit advertising, electronic broadcast media, and any other mode of conveying information concerning tobacco products that the Secretary considers appropriate. Such activities shall—

“(1) focus on seeking to discourage the initiation of use of tobacco products by youth and nonusers;

“(2) encourage cessation of tobacco use by those who currently use tobacco products; and

“(3) counter the messages contained in tobacco advertisements that promote tobacco use.

Such activities shall focus on one or more of the specific groups described in subsection (c)(1).

“(c) CRITERIA.—The Secretary, acting through the Director of the Centers for Disease Control, shall publish the criteria used for awarding grants under this chapter in the Federal Register. Such criteria shall ensure that the applicant—

“(1) will conduct activities that educate one or more communities or groups with high prevalences of tobacco use and high health risks from tobacco use, specifically youth, school dropouts, pregnant women, minorities, blue collar workers, and low income individuals;

“(2) has a record of high quality campaigns of a comparable type; and

“(3) has a record of high quality campaigns that educate the population groups specified in paragraph (1).

“(d) PREFERENCE.—

“(1) IN GENERAL.—In awarding grants, contracts, or agreements under this chapter, the Secretary shall give a preference to those applicants that will conduct activities that will most likely encompass an audience that includes several of the groups identified in subsection (c)(1).

“(2) COMPREHENSIVENESS.—In awarding grants, contracts, or agreements under this chapter, the Secretary shall attempt to distribute such grants, contracts, or agreements so that all groups identified in subsection (c)(1) are reached with diverse media. Single grants, contracts, or agreements shall not require that all groups are reached or that all media must be used.

“SEC. 2712. GRANT APPLICATION.

“(a) REQUIREMENT.—No grant, contract, or cooperative agreement shall be made or entered into under this chapter unless an application that meets the requirements of subsection (b) has been submitted to, and approved by, the Secretary.

“(b) CONTENTS.—An application submitted under subsection (a) shall provide such agreements, assurances, and information, be in such form and submitted in such manner as the Secretary shall prescribe through notice in the Federal Register. Such application shall contain—

“(1) a complete description of the plan of the applicant for the development of a public information campaign, including—

“(A) an identification of the specific audiences that shall be educated by the campaign, including one or more communities or groups with high prevalences of tobacco use and high health risks from tobacco use, such as youth, school dropouts, minorities, blue collar workers, pregnant women, and low income individuals;

“(B) an identification of the media to be used in the campaign and the geographic distribution of the campaign;

“(C) a description of plans to test market the campaign with a relevant population group and in a relevant geographic area; and

“(D) an assurance that effectiveness criteria will be implemented prior to the completion of the final plan that shall include an evaluation component to measure the overall effectiveness of the campaign; and

“(2) a complete description of the kind, amount, distribution, and timing of informational messages and an assurance that the applicant will work with any media organizations or other groups with which such messages are placed to ensure that such organizations or groups will not lower the current frequency of public service announcements.

“SEC. 2713. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to make grants or enter into contracts or agreements under this chapter, \$50,000,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 and 1994.

“CHAPTER 2—MODEL STATE LEADERSHIP INCENTIVE GRANTS FOR ANTI-TOBACCO USE INTERVENTION

“SEC. 2715. GRANT PROGRAM.

“(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control, shall designate not less than 10 nor more than 20 States as model States under subsection (b), and shall make grants to each designated model State to assist the State in meeting the costs of improving State leadership concerning activities that—

“(1) will prevent the initial use of tobacco products by minors;

“(2) will encourage the cessation of the use of tobacco products among the youth and other residents of the State, with particular attention directed towards those individuals and groups who are at high risk and suffer high prevalences of tobacco use, including school dropouts, minorities, low-income individuals, pregnant women and blue collar workers; and

“(3) will implement and enforce a prohibition on the sale of tobacco products to minors.

“(b) CRITERIA FOR MODEL STATE DESIGNATION.—To be designated as a model State under subsection (a), a State shall—

“(1) have in effect a law that prohibits the sale of tobacco products to individuals under the age of 18;

“(2) seek to improve the enforcement of the law referred to in paragraph (1);

“(3) have in effect a law or regulation that is intended to reduce the use of, or access to, cigarette vending machines by minors who are under the age of 18;

“(4) seek to improve the enforcement of the law or regulation referred to in paragraph (3); and

“(5) have in effect, or seek to establish, a law or regulation that prohibits the provision of free samples of tobacco products.

"SEC. 2716. APPLICATIONS.

"To be eligible to be designated as a model State under section 2715 and receive a grant, a State shall prepare and submit to the Secretary an application that—

"(1) includes a designation of a lead agency within the State that will work in conjunction with the Center, and contain assurances that such agency—

"(A) has experience in matters that affect the public health;

"(B) has expertise regarding the health effects and use of tobacco products;

"(C) provides direct services for smoking cessation or referrals for such services;

"(D) administers activities intended to prevent the initiation of use of tobacco products by minors who are under the age of 18, and by other individuals;

"(E) will have a lead office or division that will have the experience and expertise described in subparagraphs (A) and (B) and will be chiefly responsible for the functions described in subparagraphs (C) and (D); and

"(F) will provide personnel sufficient to staff the lead office or division;

"(2) provides assurances that as part of a program to improve State enforcement of laws prohibiting the sale of tobacco products to minors the State, will—

"(A) establish a mechanism for the reporting of citizen or other complaints to the office or division referred to in paragraph (1)(E) concerning retail establishments that sell tobacco products to minors in violation of State law;

"(B) establish a program to make the public aware of the office or division referred to in paragraph (1)(E);

"(C) establish a procedure by which the State may make a finding or a presumption that a retail establishment has a pattern or practice of selling tobacco products to minors in violation of State law, which includes—

"(i) the provision of reasonable notice to the retail establishment and the owner or operator thereof; and

"(ii) the provision of an opportunity to respond through a formal or informal hearing where according to State guidelines there is cause for such hearing;

"(D) establish a procedure for the lead State agency to report periodically to the Center regarding the implementation of subparagraphs (A) through (C); and

"(E) establish a procedure to request the assistance of the Office of Regulatory Affairs established under section 2741(b) to enforce State laws prohibiting the sale of tobacco products to minors;

"(3) includes a complete description of the type of programs that will be established or assisted by or through the State, and a statement of goals, objectives, and timetables of such programs or activities that are consistent with the purposes of section 2715;

"(4) specifies how the State will meet the criteria described in section 2717;

"(5) includes copies of the State laws and regulations described in paragraphs (1) and (3) of section 2715(b); and

"(6) is in such form, is submitted in such manner, and contains such information as the Secretary shall require, including such other information as the Secretary may by regulation prescribe.

"SEC. 2717. GRANT CRITERIA.

"The Secretary, acting through the Director of the Centers for Disease Control, shall establish criteria for awarding grants under this chapter. Such criteria shall include requirements that the State must provide—

"(1) evidence that the State has made efforts to discourage tobacco use among the youth residing in such State;

"(2) evidence of the need of the State for the assistance that is requested, as reflected in the prevalence of the use of tobacco within the State, especially among the populations that are described under section 2715(a)(2), and assurances that the State intends to concentrate its efforts on such populations; and

"(3) evidence of the need of the State for the assistance that is requested, as reflected in the necessity for the development of statewide expertise in the planning of, and implementation of anti-tobacco use interventions;

"(4) evidence of cooperative arrangements that the State has, or will enter into, with other entities that will participate in the activities established or assisted under the grant.

"SEC. 2718. ASSISTANCE TO MODEL STATES.

"The Secretary, acting through the Director of the Centers for Disease Control, shall provide to designated model States, on request—

"(1) model printed materials for distribution to retail establishments concerning the health hazards and illegality of the sale of tobacco products to minors;

"(2) support for, and assistance in, the planning of meetings, conferences, and conventions to educate retail establishments concerning the health hazards associated with tobacco products, the addictive nature of tobacco products, and State laws that prohibit the sale of tobacco products to minors;

"(3) technical assistance in the development of reporting systems to identify specific retail establishments and retail chains that consistently sell tobacco products to minors in violation of State law;

"(4) assistance in the development of notification systems to make specific retail establishments aware that such establishments are acting consistently in violation of State law;

"(5) model notices to be distributed to retail establishments concerning the awareness of State authorities and of the Center of the continued sale by the establishment of tobacco products to minors in violation of State law; and

"(6) information on the procedures to be followed by the State to obtain assistance from the Office of Regulatory Affairs to enforce State laws prohibiting the sale of tobacco products to minors.

"SEC. 2719. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated to make grants under this chapter, \$25,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 and 1994.

"(b) DISTRIBUTION OF FUNDS.—Funds shall be distributed under this chapter so that no State designated by the Secretary as a model State shall receive more than \$2,000,000 for each fiscal year under this section.

"CHAPTER 3—EDUCATION TO DECREASE TOBACCO USE IN THE WORKPLACE**"SEC. 2721. PURPOSE.**

"The Secretary, acting through the Centers for Disease Control, shall make grants to public and nonprofit entities and enter into contracts and cooperative agreements with private entities (including employer organizations and employer and employee consortia) for educational activities to reduce the incidence of tobacco use among workers with high prevalences of tobacco use. Such

grants, contracts, or cooperative agreements shall be used for meeting all or part of the costs of activities that will prevent the initiation, and encourage the cessation, of the use of tobacco products among workers and their families. In making grants and entering into contracts and cooperative agreements, the Secretary shall give priority to applicants that will educate groups with the highest prevalences of tobacco use.

"SEC. 2722. ACTIVITIES AND CRITERIA.

"(a) ACTIVITIES.—Assistance provided under this chapter shall be used for—

"(1) education to promote the cessation of tobacco use among workers who have high prevalences of tobacco use;

"(2) information and activities to provide family members of workers with education concerning the health consequences of tobacco use;

"(3) training and education to develop the expertise of a health educator or other personnel who will perform the activities described in this subsection for workers and their families; and

"(4) the development of audio, visual, or print materials that will facilitate any of the activities described in this subsection when such appropriate audio, visual, or print materials are not otherwise available.

"(b) CRITERIA.—The Secretary, acting through the Director of the Centers for Disease Control, shall establish criteria for the awarding of grants under this chapter that shall include requirements that the applicant provide to the Secretary, in the application required under section 2723—

"(1) evidence of—

"(A) the potential for success of the proposed plan of the applicant; and

"(B) the existence of any cooperative arrangements with other entities that will participate in the proposed plan;

"(2) an agreement that activities to be conducted under the grant will be implemented with the cooperation of the employer; and

"(3) any other information as the Secretary shall specify.

"SEC. 2723. APPLICATION.

"(a) REQUIREMENT.—No grant, contract or cooperative agreement shall be made under this chapter unless an application therefor has been submitted to, and approved by, the Secretary.

"(b) CONTENTS.—An application submitted under subsection (a) shall be in such form and submitted in such manner as the Secretary shall prescribe through publication of a notice in the Federal Register. Such application shall contain—

"(1) a complete description of the type of educational activities that the applicant intends to carry out with assistance provided under this chapter, including—

"(A) a description of the activities that are designed to establish an ongoing anti-tobacco program that may include working cooperatively with existing anti-tobacco programs in the community or State; and

"(B) an assurance that activities conducted under subparagraph (A) will demonstrate a concentration of effort to change tobacco use behavior in those groups identified in section 2721 and will include one or more of the activities described in section 2722;

"(2) an assurance by the applicant of its ongoing commitments to support the anti-tobacco use activities after the period of the grant, contract, or cooperative agreement has expired;

"(3) a description of the manner in which the applicant will meet the criteria specified in section 2722; and

"(4) such other information as the Secretary may by regulation prescribe.

"SEC. 2724. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to make grants, contracts, or agreements under this chapter, \$5,000,000 for each of the fiscal years 1992 through 1994.

"CHAPTER 4—INFORMATION REGARDING CIGARETTE SMOKING

"SEC. 2726. DEFINITIONS.

"As used in this chapter:

"(1) **COMMITTEE.**—The term 'Committee' means the committee established under section 2727(c), or the committee established under section 3(b) of the Comprehensive Smoking Education Act (15 U.S.C. 1341(b)) as such section existed before the date of enactment of this section.

"(2) **UNITED STATES.**—The term 'United States', when used in a geographical sense, includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, and the installations of the Armed Forces.

"SEC. 2727. SMOKING RESEARCH, EDUCATION, AND INFORMATION IN GENERAL.

"(a) **ESTABLISHMENT OF PROGRAM.**—The Secretary shall establish and carry out a program to inform the public of the dangers to human health presented by cigarette smoking.

"(b) **ADMINISTRATION OF PROGRAM.**—In carrying out the program established under subsection (a), the Secretary shall—

"(1) conduct and support research on the effects of cigarette smoking and of passive smoke on human health and develop materials for informing the public of such effects;

"(2) coordinate all research and educational programs and other activities within the Department of Health and Human Services that relate to the effect of cigarette smoking and passive smoke on human health and coordinate, through the Committee, with similar activities of other Federal agencies and of private agencies;

"(3) establish and maintain liaison with appropriate private entities, other Federal agencies, and State and local public agencies concerning activities relating to the effect of cigarette smoking and passive smoke on human health;

"(4) collect, analyze, and disseminate (through publications, bibliographies, and otherwise) information, studies, and other data relating to the effect of cigarette smoking and passive smoke on human health, and develop standards, criteria, and methodologies to improve information programs related to smoking and health;

"(5) compile and make available information on State and local laws relating to the use and consumption of cigarettes;

"(6) establish an outreach program to inform individuals under the age of 18 about the health consequences of smoking; and

"(7) undertake any other additional information and research activities that the Secretary determines necessary and appropriate to carry out this section.

"(c) **COMMITTEE.**—

"(1) **ESTABLISHMENT.**—To carry out the activities described in paragraphs (2) and (3) of subsection (b), the Secretary shall establish an Interagency Committee on Smoking and Health.

"(2) **COMPOSITION.**—The Committee established under paragraph (1) shall be composed of—

"(A) the Director of the Center;

"(B) members appointed by the Secretary from appropriate institutes and agencies of the Department, that may include the National Cancer Institute, the National Heart, Lung, and Blood Institute, the National Institute of Child Health and Human Development, the National Institute on Drug Abuse, Health Resources and Services Administration, and the Centers for Disease Control;

"(C) one member appointed from each of the Federal Trade Commission, the Department of Education, the Department of Labor, and any other Federal agency designated by the Secretary, the appointment of whom shall be made by the head of the entity from which the member is appointed; and

"(D) five members appointed by the Secretary from physicians and scientists who represent private entities involved in informing the public about the health effects of tobacco use and passive smoking.

"(3) **CHAIRPERSON.**—The Secretary shall designate the chairperson of the Committee established under paragraph (1).

"(4) **EXPENSES.**—While away from their homes or regular places of business in the performance of services for the Committee established under paragraph (1), members of such Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the manner provided by sections 5702 and 5703 of title 5 of the United States Code.

"(5) **OTHER INFORMATION.**—The Secretary shall make available to the Committee established under paragraph (1) such staff, information, and other assistance as it may require to carry out its activities effectively.

"(d) **REPORT.**—Not later than January 1, 1991, and biennially thereafter, the Secretary shall prepare and submit, to the appropriate Committees of Congress, a report that shall contain—

"(1) an overview and assessment of Federal activities undertaken to inform the public of the health consequences of smoking and passive smoke and the extent of public knowledge of such consequences;

"(2) a description of the activities of the Secretary and the Committee under subsection (a);

"(3) information regarding the activities of the private sector taken in to deal with the effects of smoking on health; and

"(4) such recommendations as the Secretary may consider appropriate.

"SEC. 2728. PUBLIC EDUCATION REGARDING SMOKELESS TOBACCO.

"(a) **DEVELOPMENT.**—

"(1) **IN GENERAL.**—The Secretary, acting through the Director of the Centers for Disease Control, shall establish and carry out a program to inform the public of dangers to human health resulting from the use of smokeless tobacco products.

"(2) **DUTIES OF SECRETARY.**—In carrying out the program established under paragraph (1) the Secretary, acting through the Director of the Centers for Disease Control, shall—

"(A) develop educational programs and materials and public service announcements respecting the dangers to human health from the use of smokeless tobacco;

"(B) make such programs, materials, and announcements available to States, local governments, school systems, the media, and such other entities as the Secretary determines appropriate to further the purposes of this section;

"(C) conduct and support research concerning the effects of the use of smokeless tobacco on health; and

"(D) collect, analyze, and disseminate information and studies on smokeless tobacco and health.

"(3) **CONSULTATION.**—In developing programs, materials, and announcements under paragraph (2), the Secretary shall consult with the Secretary of Education, medical and public health entities, consumer groups, representatives of manufacturers of smokeless tobacco products, and other appropriate entities.

"(b) **ASSISTANCE.**—The Secretary may provide technical assistance and make grants to States—

"(1) to assist in the development of educational programs and materials and public service announcements respecting the dangers to human health from the use of smokeless tobacco;

"(2) to assist in the distribution of such programs, materials, and announcements through the States; and

"(3) to assist States in enacting laws and regulations to establish 18 as the minimum age for the purchase of smokeless tobacco.

"SEC. 2729. REPORTS.

"Not later than January 1, 1991, and biennially thereafter, the Secretary shall prepare and submit, to the appropriate Committees of Congress, a report containing—

"(1) a description of the effects of health education efforts on the use of smokeless tobacco products;

"(2) a description of the use by the public of smokeless tobacco products;

"(3) an evaluation of the health effects of smokeless tobacco products and the identification of areas appropriate for further research; and

"(4) such recommendations for legislation and administrative action as the Secretary considers appropriate.

"CHAPTER 5—GENERAL PROVISIONS

"SEC. 2735. ADMINISTRATIVE PROVISIONS.

"(a) **AMOUNT AND METHOD OF PAYMENT.**—

"(1) **AMOUNT.**—The Secretary shall determine the amount of a grant, contract, or agreement awarded under this subtitle.

"(2) **METHOD.**—Payments under grants, contracts, or cooperative agreements awarded under this subtitle may be made in advance, on the basis of estimates, or by way of reimbursement, with necessary adjustments because of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary determines necessary to carry out the purposes of such grants, contracts, or agreements.

"(b) **MAINTENANCE OF EFFORT.**—No grant, contract, or agreement shall be made under this subtitle unless the Secretary determines that there is satisfactory assurance that Federal funds made available under such a grant, contract, or agreement for any period will be so used as to supplement and, to the extent practical, increase the level of State, local, and other non-Federal funds that would, in the absence of such Federal funds, be made available for the program for which the grant, contract, or agreement is to be made and will in no event supplant such State, local and other non-Federal funds.

"(c) **SUPPLIES, EQUIPMENT, AND EMPLOYEE DETAIL.**—

"(1) **IN GENERAL.**—The Secretary, at the request of a recipient of a grant, contract, or cooperative agreement under this subtitle, may reduce the amount of such a grant, contract, or agreement by—

"(A) the fair market value of any supplies or equipment furnished to the recipient by the Secretary;

"(B) the amount of pay, allowances, and travel expenses incurred by any officer or

employee of the Federal government when such officer or employee has been detailed to the recipient; and

"(C) the amount of any other costs incurred in connection with the detail of an officer or employee as described in subparagraph (B);

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience, and at the request, of such recipient and for the purpose of carrying out activities under the grant, contract, or agreement.

"(2) USE OF AMOUNT OF REDUCTION.—The amount by which any grant, contract, or agreement awarded under this subtitle is reduced under this subsection shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant, contract, or agreement is based, and such amount shall be considered as part of the grant, contract, or agreement that has been paid to the recipient.

"(d) RECORDS.—Each recipient of a grant, contract, or agreement under this subtitle shall keep such records as the Secretary determines appropriate, including records that fully disclose—

"(1) the amount and disposition by such recipient of the proceeds of such grant contract, or agreement;

"(2) the total cost of the activity for which such grant, contract, or agreement was made;

"(3) the amount of the cost of the activity for which such grant, contract, or agreement was made that has been received from other sources; and

"(4) such other records as will facilitate an effective audit.

"(e) AUDIT AND EXAMINATION OF RECORDS.—The Secretary and the Comptroller General of the United States shall have access to any books, documents, papers, and records of the recipient of a grant, contract, or cooperative agreement under this subtitle, for the purpose of conducting audits and examinations of such recipient that are pertinent to such grant, contract, or agreement.

"Subtitle C—Prohibited Acts, Enforcement, and Additives

"CHAPTER 1—PROHIBITED ACTS AND ENFORCEMENT

"SEC. 2741. PROHIBITED ACTS.

"(a) IN GENERAL.—The following acts and the causing thereof are prohibited:

"(1) COMPLIANCE.—The failure of a manufacturer of a tobacco product to comply with section 2751.

"(2) DELIVERY.—The introduction or delivery for introduction into interstate commerce of any tobacco product that is adulterated or misbranded.

"(3) ADULTERATION OR MISBRANDING OF PRODUCT IN COMMERCE.—The adulteration or misbranding of any tobacco product in interstate commerce.

"(4) RECEIPT.—The receipt in interstate commerce of any tobacco product that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise.

"(5) TRADE SECRET.—The using by any person to the advantage of such person, or revealing, other than to the Secretary or officers or employees of the Department, or to the courts when relevant in any judicial proceeding under this title, any information acquired under authority of this title concerning any method or process that as a trade secret is entitled to protection. This paragraph

shall not be construed to prohibit disclosure of information to Congress.

"(6) MISREPRESENTATION OF APPROVAL.—The representation or suggestion that an approval of any tobacco product is in effect under this title such representation or suggestion being false.

"(7) COPIES OF MATERIAL.—The failure of the manufacturer of a tobacco product to maintain for transmittal, or to transmit, to any individual who makes a written request for information as to such product, true and correct copies of all printed matter that are required to be included in or on any package of a tobacco product.

"(8) REPORTS, RECORDS, REQUIREMENTS.—The failure to make reports required, the failure to retain records required, or the failure to meet requirements prescribed, under this title.

"(9) SALE TO MINORS.—The sale of tobacco products to minors in a State designated as a model State under section 2715.

"(b) OFFICE OF REGULATORY AFFAIRS.—To carry out this subtitle, the Secretary shall establish within the Public Health Service, or designate an existing entity within such Service as, an Office of Regulatory Affairs. Such office shall coordinate its work with other offices and agencies of the Federal Government.

"SEC. 2742. ENFORCEMENT.

"(a) IN GENERAL.—Any person who violates the provisions of this subtitle shall be subject to the penalties described in subsection (d).

"(b) DENIAL OF DELIVERY.—With respect to a State that has been designated as a model State under section 2715, any retail establishment for which the State makes a finding that such retail establishment has been engaged in a pattern or practice of selling tobacco products to minors in violation of State law may be denied delivery of tobacco products by all distributors of such products within that State for a period of not to exceed 60 days from the date of such finding.

"(c) BAN ON SHIPPING.—With respect to a State that has been designated as a model State under section 2715, in any case in which the State has made a finding that a retail establishment is, or has been, engaged in a pattern or practice of sale of tobacco products to minors—

"(1) the State may place a temporary ban on the shipping of tobacco products to such retail establishment by distributors in that State;

"(2) the State shall inform the appropriate distributors in that State that supply tobacco products to such retail establishment, that a temporary ban exists on the shipping of such products to such retail establishment;

"(3) a distributor in the State shall not distribute tobacco products to such retail establishment for a period of not to exceed 60 days from the date on which the temporary ban is initiated; and

"(4) if the distributor does not comply with the State temporary ban, the Secretary may seize such products from the distributor.

"(d) JURISDICTION AND PENALTIES.—The district courts of the United States shall have jurisdiction over violations of section 2741 in the same manner, and may enforce the same and take the same actions, as described under sections 302, 303(a), 303(c)(1), 303(c)(2), 304(a)(1), 304(b), 304(c), 304(d), 304(e), 304(f), 306, and 307 of the Federal Food, Drug, and Cosmetic Act for such violations, except that any fines shall be calculated in accordance with the Criminal Fine Improvement

Act of 1987, and no showing of interstate commerce shall be required.

"(e) ENFORCEMENT BY CIVIL ACTION.—

"(1) IN GENERAL.—Subject to the limitations contained in this subsection, an individual, including a class or organization on behalf of an individual, may bring a civil action to enforce this title in a court specified in paragraph (4) against a retail establishment or distributor of tobacco products.

"(2) TIMING OF COMMENCEMENT OF CIVIL ACTION.—No civil action may be commenced under this subsection later than 5 years after the date of the last event that constitutes the alleged violation.

"(3) EXCLUSIVE JURISDICTION ON COMPLAINT.—On the filing of a complaint with a court under this subsection, the jurisdiction of the court shall be exclusive.

"(4) VENUE.—An action may be brought under this subsection in a district court of the United States—

"(A) in any appropriate judicial district under section 1391 of title 28, United States Code; or

"(B) in the judicial district in the State in which the violation occurred.

"(5) RELIEF.—

"(A) INJUNCTIVE RELIEF.—In any civil action brought under this subsection, the court may grant as relief against the defendant any permanent or temporary injunction, temporary restraining order, or other equitable relief as the court determines appropriate.

"(B) MONETARY DAMAGES.—If the court determines that a defendant is in violation of this title the defendant shall be liable for monetary damages in an amount equal to the actual damages suffered by the plaintiff.

"(C) ATTORNEY'S FEES.—A prevailing party in an action brought under this subsection may be awarded a reasonable attorney's fee as part of the costs, in addition to any relief awarded.

"(D) LIMITATION.—Damages awarded under subparagraph (B) shall not accrue from a date that is later than 2 years prior to the date on which a civil action is brought under this subsection.

"SEC. 2743. REGULATIONS.

The Secretary shall have the authority to promulgate regulations to carry out this subtitle.

"CHAPTER 2—ADDITIVES; INGREDIENTS; MISBRANDED AND ADULTERATED TOBACCO PRODUCTS

"SEC. 2751. TAR, NICOTINE, CARBON MONOXIDE, AND TOBACCO ADDITIVES.

"(a) REPORTING.—

"(1) IN GENERAL.—It shall be unlawful for any person to manufacture, import, or package, any tobacco product brand name unless such person has provided to the Secretary, within the time periods described in paragraph (2), a complete list of—

"(A) all brands of such tobacco products that shall include the levels of tar, nicotine, and carbon monoxide for each brand;

"(B) for each tobacco product brand, each tobacco additive used in the manufacture of each such tobacco product brand name that such person manufactures, imports, or packages; and

"(C) for each such additive, the range of the quantities of such additive used by such person in all tobacco product brand names manufactured, imported, or packaged by such person.

"(2) TIME PERIOD FOR REPORTING REQUIREMENT.—

"(A) ACTIONS ON DATE OF ENACTMENT.—With respect to any tobacco product brand name manufactured, imported, or packed on

the date of enactment of this title, the person manufacturing, importing, or packaging such product brand name shall provide to the Secretary the list required by paragraph (1) not later than 3 months after the date of enactment of this title.

“(B) ACTIONS AFTER DATE OF ENACTMENT.—With respect to any tobacco product brand name manufactured, imported, or packed after the date of enactment of this section, the person manufacturing, importing, or packaging such product brand name shall provide to the Secretary the list required by paragraph (1) at least 3 months prior to the date on which such person commences to manufacture, import, or package such product brand name.

“(b) ANALYSIS.—Any manufacturer, importer, or purchaser of a tobacco product shall provide the Secretary, on the request of the Secretary, with information regarding the impact of such additives on health.

“(c) PUBLIC DISCLOSURE REQUIREMENTS.—

“(1) PRESCRIPTION.—Not later than January 1, 1991, the Secretary shall by regulation prescribe requirements for manufacturers to place information on packages of tobacco products or in package inserts that are provided with such products so that the public will be adequately informed of the tar, nicotine, carbon monoxide, and tobacco additives contained in any brand or variety of tobacco products, except that spices, flavorings, fragrances, and colorings may be designated as spices, flavorings, fragrances, and colorings without specifically naming each.

“(2) REDUCTIONS AND PROHIBITIONS ON USE OF ADDITIVES.—

“(A) DETERMINATION.—If the Secretary determines that any tobacco additive in a tobacco product, regardless of the amount of such additive, either by itself or in conjunction with any other additive, significantly increases the risk of the product to human health, the Secretary may require that such levels of the tobacco additive in the tobacco product be reduced or that it be prohibited from use.

“(B) BASIS.—

“(1) IN GENERAL.—The determination under subparagraph (A) shall be made by regulation.

“(i) COMMENT.—Prior to the issuance of a regulation under clause (i), the Secretary shall provide notice and an opportunity for comment pursuant to section 553 of title 5, United States Code, except that the time for such comment shall not be less than 60 days. The Secretary, in the event that it appears that material facts may be in dispute concerning the proposed regulation, shall provide such appropriate opportunities for the presentation of evidence and for cross-examination of witnesses as the circumstances require either before the Secretary or an officer or employee of the Department designated by the Secretary.

“(d) JUDICIAL REVIEW.—Judicial review of a determination under this section shall be governed by and shall be in accordance with section 409(g) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(g)), except that the requirements of paragraph (3) of such subsection shall not apply.

“SEC. 2752. WARNING LABELS.

“It shall be unlawful for any person to manufacture, import, or package, any tobacco product brand name unless the warning labels as required in section 4(a)(1) of the Federal Cigarette Labeling and Advertising Act shall—

“(1) appear on the two most prominent sides of the product package on which the label is required;

“(2) be in a size which is not less than 20 percent of the side on which the label is placed; and

“(3) include letters in a height and thickness, which assures that the letters in the space provided for the statement will be no less legible, prominent, and conspicuous in size than other matter printed on the side of the package on which the label statement appears.

“SEC. 2753. MISBRANDED TOBACCO PRODUCTS.

“A tobacco product shall be considered to be misbranded if it is not labeled in accordance with the requirements prescribed by the Secretary under section 2751(c)(1).

“SEC. 2754. ADULTERATED TOBACCO PRODUCTS.

“A tobacco product shall be considered to be adulterated—

“(1) if the level of any tobacco additive contained in the product is in violation of a requirement under section 2751(c)(2)(A);

“(2) if it contains any tobacco additive that has been prohibited from use under section 2751(c)(2)(A);

“(3) if it contains in whole or in part any filthy, putrid, or decomposed substance; or

“(4) if it has been prepared, packed, or held under unsanitary conditions where it may have become contaminated with filth or where it may have been rendered more injurious to health.

“SEC. 2755. EXAMINATIONS AND INVESTIGATIONS.

“(a) AUTHORITY.—

“(1) IN GENERAL.—The Office of Regulatory Affairs is authorized to conduct examinations and investigations for the purposes of this subtitle through officers and employees of the Department or through any health officer or employee of any State, territory, or political subdivision thereof, duly commissioned by the Secretary as an officer of the Department.

“(2) PUERTO RICO AND THE TERRITORIES.—In the case of tobacco products packed in the Commonwealth of Puerto Rico or a territory the Office of Regulatory Affairs shall attempt to make inspection of such products at the first point of entry within the United States, when in the opinion of the Office of Regulatory Affairs and with due regard to the enforcement of all the provisions of this title, the facilities at the disposal of the Office of Regulatory Affairs will permit of such inspection.

“(3) DEFINITION.—As used in this subsection the term ‘United States’ means the States and the District of Columbia.

“(b) SAMPLES.—Where a sample of a tobacco product is collected for analysis under this subtitle the Center shall, on request, provide a part of such official sample for examination or analysis by any person named on the label of the product, or the owner thereof, or the attorney or agent of such persons, except that the Secretary may, by regulation, make such reasonable exceptions from, and impose such reasonable terms and conditions relating to, the operation of this subsection as the Secretary finds necessary for the proper administration of the provisions of this subtitle.

“(c) INSPECTION OF RECORDS.—For purposes of enforcement of this subtitle, records of any department or independent establishment in the executive branch of the Federal government shall be open to inspection by any official of the Department of Health and Human Services duly authorized by the Office of Regulatory Affairs to make such inspection.

“SEC. 2756. NONTOBACCO NICOTINE CONTAINING PRODUCTS.

“Any product that contains nicotine, whether or not that product also contains tobacco, but that is not a tobacco product as defined in section 2761, shall be considered to be a drug under section 201(g)(1)(C) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)(C)).

“SEC. 2757. CLARIFICATION.

“(a) ADDITIONAL INFORMATION.—Nothing in this title, the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333 et seq.), the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4401 et seq.), or the Comprehensive Smoking Education Act shall prohibit (15 U.S.C. 1331 et seq.) a manufacturer of tobacco products from providing consumers within information concerning tobacco product constituents, tobacco smoke, and the adverse effects of tobacco use in addition to the information that such manufacturers are required to provide pursuant to this title, the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333 et seq.), and the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4401 et seq.).

“(b) EFFECT ON LIABILITY LAW.—Nothing in this title, the Federal Cigarette Labeling and Advertising Act or the Comprehensive Smoking Education Act of 1984 shall be interpreted to relieve any person from liability at common law or under State statutory law to any other person.

“SEC. 2758. PARTIAL REPEAL OF FEDERAL PRE-EMPTION ON STATE REGULATION OF ADVERTISING OF TOBACCO PRODUCTS.

“Nothing in this title, section 5 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332, et seq.), or the Comprehensive Smokeless Tobacco Health Education Act (15 U.S.C. 4401 et seq.) shall prevent any State or local government from enacting additional restrictions on the sale or distribution of tobacco products (including sales through vending machines and free samplings), on the placement or location of stationary outdoor advertising of tobacco products, or transit advertising of tobacco products under the control of State or local transit authorities, that is displayed solely within the geographic area governed by the applicable State or local government, to the extent consistent with the First Amendment to the Constitution

“Subtitle D—Miscellaneous Provisions

“SEC. 2761. DEFINITIONS.

“As used in this title:

“(1) ADULTERATED.—The term ‘adulterated’ means that a tobacco product contains any poisonous or deleterious substance or additive that may render it injurious to health, except that in the case of a substance or additive that is not an added substance or additive such tobacco product shall not be adulterated if the quantity of such substance or additive in such tobacco product does not ordinarily render it injurious to health.

“(2) CENTER.—The term ‘Center’ means the Center for Tobacco Products established under section 2701.

“(3) CIGARETTE.—The term ‘cigarette’ means—

“(A) any roll of tobacco wrapped in paper, or in any substance not containing tobacco, that is to be burned and that is marketed for smoking pleasure only; and

“(B) any roll of tobacco wrapped in any substance containing tobacco that, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling is likely to be offered to, or purchased by con-

sumers as a cigarette described in subparagraph (A).

"(4) INTERSTATE COMMERCE.—The term 'interstate commerce' has the same meaning given such term in section 201(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(b)).

"(5) MINOR.—The term 'minor' means any individual who is under the age of 18 years.

"(6) MISBRANDED.—The term 'misbranded' means that the labeling of a tobacco product is false or misleading in any particular.

"(7) PERSON.—The term 'person' includes individual, partnership, corporation, and association.

"(8) RECIPIENT.—The term 'recipient' means any entity or individual that has received a grant, contract, or cooperative agreement under this title.

"(9) SMOKELESS TOBACCO.—The term 'smokeless tobacco' means any finely cut, ground, powdered, or leaf tobacco that is intended to be placed in the oral cavity.

"(10) STATE.—The term 'State' means any State or territory of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(11) TERRITORY.—The term 'territory' has the same meaning given such term in section 201(a)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(a)(2)).

"(12) TOBACCO ADDITIVE.—The term 'tobacco additive' means any ingredient that is added to a tobacco product in the process of manufacturing or producing a tobacco product.

"(13) TOBACCO PRODUCT.—The term 'tobacco product' means cigarettes, cigars, little cigars, pipe tobacco, smokeless tobacco, and snuff, and any other product that consists primarily of tobacco, is intended for human consumption, and is marketed for tobacco or smoking pleasure only.

"(14) TOBACCO USE.—The term 'tobacco use' means the use of any tobacco product that is used through smoking, inhalation, or mastication, and such term shall include the use of nasal and oral snuff.

"Subtitle E—School Programs and Policies to Prevent Tobacco Use"

"SEC. 2771. SCHOOL PROGRAMS AND POLICIES TO PREVENT TOBACCO USE."

"(a) GRANTS.—The Secretary, acting through the Director of the Centers for Disease Control, shall assist schools in the implementation of effective programs and policies to prevent tobacco use. The Secretary may make grants to, or enter into contracts with, State departments of health and education, and, in consultation with State health and education agencies, to local departments of health and local education agencies, and to other public entities, to assist in implementing effective programs and policies to prevent tobacco use.

"(b) USE OF FUNDS.—Not less than 80 percent of the amounts appropriated under subsection (c) shall be made available to recipients of grants and contracts under this section.

"(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary in each of the fiscal years 1992, 1993, and 1994."

(b) FEDERAL CIGARETTE LABELING AND ADVERTISING ACT.—

(1) HEALTH WARNING LABELS.—Section 4(a) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333(a)) is amended by striking "SURGEON GENERAL'S WARNING: Cigarette Smoke Contains Carbon Monoxide," each place such occurs in paragraphs (1), (2), and (3), and inserting the fol-

lowing: "SURGEON GENERAL'S WARNING: Smoking is Addictive. Once you start you may not be able to stop."

(2) REPEAL OF CERTAIN LABEL REQUIREMENTS.—Section 4(b) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333(b)) is amended by striking out paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(3) REPEAL OF CONFIDENTIALITY.—Section 7(b) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1335a(b)) is amended by striking out paragraph (2).

(c) CONFORMING AMENDMENTS.—

(1) Sections 2701 through 2714 of the Public Health Service Act (42 U.S.C. 300cc through 300cc-15) are redesignated as sections 2801 through 2814, respectively.

(2)(A) Sections 465(f) and 497 of such Act (42 U.S.C. 286(f) and 289(f)) are amended by striking out "2701" each place that such appears and inserting in lieu thereof "2801".

(B) Section 305(i) of such Act (42 U.S.C. 242c(i)) is amended by striking out "2711" each place such appears and inserting in lieu thereof "2811".

SEC. 4. DRUG-FREE SCHOOLS AND COMMUNITIES ACT OF 1986.

(a) STATE PROGRAMS.—Section 5122(a)(1) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3192(a)(1)) is amended by inserting "and tobacco use" after "alcohol abuse".

(b) LOCAL DRUG ABUSE EDUCATION PREVENTION PROGRAMS.—Section 5125(a) of such Act (20 U.S.C. 3195(a)) is amended—

(1) in the matter preceding paragraph (1), by inserting "and tobacco use" after "alcohol abuse";

(2) in paragraph (11), by striking out "abuse," and inserting in lieu thereof "abuse and tobacco use,";

(3) in paragraph (13), by inserting "and tobacco use" after "alcohol abuse" each place that such occurs; and

(4) in paragraph (14), by inserting "and tobacco use" after "alcohol abuse".

(c) LOCAL APPLICATIONS.—Section 5126(a)(2) of such Act (20 U.S.C. 3196(a)(2)) is amended—

(1) in subparagraph (D), by striking out "drug" and inserting in lieu thereof "drug, tobacco";

(2) in subparagraph (E), by—

(A) by striking out "applicant's drug" and inserting in lieu thereof "applicant's drug, tobacco";

(B) by striking out "and" at the end of clause (i);

(C) by inserting "and" at the end of clause (ii); and

(D) by adding at the end thereof the following new clause:

"(iii) how it will discourage use of tobacco products by students;"; and

(3) in subparagraph (I), by striking out "conduct drug and alcohol abuse" and inserting in lieu thereof "conduct drug and alcohol abuse and tobacco use".

(d) FEDERAL ACTIVITIES.—Section 5132(b) of such Act (20 U.S.C. 3212(b)) is amended—

(1) in paragraph (1), by inserting before the semicolon the following: "and for dissemination under section 2727 of the Public Health Service Act"; and

(2) in paragraph (2), by striking out "drug" and inserting in lieu thereof "drug and tobacco".

(e) DEFINITIONS.—Section 5141(b)(1) of such Act (20 U.S.C. 3221(b)(1)) is amended by striking out "alcohol" and inserting in lieu thereof "alcohol, the use of tobacco,".

SEC. 5. INCENTIVE GRANTS TO ESTABLISH SMOKE FREE SCHOOLS.

(a) IN GENERAL.—There are authorized to be appropriated \$5,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 and 1994, to enable the Secretary of Education to make incentive grants to State education agencies in accordance with this section.

(b) STATE POLICY.—To receive a grant under this section, a State shall establish a policy that—

(1) creates smoke-free elementary and secondary school buildings and grounds and school buses;

(2) requires schools to establish smoking areas in which adults only are permitted to smoke, and to ensure adequate safeguards exist to protect students from exposure to smoke; and

(3) provides technical assistance to schools and other assistance to implement the provision of this section.

(c) USE OF FUNDS.—A State receiving a grant under subsection (a) shall use such grant to disseminate materials to school personnel and students, and hold conferences and meetings, concerning the health hazards of tobacco use by students.

(d) REGULATIONS.—The Secretary of Education, in consultation with the Secretary of Health and Human Services, shall promulgate regulations necessary to implement this section.

(e) ADDITIONAL RESTRICTIONS.—A State receiving a grant under subsection (a) may place restrictions on the use of tobacco products in schools in addition to the requirements referred to in subsection (b). A State receiving funds under this section shall provide assistance under this section only to schools that are subject to the State laws described in subsection (b).

(f) APPLICATION.—No grant may be made under this section unless a State education agency submits an application to the Secretary of Education in such form, in such manner, and containing such information as the Secretary of Education shall require.

SEC. 6. TECHNICAL AMENDMENTS.

(a) COMPREHENSIVE SMOKING EDUCATION ACT.—Section 3 of the Comprehensive Smoking Education Act (15 U.S.C. 1341) is repealed.

(b) COMPREHENSIVE SMOKELESS TOBACCO HEALTH EDUCATION ACT OF 1986.—Sections 2, 4, 5 (a) and (b), and 8 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4401, 4403, 4404 (a) and (b), and 4407) are repealed.

SEC. 7. STUDY AND REPORT.

(a) REQUIREMENT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services, in consultation with the Secretary of Agriculture, shall conduct the study described in subsection (b), and prepare and submit, to the appropriate Committees of Congress, a report concerning the results of such study.

(b) CONTENT OF STUDY.—The study referred to in subsection (a) shall—

(1) investigate the use of pesticides on tobacco and the presence of pesticides in tobacco products;

(2) analyze the effect that the presence of pesticides in tobacco products has on human health; and

(3) determine whether tolerances should be established for the use of pesticides in tobacco products.

SEC. 8. CONSTRUCTION.

Nothing in this Act, or an amendment made by this Act, shall be construed to limit, restrict, expand, or otherwise affect

the authority of the Federal Trade Commission.

THE TOBACCO PRODUCT EDUCATION AND HEALTH PROTECTION ACT OF 1991

1. CENTER FOR TOBACCO AND HEALTH

Establishes a Center for Tobacco and Health in the Centers for Disease Control to: Expand federal education and information efforts;

Research patterns of tobacco product use and cessation;

Coordinate education and research within the PHS;

Provide information to the foreign countries where tobacco use is on the rise;

Be authorized at \$25 million in 1991. The Center will administer the following programs:

A. National Information Program

A national program would be established to provide information on the health implications of tobacco use. Grants would be provided to develop public service announcements and paid advertisements to discourage initiation of tobacco use and promote cessation, especially by groups and communities at the highest risk and with the highest prevalence of tobacco use (youth, pregnant women, minorities, blue collar workers, etc.).

Authorizes \$50 million for fiscal year 1991.

B. Model State Leadership Incentive Grants

Establishes a program of incentive grants to 10-20 states that will:

Encourage better enforcement of laws which prohibit the sale of tobacco products to individuals under 18.

Improve leadership to prevent initial use of tobacco products by minors and encourage cessation by all users, with particular attention to high risk individuals (pregnant women), and those demonstrating the highest prevalence of use, including school dropouts, minorities and blue collar workers.

Authorizes \$25 million for fiscal year 1991.

C. Anti-Tobacco Use Education in the Workplace

Provides grants to attempt to reduce incidence of tobacco use among workers with the highest prevalence of smoking (i.e. blue collar workers). Priority is given to organizations proposing cooperative projects with employers. Authorizes \$5 million for fiscal year 1991.

2. REGULATORY PROVISIONS

Requires disclosure to the public of additives to each brand (other than flavorings, fragrances, colorings and spices). Additives which significantly increase the risk of the product may be restricted.

Requires disclosure of tar and nicotine levels on the package.

The current warning label—"Surgeon General's Warning: Cigarette Smoke Contains Carbon Monoxide"—is replaced with a new label, "Surgeon General's Warning: Smoking is Addictive. Once you start you may not be able to stop."

Warning labels moved from side of the package to the front and back of the package and increased in size (20 percent of surface area).

Enforcement through an Office of Regulatory Affairs; penalties could include fines, imprisonment, or product seizure.

The current federal preemption is repealed only with respect to placement and location of advertising and only for stationery outdoor and local transit advertising.

Clarifies congressional intent with regard to state laws on duty to warn.

3. EDUCATION PROVISIONS

Provides additional assistance for comprehensive school-based health education.

Adds tobacco to the Drug-Free Schools and Communities Act of 1986.

Provides grants to states for elementary and secondary schools to help create smoke-free environments.

Authorizes \$5 million in 1991.

Total Authorization (in millions) fiscal year 1991, \$110; fiscal year 1992, such sums; fiscal year 1993, such sums.

102 NATIONAL ORGANIZATIONS ENDORSING THE TOBACCO PRODUCT EDUCATION AND HEALTH PROTECTION ACT OF 1991

American Cancer Society.

American Lung Association.

American Public Health Association.

American Federation of State, County and Municipal Employees (AFSCME).

National Association of Elementary School Principals.

American Academy of Pediatrics.

American Association for Respiratory Care.

General Federation of Women's Clubs.

American Council of Life Insurance.

Consumers Union.

American Society of Internal Medicine.

American Veterans Committee.

Asthma and Allergy Foundation of America.

American Heart Association.

American Medical Association.

National PTA.

Association of State and Territorial Health Officials.

National Medical Association.

National Alliance of Senior Citizens.

National Education Association.

National Coalition of Hispanic Health and Human Services Organizations (COSSMHO).

National Association of Black Cardiologists.

Health Insurance Association of America.

Children's Defense Fund.

American Medical Women's Association.

American College of Preventive Medicine.

American Diabetes Association.

Association of Minority Health Professions Schools.

American College of Obstetricians and Gynecologists.

American Academy of Otolaryngology-Head and Neck Surgery.

American Dental Association.

Physicians' Committee for Responsible Medicine.

YWCA of the U.S.A.

American Society of Addiction Medicine.

National Council of the Churches of Christ in the USA.

Center for Science in the Public Interest.

General Conference of Seventhday Adventists.

Society for Public Health Education.

Consumer Federation of America.

Oncology Nursing Society.

American Nurses' Association.

National Black Leadership Initiative on Cancer of Philadelphia.

Americans for Nonsmokers' Rights.

American College of Cardiology.

Committee to Prevent Cancer Among Blacks.

Northwestern National Life Insurance Company.

The Congress of National Black Churches.

Center for Corporate Public Involvement.

American Academy of Family Physicians.

YMCA of the U.S.A.

International Ministries—American Baptist Churches/USA.

American Association of Cancer Institutes. National School Health Education Coalition.

Uptown Coalition for Tobacco Control and Public Health.

American Medical Student Association.

Association of Schools of Public Health.

Association of State and Territorial Dental Directors.

American College of Chest Physicians.

Friends Committee on National Legislation.

National Coalition for Cancer Survivorship.

Massachusetts Group Against Smoking Pollution.

American Council on Science and Health.

Smokefree Educational Services.

Stop Teenage Addiction to Tobacco (STAT).

Mayo Clinic.

National Licensed Practical Nurses Association.

National Association of Social Workers.

Chronic Disease Program Directors (ASTHO).

National Environmental Health Association.

American Dental Hygienists' Association.

New Jersey Group Against Smoking Pollution.

Committee for Children.

Public Voice for Food and Health Policy.

Colorado Group for Food and Health Policy.

Colorado Group to Alleviate Smoking Pollution.

National Association of African Americans for Positive Images.

Center for Women Policy Studies.

American Society of Clinical Oncology.

National Association of Nonsmokers.

National Association of Community Action Agencies.

Minnesota Hospital Association.

Minnesota Coalition for a Smoke-Free Society 2000.

American Society of Hematology.

National Association of Community Health Centers.

Action on Smoking and Health (ASH).

Candlelighters Childhood Cancer Foundation.

Coalition for Consumer Health and Safety.

Illinois Coalition Against Tobacco.

Association for Nonsmokers—Minnesota.

Fox Chase Cancer Center.

Oklahoma Federation of Democratic Women.

Rosewell Park Cancer Institute.

Doctors Ought to Care (DOC).

Western New York Coalition Against Smoking.

Council of Great City Schools.

American Chiropractic Association.

Citizens Against Tobacco Smoke (CATS).

Washington Institute of Contemporary Issues.

American Association of Dental Schools.

Scenic America.

MSI Insurance.

National Coalition for Cancer Research.

The Coalition For Consumer Health and Safety, listed above, consists of the following organizations:

Consumer Federation of America, Coordinator.

Alliance of American Insurers.

American Association of Critical Care Nurses.

American Council of Life Insurance.

American Lung Association.

Americans for Democratic Action.

Center for Science in the Interest.

CUNA Mutual Insurance Group.
 Health Insurance Association of America.
 John Hancock Financial Services.
 Liberty Mutual Insurance Group.
 National Consumers League.
 Motor Voters.
 National Council of Senior Citizens.
 Nationwide Insurance Company.
 The Prudential Insurance Company of America.
 State Farm Insurance Companies.
 Aetna Life & Casualty.
 Allstate Insurance Company.
 American College of Preventive Medicine.
 American Insurance Association.
 American Public Health Association.
 Center for Auto Safety.
 Crum & Forster Personal Insurance.
 Hanford Insurance Group.
 Insurance Information Institute.
 The Kemper Group.
 The Union Labor Life Insurance Company.
 National Association of Community Health Centers.
 Whitman-Walker Clinic, Inc.
 National Drowning Prevention Network.
 The Principal Financial Group.
 Public Voice for Food and Health Policy.
 The Travelers.

AMERICAN CIVIL LIBERTIES UNION,
 Washington, DC, May 13, 1991.

Hon., EDWARD M. KENNEDY,
 U.S. Senate,
 Washington, DC.

DEAR SENATOR KENNEDY: We have now had an opportunity to carefully review the text of the "Tobacco Product Education and

Health Protection Act of 1991." I am pleased to tell you that we see no civil liberties objections to the language. Consequently, the American Civil Liberties Union does not oppose the bill.

As you know, we did have some difficulties with a few provisions in earlier drafts. I very much appreciate your courtesy and that of your staff in resolving these problems.

I am very pleased that we were able to find solutions to the civil liberties issues which were raised.

Best regards,

MORTON H. HALPERIN.

[From the Centers for Disease Control, Feb. 1, 1991]

SMOKING-ATTRIBUTABLE MORTALITY AND YEARS OF POTENTIAL LIFE LOST—UNITED STATES, 1988

Smoking is a leading cause of diseases associated with premature mortality in the United States; in 1985, these diseases accounted for an estimated 390,000 premature deaths.¹ In this report, mortality data and estimates of smoking prevalence for 1988 are used to calculate smoking-attributable mortality (SAM), years of potential life lost (YPLL), and age-adjusted SAM and YPLL rates for the United States.²

Calculations were performed using Smoking-Attributable Mortality, Morbidity, and Economic Cost (SAMMEC II) software,² which includes relative risk estimates for 22 adult (i.e., ≥35 years of age) smoking-related diseases and relative risk estimates for four perinatal (i.e., <1 year of age) conditions. Age-, sex-, and race-specific mortality data

for 1988 were obtained from CDC's National Center for Health Statistics. Data on burn deaths caused by cigarettes were obtained from the Federal Emergency Management Agency.³ The estimated number of deaths among nonsmokers from lung cancer attributable to passive smoking was obtained from a report of the National Academy of Sciences.⁴ Age-, sex-, and race-specific current and former smoking prevalence rates in 1988 for adults aged ≥35 years and for women aged 18-44 years were estimated by linear extrapolation using National Health Interview Survey data for 1974-1987.^{1,5}

YPLL before age 65 and before age 85 were calculated according to standard methods.² Age-adjusted SAM and YPLL rates were calculated by the direct method and standardized to the 1980 U.S. population. YPLL estimates do not include deaths related to passive smoking.

Based on these calculations, in 1988, approximately 434,000 deaths and 1,199,000 YPLL before age 65 (6,028,000 before age 85) were attributable to cigarette smoking (Table 2). Although SAM for blacks represented 11% of total SAM, the SAM rate for blacks was 12% higher than for whites. The SAM for men was 66% of total SAM, and the SAM rate for men was more than twice the rate for women (Tables 2 and 3). In addition, the rate for smoking-attributable YPLL rate for men was almost three times that for women. For YPLL before age 85, the rate for blacks was 52% higher than for whites, and for men, more than twice that for women (Table 3).

TABLE 2.—ESTIMATED SMOKING-ATTRIBUTABLE MORTALITY [SAM] AND SMOKING-ATTRIBUTABLE YEARS OF POTENTIAL LIFE LOST [YPLL], BY RACE, SEX, AND AGE¹—UNITED STATES 1988

Race	SAM				Smoking-attributable YPLL				Smoking-attributable YPLL before age 85			
	Men	Women	Pediatric	Total ²	Men	Women	Pediatric	Total ²	Men	Women	Pediatric	Total ²
White	248,247	128,801	1,615	378,657	573,044	236,776	104,122	913,943	3,440,682	1,444,823	136,408	5,021,914
Black	32,781	14,011	900	47,692	144,481	65,899	58,057	268,437	606,297	257,438	76,059	939,794
Other	2,967	994	36	3,997	10,207	3,987	2,313	16,507	46,623	16,486	3,030	66,138
Unknown ³	1,330	2,495		3,825								
Total ²	285,319	146,301	2,551	434,175	727,732	306,662	164,492	1,198,887	4,093,602	1,718,747	215,497	6,027,846

¹ Men and women, ≥ 35 years of age; pediatric, < 1 year of age.

² Sums may not equal total because of rounding.

³ Deaths among nonsmokers from lung cancer attributable to passive smoking; estimates were available by sex but not by race (4). The YPLL associated with these deaths are unknown and are not included in this table.

TABLE 3.—AGE-ADJUSTED SMOKING-ATTRIBUTABLE MORTALITY [SAM] RATES¹ AND SMOKING-ATTRIBUTABLE YEARS OF POTENTIAL LIFE LOST [YPLL] RATES, BY RACE² AND SEX—UNITED STATES, 1988

Race	SAM			Smoking-attributable YPLL (before age 65 yrs) rate			Smoking-attributable YPLL (before age 85 yrs) rate		
	Men	Women	Both	Men	Women	Both	Men	Women	Both
White	555.8	244.2	389.3	1,773.8	699.1	1,224.7	8,152.0	3,063.8	5,472.8
Black	702.9	231.5	437.3	3,776.4	1,397.8	2,471.8	3,152.0	4,443.0	8,311.6
Other	186.8	54.0	115.0	843.1	290.8	549.3	3,177.0	968.4	1,981.5
Total	558.6	240.7	387.8	1,926.9	761.0	1,326.0	8,436.4	3,140.5	5,631.0

¹ Per 100,000 persons aged ≥ 35 years (adjusted to the 1980 U.S. population).

² Race-specific rates for SAM and all rates for smoking-attributable YPLL do not include passive smoking-related deaths.

(Reported by: JM Shultz, Ph.D, Univ of Miami School of Medicine, Miami, Florida, Program Svcs Activity, Office on Smoking and Health, Center for Chronic Disease Prevention and Health Promotion, CDC.)

EDITORIAL NOTE: For 1988, total estimated smoking-attributable deaths (434,000) were substantially higher than for 1985 (390,000).¹ Although SAM from ischemic heart disease declined between 1985 and 1988, SAM from lung cancer and chronic obstructive pulmonary disease was higher. Several heart disease categories (International Classification of Diseases, Ninth Revision [ICD-9] rubrics 390-398, 415-417, 420-429) were included in the calculations for 1988 but not for 1985,

contributing to the higher SAM estimate for 1988.

The higher SAM rates for blacks underscore concerns about the higher burden of smoking-related diseases among blacks than among whites. For example, the average lung cancer death rate from 1980 through 1987 for blacks was 2.3 times higher than for whites.⁶ In addition, the larger racial disparity in smoking-attributable YPLL suggests that onset of smoking-attributable disease occurs at younger ages among blacks than among whites.

In this report, the SAM estimate for the United States represents a conservative estimate because it is based on 1988 prevalence data, whereas smoking-attributable diseases

in 1988 actually are caused by high rates of smoking in the 1950s, 1960s, and 1970s. For persons age ≥55 years who smoked during those decades, lung cancer incidence and death rates and the chronic obstructive pulmonary disease death rate are increasing.^{6,7}

The SAM described in this report also represents a conservative estimate because the calculations did not include deaths from cardiovascular disease that may have¹ been attributable to passive smoking and deaths from cancers at unspecified sites, leukemia,⁸ and ulcers⁹—all of which may also be associated with cigarette smoking. A recent analysis estimated that each year passive smoking is associated with 37,000 deaths from heart disease.¹⁰

Despite declines in the prevalence of smoking in the United States, the absolute numbers of deaths caused by smoking-related diseases may increase for several years. This trend is due partly to the increase in absolute numbers of smokers among the post-World War II generation (i.e., persons aged 25-44 years), who will soon attain the ages at which smoking-related diseases occur.⁵ Persons in this age group and in older age groups will continue to develop chronic diseases associated with smoking unless widespread cessation efforts are successful. However, because of the declining prevalence of smoking in the United States, death rates of lung cancer¹¹ and of coronary heart disease¹² among younger men and women have already begun to decline. Because smoking cessation is associated with a decreased risk for premature death at any age,⁹ efforts to support cessation must be further encouraged in the elderly and other groups (e.g., women and minorities) characterized by higher smoking prevalences or slower rates of decline in smoking.

FOOTNOTES

¹CDC. Reducing the health consequences of smoking: 25 years of progress—a report of the Surgeon General, 1989. Rockville, Maryland: US Department of Health and Human Services, Public Health Service, 1989; DHHS publication no. (CDC)89-8411.

²Shultz JM, Novotny TE, Rice DP. SAMMEC II: computer software and documentation. Rockville, Maryland: US Department of Health and Human Services, Public Health Service, CDC, April 1990.

³Federal Emergency Management Agency. Fire in the United States: 1983-1987 and highlights for 1988. 7th ed. Emmitsburg, Maryland: US Fire Administration, Federal Emergency Management Agency, August 1990. (FA-94).

⁴National Research Council. Environmental tobacco smoke: measuring exposures and assessing health effects. Washington, DC: National Academy Press, 1986.

⁵Novotny TE, Fiore MC, Hatzidreou EJ, Giovino GA, Mills SL, Pierce JP. Trends in smoking by age and sex, United States, 1974-1987: the implications for disease impact. *Prev Med* 1990; 19:552-61.

⁶CDC. Trends in lung cancer incidence and mortality—United States, 1980-1987. *MMWR* 1990;39:875,881-3.

⁷CDC. Chronic disease reports: chronic obstructive pulmonary disease mortality—United States, 1986. *MMWR* 1989;38:549-52.

⁸Garfinkel L, Boffetta P. Association between smoking and leukemia in two American Cancer Society prospective studies. *Cancer* 1990;65:2356-60.

⁹CDC. The health benefits of smoking cessation: a report of the Surgeon General, 1990. Rockville, Maryland: US Department of Health and Human Services, Public Health Service, 1990; DHHS publication no. (CDC)90-8416.

¹⁰Glantz SA, Parmley WW. Passive smoking and heart disease: epidemiology, physiology, and biochemistry. *Circulation* 1991;83:1-12.

¹¹Devesa SS, Blot WJ, Fraumeni JF. Declining lung cancer rates among young men and women in the United States: a cohort analysis. *J Natl Cancer Inst* 1989;81:1568-71.

¹²Ragland KE, Selvin S, Merrill DW. The onset of decline in ischemic heart disease mortality in the United States. *Am J Epidemiol* 1989;127:516-31.

[From the National Commission on Drug-Free Schools, September 1990]

TOWARD A DRUG-FREE GENERATION: A NATION'S RESPONSIBILITY

CIGARETTES AND OTHER TOBACCO PRODUCTS

Cigarettes and other tobacco products are the only legal products in the United States today that, when used as intended, kill a significant proportion of their consumers. Indeed, some authorities claim that cigarettes probably kill more American consumers than all other drugs combined.

About 90 percent of adult smokers began to smoke in adolescence or childhood and have continued to smoke throughout their adult lives because the addictive properties of nic-

otine make it so difficult to quit. As is evident from the large number of young people who continue to take up smoking cigarettes and, to a lesser extent, chewing tobacco, young people tend to underestimate the likelihood that they will become addicted and continue their tobacco habit into adulthood.

Among American high school seniors, nearly 30 percent are smokers, and among older dropouts, approximately 75 percent smoke (Journal of the American Medical Association, May 23, 1990). These statistics are troubling because they have remained virtually constant in recent years, despite a reduction in smoking among adults, increased societal disapproval of smoking, enactment of increasingly more restrictive laws regulating smoking in public places, and a substantial reduction in most forms of illicit drug use. Considering that we now know much more about the harmful effects of smoking than we did a generation ago, it seems unconscionable that so many of our young people still take up smoking and will face early, preventable illness and death.

Preventing smoking among young people is important not only for health considerations but also because of the link between cigarette smoking and other drug use, especially marijuana. Cigarettes, like alcohol, are a gateway drug that can lead to involvement with controlled drugs. As with drinking alcohol, most illegal drug users smoked cigarettes first and continued to smoke cigarettes after beginning to use illegal drugs. A link between cigarettes, marijuana, and crack is not surprising, given that these drugs are ingested by inhaling smoke into the lungs. Smoke inhalation is an abnormal behavior that must be learned and reinforced over time, and cigarette smoking teaches young people how to inhale smoke. Smoking cigarettes also teaches young people that they can use psychoactive drugs to manipulate their moods, alertness, and consciousness through chemicals.

If ours is a compassionate society, we must make it a priority to protect young people from the extremely negative consequences of tobacco use, for the sake of themselves, their families, and society. Failure to do so threatens the health and well-being of future generations. Previous generations did not know the harmful consequences of smoking. This generation has no such excuse.

"I think Ohio State University [and other colleges] need an institutionalized attitude change. Judicially, 80 percent of all of our cases are due to, or related to, some kind of alcohol and drug use."—Lisa Prudhoe, Drug and Alcohol Resource Center, Ohio State University.

"Alcohol and nicotine are considered 'gateway drugs' because they invariably are the precursors to using all the 'other bad stuff' available to children on the streets. They are addictive and can lead to grievous illness. And their use by children is illegal. Thus, when parents wink at their use by children—on the permissive theory that their progeny are merely 'feeling their oats', 'being part of the gang,' or 'just growing up' or have the misguided belief that children should experiment with alcohol at home, 'to learn to drink sensibly'—they are implicitly making them scofflaws, in addition to setting the stage for potential personal disaster in the family . . ."—Thomas A. Shannon, National School Boards Association.

PASSIVE SMOKING AND HEART DISEASE—EPIDEMIOLOGY, PHYSIOLOGY, AND BIOCHEMISTRY
(By Stanton A. Glantz, PhD, and William W. Parmley, MD)

The first disease linked definitively to active smoking was lung cancer. It is, therefore, not surprising that the first disease identified as caused by passive smoking was also lung cancer.¹ Before the advent of mass-marketed cigarettes, lung cancer was a rare disease. Because smoking is the primary cause of lung cancer, identification of this link—for both active² and passive smoking³—was relatively straightforward. This situation contrasts with heart disease, which has many risk factors, and unsurprisingly, the scientific community was longer in concluding that active smoking caused heart disease.⁴ Once the link between smoking and heart disease was established, smoking was found to kill more people by causing or aggravating heart disease than lung cancer. In fact, smoking is the most important, preventable cause of coronary disease. Exposure to environmental tobacco smoke (ETS) has now been linked to heart disease in nonsmokers.^{5, 6}

Much of the evidence for this link has appeared since 1986, when the US Surgeon General¹ and the National Academy of Sciences⁷ reviewed the evidence on the health effects of ETS. Based on the information available then, both reports concluded that the evidence linking ETS and heart disease was equivocal and that more research was necessary before any definitive statements could be made. These conclusions were reasonable in 1986. However, in the 4 years since publication of these reports, considerable information on both the epidemiology and biological mechanisms by which ETS causes heart disease has accumulated. Most of the results presented here were published after the 1986 Surgeon General and National Academy of Sciences reports.

There are now 10 epidemiological studies on the relation between exposure to environmental tobacco smoke in the home and the risk of heart disease death in the non-smoking spouse of a smoker and five epidemiological studies that examine nonfatal cardiac events. All but one of these studies yielded relative risks or odds ratios greater than 1.0. There are several lines of biological evidence that make this association plausible. There is evidence that exposure to ETS reduces exercise tolerance of healthy individuals and people with existing coronary artery disease. Such reduced exercise capability is one of the landmarks of acute compromises to the coronary circulation. There is good evidence, from both human and animal studies, that exposure to tobacco smoke, including passive smoking, increases aggregation of blood platelets. Such increases in platelet aggregation are an important step in the genesis of atherosclerosis. In addition, increasing platelet aggregation contributes to risk of coronary thrombosis, a cause of acute myocardial infarction. Last, carcinogenic agents in ETS, including benzo(a)pyrene, have been shown to injure the endothelial cells that line arteries. Such injuries are the first step in the development of atherosclerosis. Thus, exposure to ETS can contribute to short- and long-term insults to the coronary circulation and the heart. It is not surprising, therefore, that epidemiological studies have identified an increase in the risk of coronary artery disease in nonsmokers living with smokers.

EFFECTS OF PRIMARY SMOKING

Before reviewing the evidence linking U.S. with coronary artery disease, summarizing the evidence that links active smoking with coronary artery disease is worthwhile. This evidence was summarized in the 1983 Surgeon General's Report,⁴ which was devoted entirely to cardiovascular disease; it concluded that cigarette smoking is one of the three major independent heart disease risk factors. It also concluded that the magnitude of the risk associated with cigarette smoking is similar to that associated with the other two major heart disease risk factors, hypertension and hypercholesterolemia; however, because cigarette smoking is present in a larger percentage of the U.S. population than either hypertension or hypercholesterolemia, cigarette smoking ranks as the largest preventable cause of heart disease in the United States. Since 1983, an increasing body of evidence has shown that the polycyclic aromatic hydro-

carbons in cigarette smoke can injure the arterial endothelium and initiate the atherosclerotic process.

All the compounds from cigarette smoke that have been implicated as damaging to the cardiovascular system of active smokers have been identified in ETS.^{1,7}

EPIDEMIOLOGICAL STUDIES ON ETS AND HEART DISEASE

Since 1984, the epidemiological evidence linking exposure to ETS with heart disease has rapidly accumulated. The results of the 10 published studies⁸⁻¹⁷ that use death as an end point are summarized in Table 1 and Figure 1; four studies present data on men, eight on women, and one on both sexes combined. Despite minor differences in methodology or end points (some used death from ischemic heart disease of any origin, and some were limited to death from myocardial infarction), the results of these studies are remarkably consistent. All the studies on men yielded relative risks of death from heart

disease exceeding 1.0 when a nonsmoking man was married to a woman who smoked, with an overall risk of 1.3. All but one of the studies on women yielded relative risks exceeding 1, with an overall relative risk of 1.3. Five studies¹⁰⁻¹⁷ have also suggested an increase in the risk of nonfatal coronary symptoms, including angina and myocardial infarction. Consistency of an observation across different studies increases the confidence that a particular association is causal.

Graphs not reproducible in the Record.

Several investigative teams also observed a dose-response relation between increasing amounts of smoking by the spouse and the risk of heart disease in the nonsmoking spouse,^{11-15,17} which in most cases was statistically significant. The presence of such dose-response effects across multiple studies, conducted in different locations with different criteria, supports the hypothesis that ETS causes heart disease in nonsmokers.

TABLE 1.—EPIDEMIOLOGICAL STUDIES OF ENVIRONMENTAL TOBACCO SMOKE AND CORONARY HEART DISEASE DEATH

Author	Type	Location	Deaths or cases (n)	Relative risk	95 percent confidence interval	Dose* response?	Power† (percent)	Controlling for
Males:								
Gillis et al ⁸ (1984)	P	Scotland	32	1.3	0.7-2.6		5	Age.
Lee et al ⁹ (1986)	C	United Kingdom	41	1.2	.5-2.6		2	Age, marital status.
Svensden et al ¹⁰ (1987)†	P	United States	13	2.1	.7-6.5	Yes	3	Age, blood pressure, serum cholesterol, weight, education, alcohol.
Helsing et al ¹¹ (1988)	P	Maryland	370	1.3	1.1-1.6	No	40	Age, marital status, housing, education.
Pooled§				1.3	1.1-1.6			
Females:								
Hirayama ¹² (1984)	P	Japan	494	1.2	.9-1.4	Yes	40	Age, diet.
Gillis et al ⁸ (1984)	P	Scotland	21	3.6	.9-13.8		2	Age.
Garland et al ¹³ (1985)	P	California	19	2.7	.9-13.6		2	Age, blood pressure, plasma cholesterol, weight, years of marriage.
Lee et al ⁹ (1986)	C	United Kingdom	77	.9	.5-1.6		6	Age, marital status.
Helsing et al ¹¹	P	Maryland	988	1.2	1.1-1.4	Yes	2	Age, housing, marital status, education.
He (1989) ¹⁴	C	China	34	1.5	1.3-1.8	Yes	3	Age, race, residence, occupation, hypertension, family history of hypertension or CHD, alcohol, exercise, hyperlipidemia.
Humble et al ¹⁵ (1990)	P	Georgia	76	1.6	1.0-2.6	Yes	8	Age, serum cholesterol, blood pressure, weight.
Butler ¹⁶ (1990)	P	California	64	1.4	.5-3.8		4	Age.
Pooled				1.3	1.2-1.4			
Both sexes combined								
Hole et al ¹⁷ (1989)¶	P	Scotland	84	2.0	1.2-3.4		10	Age, sex, social class, blood pressure, cholesterol, weight.
Pooled¶				1.3	1.2-1.4			

P, Prospective cohort; C, Case control; CHD, coronary heart disease.

*No entry in this column indicates no comment on the presence or absence of dose-response relation.

†Power to detect relative risk of 1.2 with 95 percent confidence.

‡High-risk population; members of Multiple Risk Factor Intervention Trial.

§Pooled relative risk computed as $R = \exp \left(\sum w_i \ln R_i / \sum w_i \right)$, where $w_i = 1/R_i^2$.

¶This report is a later follow-up of the population reported in Gillis et al.⁸

¶¶All studies combined without regard for sex, with Gillis et al⁸ excluded because Hole et al¹⁷ report later follow-up on the same people.

While all but one of the studies in Table 1 and Figure 1 yielded relative risks greater than 1.0, the fact remains that three of the studies in men and five of the studies in women had 95 percent confidence intervals for the relative risk of passive smoking for heart disease that included 1.0, meaning that the risk was not statistically significantly elevated above 1.0 (with $p < 0.05$). Of note, the 95 percent confidence intervals do not lie symmetrically about 1.0 but are skewed toward higher risks. By examining the confidence intervals, the conclusion is reached that exposure to ETS elevates the risk of heart disease (Figure 1). Also, the results of these studies may be combined in a formal analysis to derive a global estimate of the relative risk and associated 95 percent confidence interval. By combining the studies, the sample size and, therefore, the power to detect an effect increases. Wells⁵ used then-available studies^{8,9,11-13,18} to compute a pooled relative risk of 1.3 (95 percent confidence interval, 1.1-1.6) for men and 1.2 (95 percent confidence interval, 1.2-1.4) for women. Our analysis on all the studies in Table 1 yields a combined relative risk of 1.3 (95 percent confidence interval, 1.2-1.4).

When interpreting the results of such epidemiological studies, it is always important to consider biological plausibility and potential confounding variables that can explain the results. Aside from noting that the hydrocarbons in mainstream smoke already implicated in heart disease are also in ETS, we will defer the discussion of biological plausibility until we discuss the effects of ETS on platelets and the atherogenic agents in ETS. For now, we will concentrate on potential confounding variables, which are particularly important in a disease like heart disease because it is known to be caused by multiple risk factors.

All the studies controlled for the most important confounding variable, age, and several^{10,13,15,17} controlled for known risk factors for coronary artery disease, in particular levels of serum or plasma cholesterol, blood pressure, and body mass. Most of the studies also included one or more measures of socioeconomic status, such as housing or education. Indeed, studies that estimated the relative risk both with and without taking these confounding variables into account found an increase in risk associated with ETS after taking the confounding variables into account.^{10,15}

Lee²¹⁻²³ suggested that the elevated risk of heart (and other) disease with passive smoking may be due to misclassification of nonsmokers who are really smokers. In addition, Wald²⁴ noted that some people who say they live with nonsmokers have detectable levels of the nicotine metabolite continue in their blood, indicating that they are actually exposed to ETS, either at work or at home. The former type of misclassification tends to lead to overestimating the risks associated with ETS and the latter leads to underestimating the risk. Careful analysis of the question of misclassification, which applies generally to studies of ETS, has demonstrated that the observed risk cannot be explained by this problem.^{8,24,28}

The possibility always exists that some other confounding variable relates to cultural factors, such as the nature of housing or employment or the nature of time spent outside the home. Also, it is possible that there are other confounders, such as a correlation of spouses' poor health behaviors (e.g., diet), which are not controlled for in analysis. The fact that results are from all over the world in widely varying cultural settings—including several regions in the

United States, the United Kingdom, Japan and China—argues against this concern.

One can assess formally the confidence in reaching a negative conclusion by computing the power of the study to detect an effect of specified size. Table 1 shows estimates of the power of each of the studies to detect a 20 percent increase in risk of heart disease (i.e., a relative risk of 1.2) with the available samples. The power was computed as described in Muhm and Olshan,³⁰ using a two-sided test for the relative risk with a type I risk of 5 percent (i.e., requiring the 95 percent confidence interval for the relative risk to exclude 1.0 before concluding a statistically significant elevation in risk in an individual study). Most of the studies have low power. This low power of the individual studies argues against drawing an overall negative conclusion concerning the link between ETS exposure and risk of death from heart disease, based on the individual studies taken one at a time.

Last, and of note, all these studies are based on the smoking habits of the non-smoker's spouse and, therefore, the exposure to ETS at home. Household exposures to ETS at home are generally much smaller than exposures at work, where the density of smokers is generally higher.^{31, 32} As a result, these studies generally underestimate the risk and attendant public health burden due to ETS induced heart disease. Kawachi et al³³ adjusted Wells's⁵ relative risks to account for workplace exposures to ETS and found that the relative risks increase to 2.3 (95 percent CI, 1.4–3.4) for men and 1.9 (95 percent CI, 1.4–2.5) for women. Thus, any potential confounding of the results because of exposure to ETS outside the home will tend to produce underestimates rather than overestimates of the effect of ETS. Likewise, estimates of public health impact based on risks computed from household exposures⁵ will be lower than the true public health impact. In addition, Wells⁵ and Kawachi et al³³ indicate that the number of heart disease deaths due to passive smoking is an order of magnitude greater than the number of lung cancer deaths due to passive smoking. Even though the relative risks for heart disease and lung cancer caused by ETS are similar (about 1.3 for both diseases), the attributable deaths of heart disease is greater because heart disease is much more common than lung cancer. Of 53,000 annual deaths in the United States attributed to passive smoking,⁵ 37,000 are attributed to heart disease compared with 3,700 for lung cancer (Figure 2).

These epidemiological studies demonstrate a connection between ETS exposure and death from heart disease. We now turn our attention to possible physiological and biochemical mechanisms that explain these observations.

SHORT-TERM EFFECTS OF ETS EXPOSURE

Long-term exposure to ETS exerts carcinogenic effects by increasing the cumulative risk that a carcinogenic molecule from ETS will damage a cell and then initiate or promote the carcinogenic process. The situation with heart disease is different. In heart disease, important long-term changes (i.e., the development of atherosclerotic lesions) and short-term changes occur. The latter include an increased myocardial oxygen demand that may outstrip the oxygen supply and produce ischemia and an increased platelet aggregation that may lead to coronary thrombosis and acute myocardial infarction.

When the coronary circulation cannot provide enough oxygen to the myocardium to meet the demand, the result is ischemia,

which can be a silent or an anginal episode. Earlier onset of angina or hypotension during exercise is a reflection of more severe heart disease. Oxygen supply can be reduced by atherosclerotic narrowing or vasoconstriction of the coronary arteries or by reducing the oxygen-carrying capacity of the blood because the carbon monoxide in the ETS forms carboxyhemoglobin, which, in turn, reduces the blood's oxygen-carrying capacity. Khalfen and Klochkov³⁴ confirmed earlier work by Aronow³⁵ demonstrating that exposure to ETS significantly reduced both the exercise ability in patients with coronary artery disease and the rate-pressure product (heart rate multiplied by systolic blood pressure). In both studies, patients were exposed to realistic levels of ETS by sitting in a waiting room while someone was smoking. These effects were present in smokers and nonsmokers³⁴ and regardless of whether the room was ventilated.^{34, 35} Exposure to ETS also increased resting heart rate and systolic and diastolic blood pressure and resulted in a lower heart rate at the onset of angina.³⁵ Blood carboxyhemoglobin was increased by about 1 percent after exposure to ETS.³⁵ Thus, short-term exposure to ETS leads to an imbalance between myocardial oxygen supply and demand during exercise in patients with coronary artery disease. While this discussion has concentrated on the carbon monoxide in ETS as the active agent, some other component of the ETS may be causing or contributing to this effect.

The effects of ETS on cardiac performance are, in fact, severe enough to affect exercise performance in young healthy subjects with no evidence of heart disease. McMurray et al³⁶ exposed young healthy women to pure air and air contaminated with ETS while they exercised on a treadmill. The results were similar to those observed in patients with coronary artery disease. Resting heart rate was increased during exposure to ETS, which increased blood carboxyhemoglobin by about 1 percent. Exposure to ETS significantly reduced maximum oxygen uptake (by 0.25 l/min) and time to exhaustion (by 2.1 minutes). Exposure to ETS also increased the perceived level of exertion during exercise, maximum heart rate, and carbon dioxide output. It also significantly increased levels of lactate in venous blood (from a mean of 5.5 mM during the control period to 6.8 mM after exposure to ETS). This greater lactate at a lower oxygen consumption during the passive smoking trials indicates a greater reliance on anaerobic metabolism. The combined effects of the reduced oxygen-carrying capacity and increased lactate resulted in a reduction in maximal aerobic power and the duration of exercise. Thus, even in healthy subjects, exposure to ETS adversely affects exercise performance. Lamb³⁷ suggested that at maximal exertion levels, up to 90 percent of the oxygen-carrying capacity of the blood may be needed. Probably because of carbon monoxide, ETS reduces this capacity, so the muscle cannot maintain its high rate of aerobic metabolism unless cardiac output is further increased; people with heart disease and reduced ventricular reserve have difficulty meeting this demand. In sum, exposure to ETS increases the demands on the heart during exercise and reduces the capacity of the heart to respond. This imbalance increases the ischemic stress of exercise in patients with existing coronary artery disease and can quickly precipitate symptoms.

Moskowitz et al³⁸ found evidence that adolescent children of parents who smoked may suffer from chronic tissue hypoxia such as

that observed in anemia, chronic pulmonary disease, cyanotic heart disease, or high altitude. These children had significantly elevated levels of 2,3-diphosphoglycerate (DPG), even after correcting for age, weight, height, and sex. DPG acts as a physiological modulator of hemoglobin oxygen affinity. It binds to specific amino acid sites and increases the P₅₀ (lowers the oxygen affinity), thus making more oxygen available to peripheral tissue. This observation suggests that the body is attempting to compensate for hypoxia by increasing the DPG level in blood to meet tissue oxygen requirements. The changes were dose dependent; the greater the exposure to ETS (measured both in terms of parental smoking and serum thiocyanate levels in the children), the greater the increase in DPG.

There is also evidence that short-term exposure to ETS directly affects respiration of the myocardium at a cellular level. Gvozdjaková et al³⁹ exposed rabbits in a 50 l child's incubator to the smoke of three burning cigarettes smoked during a 30-minute period, and they measured several variables related to the metabolism of cardiac mitochondria. They had three groups of rabbits: one group was exposed to a single dose of ETS, one group was exposed to 30 minutes of ETS twice daily for 2 weeks, and one group was exposed to 30 minutes of ETS twice daily for 8 weeks. They measured mitochondrial respiration as the consumption of oxygen after adding ADP to a vessel containing mitochondrial fragments. Using pyruvate as a substrate, mitochondrial respiration was reduced significantly compared with control (pure air) for all doses of ETS, by even a single exposure, to about half the control value. The oxidative phosphorylation rate was also reduced significantly at all exposures by about one third. There were no significant changes in the coefficient of oxidative phosphorylation with ETS exposure. Gvozdjaková et al³⁹ concluded that pyruvate as a substrate was a sensitive indicator of the toxic action of the ETS on the oxidative process.

Later, to further isolate where in the process of mitochondrial respiration the ETS acted, Gvozdjaková et al⁴⁰ and Gvozdjak et al⁴¹ reported data on succinate, NADH, and cytochrome oxidase activity in the mitochondria in the four groups of rabbits. Exposure to ETS affects the activity of NADH oxidase, succinate oxidase, and cytochrome oxidase of myocardial mitochondria. The activity of the first two oxidases exhibited no changes compared with the control group, neither after a single exposure to ETS or after exposures to 2 weeks. Cytochrome oxidase activity decreased both after a single exposure to ETS and over time, with greater decreases as the duration of exposure to ETS was extended. The observation that cytochrome oxidase and not NADH or succinate oxidase activity was affected by ETS suggests that the deleterious effects of ETS on myocardial mitochondrial respiration occur at the terminal segment of the mitochondrial respiration process. Prolonged exposure to carbon monoxide has been shown to induce ultrastructural changes in myocardium^{42–44} and may account for the adverse effects of ETS exposure on mitochondrial function.

Thus, short-term exposure to ETS not only increases the demand and compromises the supply of oxygen to the heart, but also reduces the myocardium's ability to use the oxygen to create ATP to provide energy to support the heart's pumping activity.

EFFECTS ON PLATELETS

The action of ETS to increase platelet aggregation is another way in which ETS can increase the risk of a coronary event. Platelets are important for the normal process of hemostasis, to prevent blood loss after an injury. When blood platelets aggregate inappropriately and form a thrombus in the coronary circulation, they can precipitate a myocardial infarction. Hemostasis depends on complex interactions among the dynamics of blood flow, components of the vessel wall, platelets, and plasma proteins. Definitive evidence has confirmed that platelets play a major role in thrombus formation and embolization, especially in the arterial system. In addition, increasing evidence has shown that platelet deposition and thrombus formation can contribute to the growth and progression of atherosclerotic plaques.^{45,46} An arterial thrombus appears to develop in three phases: platelet adhesion, platelet aggregation, and activating of clotting mechanisms. Passive smoking increases platelet aggregation and, thus, increases the likelihood of thrombus formation and myocardial infarction.

Table 2 summarizes the results of several studies by Davis et al.⁴⁷⁻⁵⁰ on the effects of cigarette smoke on platelet aggregation and damage to the arterial endothelium. Davis et al.⁵¹ also measured platelet aggregate ratios and endothelial cell counts in non-smokers before and after exposure to 20 minutes of ETS while sitting in a hospital atrium. The platelet aggregate ratio in these studies is the ratio of the platelet count of platelet-rich plasma prepared from blood mixed immediately with EDTA and formaldehyde to the same mixture without formaldehyde. This method assumes that platelet aggregates circulating in blood are fixed in the EDTA-formaldehyde solution and that they break apart in the EDTA solution. Thus, a decrease in the platelet aggregate ratio reflects an increased formation of platelet aggregates. Mean values before and after passive smoking were 0.87 and 0.78 ($p=0.002$) for platelet aggregate ratios and 2.8 and 3.7 ($p=0.002$) for counts of anuclear endothelial cell carcasses in venous blood. These changes are intermediate between the effects observed after nonsmokers smoked two tobacco cigarettes and the effects observed after smoking two nontobacco cigarettes⁴⁷ and

similar to the values observed in nonsmokers who smoked two cigarettes while trying not to inhale.⁴⁸ These effects were not correlated with the level of nicotine in the blood of the experimental subjects in any of these or other^{49,50} related studies on how drugs modify platelet aggregation and endothelial cell counts. In particular, the effects observed in nonsmokers who smoked without inhaling were similar to the effects on smokers who smoked two cigarettes even though the plasma nicotine levels in the nonsmokers were five times lower than those observed in the smokers.⁵⁰ Other work in the same laboratory comparing smoking with snuff use revealed similar changes in platelet function in response to these two forms of tobacco use.⁵² This result, combined with the finding that smoking nontobacco cigarettes⁴⁷ failed to produce changes in platelet function as large as observed with tobacco cigarettes, suggests that nicotine is an important active agent. Because nontobacco cigarettes also affected platelet aggregation somewhat, however, carbon monoxide or other combustion products may also influence the platelets.

TABLE 2.—EFFECT OF PASSIVE AND ACTIVE SMOKING ON PLATELET AGGREGATION AND ENDOTHELIAL CELL DAMAGE

	Platelet aggregate ratio			Endothelial cell count			n
	Before	After	Change	Before	After	Change	
Passive smoking (nonsmoker)	0.87	0.78	-0.09	2.8	3.7	0.9	10
Tobacco (nonsmoker) .....	.80	.65	-.15	2.3	4.8	2.5	20
Nontobacco cigarette (nonsmoker) .....	.81	.78	-.03	2.5	3.0	.5	.....
Inhale cigarette (smoker) .....	.81	.68	-.13	4.0	5.4	1.4	24
Not inhale cigarette (nonsmoker) .....	.82	.73	-.09	3.3	4.7	1.4	22
Smoke (smoker) .....	.85	.70	-.15	4.4	6.4	2.0	17
Snuff (smoker) .....	.82	.76	-.06	3.9	4.7	.8	.....

Note: All studies are paired and reflect significant differences ($p<0.005$). Platelet aggregate ratio is the ratio of platelet count of platelet-rich plasma, prepared immediately after venipuncture with a solution containing edetic acid and formaldehyde, to that of platelet-rich plasma prepared in the same manner, except for the absence of formaldehyde. A decrease in the platelet aggregate ratio reflects an increased formation of platelet aggregates. Endothelial cell count is mean number of anuclear cell carcasses in 0.9 μ l chambers. Modified from Davis et al.^{47,48,51,52}

Sinzinger and Kefalides⁵³ measured platelet sensitivity to antiaggregatory prostaglandins (E_1 , I_2 , and D_2) before, during, and after 15 minutes of exposure to ETS in healthy nonsmokers and smokers. Passive smoking reduced platelet sensitivity to the antiaggregatory prostaglandins I_2 and E_1 significantly ($p<0.01$) by a factor of about 2 by the end of 15 minutes of exposure to ETS among nonsmokers. This effect persisted at 20 minutes after the end of exposure and ceased by 40 minutes. Platelet response to prostaglandin D_2 changed modestly in a similar pattern but was not significant. Among smokers, the control level of platelet aggregation was higher ($p<0.01$), and the prostaglandins had no significant effects on platelet aggregation over time during or after exposure to ETS. Sinzinger and Virgolini⁵⁴ also showed that repeated exposure to ETS for 1 hr/day for 10 days produced lasting changes in platelet function in nonsmokers similar to those observed in smokers. Thus, nonsmokers' platelets seem much more sensitive to a single exposure to ETS than do smokers' platelets, and change in platelet sensitivity to disaggregating prostaglandins in nonsmokers exposed to ETS for short periods is similar to that observed in smokers.

Further evidence from the same laboratory that passive smoking increases platelet aggregation comes from work by Burghuber et al.⁵⁵ who studied smokers and nonsmokers who smoked two cigarettes and also exposed a different group of smokers and nonsmokers to ETS in an 18 m³ room in which 30 cigarettes had been smoked just before exposing the nonsmokers. They measured the sensitivity of platelets to the disaggregating substance prostaglandin I_2 that is released

by endothelium and inhibits platelet aggregation. Figure 3 shows the results of this experiment. In smokers, neither smoking nor passive smoking affected the sensitivity of the platelets to the disaggregating effect of prostaglandin I_2 . The sensitivity of platelets in smokers was also significantly lower than that of nonsmokers. In contrast, platelets were more sensitive to prostaglandin I_2 in nonsmokers, with both smoking and passive smoking producing a similar reduction in platelet sensitivity to prostaglandin I_2 . These results suggest that the platelets of smokers are already desensitized to the antiaggregatory substance prostaglandin I_2 so that no further decrease in aggregation is seen. The significant decrease in platelet sensitivity to prostaglandin after short-term exposure to ETS suggests that after ETS exposure platelets are more likely to aggregate with adverse consequences.

Earlier work by Saba and Mason⁵⁶ also indicated that nicotine increased a variety of measures of platelet aggregation in nonsmokers and smokers. Although the in vitro effects of nicotine on platelets from smokers was greater than that in nonsmokers, the effect generally did not vary with dose (between 2×10^{-9} and 2×10^{-4} M), suggesting that the effects of nicotine on platelets occur at low doses and that the system saturates quickly. This observation may explain why passive and active smoking have such similar effects on platelets.^{51,52,53}

The probable link between nicotine and adverse physiological effects is nicotine-induced release of catecholamines. Catecholamines are then responsible for increased platelet aggregation. This reasoning suggests that β -adrenergic receptor blockers may provide some protection in smokers.

This premise is borne out by a trial comparing the effects of the β -blocker metoprolol to a thiazide diuretic in the control of moderate hypertension.⁵⁷ For the same reduction in blood pressure, the metoprolol-treated group had a significantly lower mortality rate than did the thiazide-treated group. Practically all of this reduction in mortality, however, was seen in smokers and not nonsmokers. This study provides evidence that blocking the effects of catecholamines (released by nicotine) was the cause of the reduced mortality in smokers who were receiving metoprolol.

In sum, passive smoking increases platelet aggregation, with a magnitude similar to that observed in active smoking. Moreover, the response of nonsmokers to both active and passive smoking appears to be different from smokers, with nonsmokers being more sensitive to lower exposures to cigarette smoke than are smokers. This observation indicates that the pharmacology of ETS in nonsmokers may be different than in smokers, with nonsmokers being more sensitive to low doses of ETS. In particular, it invalidates attempts to estimate "cigarette equivalent" doses of ETS in nonsmokers or extrapolating from risks of smoking in smokers to effects of ETS on nonsmokers.⁵⁸ The resulting increase in platelet aggregation can contribute to acute thrombus formation and myocardial infarction.

In addition to the role of platelets in acute thrombus formation, platelets are also important in the development of atherosclerosis.⁴⁶ Once there is damage to the arterial endothelium, either through mechanical or chemical factors, platelets interact with or adhere to subendothelial connective tissue and initiate a sequence that leads to athero-

sclerotic plaque. When platelets interact with or adhere to subendothelial connective tissue, they are stimulated to release their granule contents. Endothelial cells normally prevent platelet adherence because of the nonthrombogenic character of their surface and their capacity to form antithrombotic substances such as prostacyclin. Once the endothelial cells have been damaged, the platelets can stick to them. Once the platelets are bound to the endothelium, they release mitogens such as platelet-derived growth factor, which encourage migration and proliferation of smooth muscle cells in the region of the endothelial injury.⁵⁰ If platelet aggregation is increased because of exposure to ETS, the chances of platelets building up at an endothelial injury will be increased. Thus, in addition to contributing to short-term effects through increasing the likelihood of thrombus formation, the effects of ETS on platelets also increase the chances that endothelial injury will lead to arterial plaque.

ETS also plays a role in causing damage to the endothelium and initiating the atherosclerotic process. As discussed above, Davis et al⁵¹ found that short-term exposure to ETS, like active smoking⁴⁷⁻⁵⁰ and use of chewing tobacco,⁵² leads to a significant increase ($p < 0.002$) in the appearance of nuclear endothelial cell carcasses in the blood of people exposed to ETS (or tobacco product) constituents. The appearance of these cell carcasses indicates damage to the endothelium, which is the initiating step in the atherosclerotic process. As noted above, the appearance of endothelial cells after passive smoking is almost as great as after primary smoking (Table 2). Exposure to ETS has been shown to produce injuries similar to those observed with exposure to primary smoke and also affects platelets in a way that increases the chances that they will bind to the injured area and promote growth of smooth muscle cells.⁴⁶

ROLE OF THE POLYCYCLIC AROMATIC HYDROCARBONS IN ETS

Many atherosclerotic plaques in humans are either monoclonal or possess a predominantly monoclonal component,⁶⁰ which indicates that the smooth muscle cells of each plaque have a predominant cell type. Several animal studies have also shown that injections of polycyclic aromatic hydrocarbons (PAHs), in particular 7,12-dimethylbenz(a,h)anthracene (DMBA) and benzo(a)pyrene,⁶¹⁻⁶⁵ accelerate the development of atherosclerosis. Benzo(a)pyrene is an important element in ETS.¹ The effects of PAHs or other carcinogenic or mutagenic elements in ETS⁶⁶ relate directly to the response to injury theory of atherogenesis discussed above.⁴⁶ Changes in the underlying smooth muscle stimulated by these agents can then initiate the "injury" that leads to platelet aggregation and plaque formation. Thus, long-term exposure to ETS can affect plaque formation through mechanisms similar to those by which long-term exposures produce cancer in other organs.

Albert et al⁶¹ gave chickens weekly intramuscular injections of DMBA and benzo(a)pyrene for up to 22 weeks, then killed the chickens at various times beginning after 13 weeks and measured the plaque volume in the chickens' aortas. They found that both DMBA and benzo(a)pyrene significantly increased the volume of plaque compared with control chickens who had just received injections of the solvent used to carry these agents. This study provided the first evidence that known carcinogenic chemicals can be atherogenic as well.

Penn et al⁶² extended this result in a similar experiment by showing that the effects of DMBA on the extent of plaque buildup in chickens was dose dependent. The median cross-sectional area of plaques on individual aortic segments and the plaque volume index (an approximate measure of the total volume of plaque per aorta) increased in a nearly linear fashion with DMBA dose. In contrast to the marked increase in plaque area in the DMBA-treated animals, the percentage of aortic sections with plaques in carcinogen-treated animals was only slightly higher than in controls. Plaques with a small cross-sectional area were present in all animals. Lesions of widely differing cross-sectional areas appeared to be similar histologically under the light microscope.

Together, these data suggest strongly that a major effect of long-term DMBA exposure is to increase the size of spontaneous aortic lesions. Rather than inducing a cancerlike change in an individual cell that begins the process that ultimately leads to plaque formation, Penn et al⁶² suggested that long-term DMBA exposure causes preferential division of individual cells or patches of cells within the preexisting spontaneous lesions. From this perspective, DMBA and other exogenous compounds would be acting as a mitogen, similar to that released by activated platelets, to stimulate division of aortic smooth muscle.

Revis et al⁶² found similar results in White Carneau pigeons injected with DMBA and benzo(a)pyrene weekly for 6 months, beginning when the pigeons were 3 months old. Compared with the work described above, they found that benzo(a)pyrene had a greater effect on atherogenesis than did DMBA, and they also failed to observe a dose-response relation between the dose given and the amount of aortic plaque. These differences from the work just described may be related to species differences, differences in the carrier used to inject the PAHs (dimethyl sulfide in the previous studies compared with corn oil in this one), or differences in the age of the pigeons or dosing schedule. They also found an increase in aortic plaques in pigeons treated with the PAH 3-methylcholanthrene but not the carcinogen 2,4,6-trichlorophenol or the PAH benzo(e)pyrene, which is not considered a carcinogen. This result suggests that carcinogenic PAHs, rather than carcinogens or PAHs in general, are implicated in the atherosclerotic process.

Revis et al⁶² also studied the distribution of these compounds after they had been radiolabeled. Forty-eight hours after the injection of PAHs, radioactivity in the liver, aorta, and lung accounted for 75 percent of the injected dose, whereas in animals injected with 2,4,6-trichlorophenol, radioactivity in the liver and kidney accounted for 80 percent of the dose. In addition, 80 percent of the radioactivity observed in the plasma immediately after injection of radiolabeled PAHs was associated with the low density and high density lipoprotein cholesterol fractions compared with only 24 percent of the 2,3,6-trichlorophenol, suggesting that plasma lipoproteins are an important vehicle for transporting PAHs to their sites of activation in the arteries.

There is also evidence that ETS directly affects plasma lipoproteins. Moskowitz et al⁶³ showed that adolescent children whose parents smoked had elevated levels of cholesterol and depressed levels of high density lipoproteins, even after correcting for age, weight, height, and sex. These effects were dose dependent; the greater the exposure to

ETS, the greater were the changes in these variables. Pomerehn et al⁶⁷ observed similar effects of ETS on high density lipoprotein in children whose parents smoked and in children who smoked or chewed tobacco themselves. High levels of total cholesterol and low levels of high density lipoprotein are important for the development of plaque. Data on total cholesterol and high density lipoprotein from non-smokers married to smokers are inconclusive.^{10,14}

To further elucidate the possible mechanisms by which PAHs induce atherosclerotic changes, Majesky et al⁶⁵ administered a single injection of benzo(a)pyrene to White Carneau and Show Racer pigeons, then looked for metabolites of the benzo(a)pyrene in aortic and hepatic tissues 48 hours later. White Carneau pigeons typically develop severe atherosclerosis by 3 years of age, whereas Show Racer pigeons are relatively resistant to aortic atherosclerosis. Aortic preparations of the White Carneau strain exhibited a much greater inducibility of the microsomal monooxygenase system than did those of a Show Racer strain, particularly in young pigeons. Aortic tissues from White Carneau pigeons aged 6-12 months exhibited a threefold to 12-fold inducibility, whereas aortic tissues from the same strain at 2-5 years of age exhibited only minor (maximum, 3.3-fold) and, for the most part, statistically insignificant increases. No age differences in inducibility could be detected in the Show Racer strain. Interestingly, the differences in inducibility manifest in aortic tissues were greater in aortic tissues than in hepatic tissues from the same birds. Thus, the PAHs seem to accelerate any preexisting tendency to develop atherosclerosis.

Regardless of the ultimate mechanism by which PAHs exhibit atherogenic effects, it seems logical to suppose that the reactive intermediary metabolites of these chemicals are the proximate atherogenic or coatherogenic agents because the parent compounds are relatively inert both chemically and biologically. Thus bioactivation and inactivation (and regulatory control of these processes) may be presumed to play extremely important roles in their atherogenic properties. Bioactivated chemicals vary in their stability and reactivity according to four general categories: (1) those that are extremely unstable and persist only at the immediate site (enzyme) of bioactivation, (2) those that persist only within cells in which bioactivation occurs, (3) those that persist primarily only within tissues in which bioactivation occurs, and (4) those capable of being transferred in the circulation from one organ to another. For the first three of these four categories, biotransformation in the aorta per se (target tissue activation) would be of prime interest and importance. This, it appears that PAHs could be playing either a mutagenic or mitogenic role in beginning the atherosclerotic process in susceptible cells or individuals, depending on how the PAHs in ETS are metabolized in the aorta.

The finding that enzymes that metabolize DMBA and benzo(a)pyrene are in the artery wall led Penn et al⁶⁴ to search for specific molecular events in plaque cells that would lead to DNA changes similar to those previously found in tumors. Identification of such processes would be supportive of the monoclonal hypothesis of atherogenesis. They obtained human DNA samples from coronary artery plaques as well as DNA from normal sections of the coronary arteries at surgery to remove the plaque. These DNA samples were tested with the NIH 3T3 cell transsection assay. Foci arose in cells

obtained with each of the DNA samples transfected from the human coronary plaque, with an efficiency (number of foci/ μ g of DNA) ranging from 0.016 to 0.060 (mean, 0.036). The transfection efficiencies for DNA from normal coronary artery, liver, spleen, lung, kidney, and trachea were all less than 0.008. The transformed cells were also injected into the scalps of nude mice, where they developed tumors. These results provide direct evidence for similarities on the molecular level in the development of plaques and tumors. Human coronary artery plaque DNA contains sequences capable of transforming NIH 3T3 cells, and these transformed cells can cause tumors after injection into nude mice. Control experiments verified that the transforming cells did indeed contain human DNA and that the tumorigenic (or transforming) activity was not due to the ras oncogene family. Although these results clearly demonstrate that human plaque DNA has transforming ability, the temporal expression of this activity in vivo is not known. The plaques were taken from adult patients in late stages of vascular disease. Thus, we cannot determine from these samples whether the manifestation of transformation is a relatively late event in plaque development or an early but stable event. Oncogene activation and expression is an important early event in transformation and tumor genesis. These results identify special molecular events that may underlie the proliferation of smooth muscle cells that is a hallmark of atherosclerotic plaque development and demonstrates that plaque cells exhibit molecular alterations that had previously only been thought to be present in cancer-cell transformation and tumorigenesis. These results provide direct support for the monoclonal hypothesis.

Randerath et al⁹⁸ also demonstrate that constituents of cigarette "tar," including benzo(a)pyrene, are preferentially attracted to the heart and damage DNA there. They studied molecular mechanisms of smoking-related carcinogenesis by examining the induction and distribution of covalent DNA damage in internal organs of the mouse after topical application of cigarette smoke condensate daily for 1, 3, or 6 days then killed 24 hours later. DNA samples were obtained from skin, lung, heart, kidney, liver, and spleen. Adducts containing benzo(a)pyrene-derived moieties were identified, together with others. At all three times, the number of adducts in heart and lung DNA was about five times higher than that in liver and slightly higher than that in skin. Covalent DNA damage was estimated to be 6.2, 5.7, 3.9, and 1.9 times higher, respectively, in lung, heart, skin, and kidney than in liver, ranging from approximately 1 adduct/ 5.4×10^6 DNA nucleotides in lung to 1 adduct/ 3.3×10^7 DNA nucleotides in liver. Spleen DNA was practically adduct free. Although the DNA adduct profiles resembled each other qualitatively among the different tissues, there were major quantitative differences between the different tissues, with the highest DNA binding occurring in the lung and heart. The reasons for the high incidence of DNA adducts in the heart are not known but may be related to the role of plasma lipids in transporting PAHs such as benzo(a)pyrene and binding of these lipids to coronary arteries.

In sum, there is a growing body of evidence at a molecular level supporting the monoclonal hypothesis of atherogenesis, with compounds in tobacco smoke and ETS strongly implicated as agents that stimulate the development of coronary lesions. Regard-

less of whether the monoclonal hypothesis proves to be true (or, more likely, one of several initiators of the atherosclerotic process), there is clear evidence that components of ETS, in particular PAHs such as benzo(a)pyrene, initiate or accelerate the development of plaque. These biochemical findings are consistent with the epidemiological finding that chimney sweeps, who are exposed to high levels of PAHs in soot, have an increased risk of heart disease (as well as cancer) and tend to develop these diseases earlier than do members of other, comparable, occupations that are not exposed to PAHs.⁹⁹ The PAHs in ETS are clearly implicated at epidemiological, physiological, and biochemical levels in the genesis of heart disease.

SUMMARY

The evidence that ETS increases risk of death from heart disease is similar to that which existed in 1986 when the U.S. Surgeon General concluded that ETS caused lung cancer in healthy nonsmokers.¹ There are 10 epidemiological studies, conducted in a variety of locations, that reflect about 30 percent increase in risk of death from ischemic heart disease or myocardial infarction among nonsmokers living with smokers. The larger studies also demonstrate a significant dose-response effect, with greater exposure to ETS associated with greater risk of death from heart disease.

These epidemiological studies are complemented by a variety of physiological and biochemical data that show that ETS adversely affects platelet function and damages arterial endothelium in a way that increases the risk of heart disease. Moreover, ETS, in realistic exposures, also exerts significant adverse effects on exercise capability of both healthy people and those with heart disease by reducing the body's ability to deliver and utilize oxygen. In animal experiments, ETS also depresses cellular respiration at the level of mitochondria. The polycyclic aromatic hydrocarbons in ETS also accelerate, and may initiate, the development of atherosclerotic plaque.

Of note, the cardiovascular effects of ETS appear to be different in nonsmokers and smokers. Nonsmokers appear to be more sensitive to ETS than do smokers, perhaps because some of the affected physiological systems are sensitive to low doses of the compounds in ETS, then saturate, and also perhaps because of physiological adaptations smokers undergo as a result of long-term exposure to the toxins in cigarette smoke. In any event, these findings indicate that, for cardiovascular disease, it is incorrect to compute "cigarette equivalents" for passive exposure to ETS and then to extrapolate the effects of this exposure on nonsmokers from the effects of direct smoking on smokers.

These results suggest that heart disease is an important consequence of exposure to ETS. The combination of epidemiological studies with demonstration of physiological changes with exposure to ETS, together with biochemical evidence that elements of ETS have significant adverse effects on the cardiovascular system, leads to the conclusion that ETS causes heart disease. This increase in risk translates into about 10 times as many deaths from ETS-induced heart disease as lung cancer; these deaths contribute greatly to the estimated 53,000 deaths annually from passive smoking.⁵ This toll makes passive smoking the third leading preventable cause of death in the United States today, behind active smoking⁷⁰ and alcohol.⁷¹

ACKNOWLEDGMENTS

We thank James Stoughton for assistance in library work; A. Judson Wells, Donald Shopland, James Repace, Neil Benowitz, Takeshi Hirayama, and the Tobacco Institute for their comments on drafts of the manuscript; Peter Lee for carefully checking the power calculations; Vojtech Licko, Bo-Qing Zhu, and Art Sussman for translation of foreign language articles; and Jerry Simnitz for typing.

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● Mr. LAUTENBERG. Mr. President, I am pleased to join in introducing the Tobacco Product Education and Health Protection Act of 1991. The Tobacco Product Education and Control Act seeks to save American lives by enlisting the Federal Government in the fight against tobacco addiction, particularly among our children, women, and minorities. We can no longer sit idly by while our young people are lured into believing that smoking is glamorous and sexy. The Federal Government needs to make a concerted effort to get the truth out about the

grave health consequences of smoking tobacco. And the truth is that smoking tobacco kills.

The sad fact is that for too long this Nation has been complacent. For too long we have sat quietly on the sidelines and watched tobacco products slowly suck the life out of our citizens.

But Americans are waking up. They've seen too many lives lost to cancer, emphysema, and lung disease. And Americans want decisive action to combat the tragedy of tobacco-related deaths.

We need to fight this battle on all fronts. But we need to pay special attention to combating tobacco use among our youth. Trends in tobacco use reveal that more and more young people are beginning to smoke. One out of four high school seniors who have ever smoked began by sixth grade when they were 12 years old. Half began by eighth grade when they were 14 years old. Now that we've succeeded in getting cigarette smoking out of our airplanes, we need focus on getting tobacco products out of our children's lives.

Right now we are losing the battle to prevent our kids from smoking. The facts speak for themselves. According to a statement by HHS Secretary Sullivan in 1990, 90 percent of adult smokers began their addiction as children. Additionally, according to the National Institute on Drug Abuse, more than half of high school seniors who smoke at least half a pack a day have made at least one serious but unsuccessful attempt to quit smoking. Some 47 percent say they would like to quit. And almost 75 percent of daily smokers in high school still smoke 7 to 9 years later, even though in high school only 5 percent thought they would be daily smokers 5 years later.

In many ways, the fight against tobacco addiction is like the fight against drug addiction. Drugs are addictive. So is tobacco. Drugs are fatal. So is tobacco. It leads to cancer and lung disease and emphysema. And we know that it takes nearly 400,000 precious American lives each year.

We're fighting an all-out war to keep our kids off drugs. We've targeted resources for drug education. We've appointed a Federal drug czar. And we're trying to get more money into our cities and States to fight drug abuse. This legislation will finally integrate tobacco addiction into the mission of the Drug Free Schools and Communities Act of 1986.

The Tobacco Product Education and Health Protection Act of 1991 would provide valuable resources to help in the battle against addiction among our young people. It would authorize two new incentive grant programs to encourage States to enact and enforce laws to limit youth access to tobacco products. These incentive grants are based on legislation I introduced ear-

lier this year, S. 560, the Adolescent Tobacco and Prevention Act of 1991.

First, the bill would create incentive grants for States that enact and enforce laws prohibiting the sale of tobacco products to a minor under the age of 18. States would be encouraged to ban the sale of tobacco products in vending machines unless the presence of minors is not allowed on the premises where the machine is located. Second, the bill would create an incentive grant program to get States to make elementary and secondary schools smoke-free.

The Tobacco Product Education and Health Protection Act of 1991 also establishes other programs and policies that are designed to address this national health tragedy which costs our Nation over \$65 billion per year in health care costs and lost productivity. First, it sets up a National Information Program that would provide funds for public service announcements and paid advertisements to discourage tobacco use. Second, this legislation establishes a program to reduce tobacco use in the workplace among groups that have the highest prevalence of smoking. Finally, this legislation contains "sunshine" provisions that will enable Americans to readily see what is contained in tobacco products and how dangerous they are to one's health.

We need to act quickly and decisively to enact this legislation. The need for a comprehensive Federal policy on smoking couldn't be greater. The Government must play an active role in sending out a strong, clear message to the Nation that smoking kills. And we must provide the resources to help prevent would-be smokers from becoming addicted. Our children and citizens deserve no less.

I look forward to working with the distinguished Senator from Massachusetts on this important piece of legislation.●

● Mr. SIMON. Mr. President, I am happy to join my friend and colleague, Senator KENNEDY, as an original cosponsor of the Tobacco Product Education and Health Protection Act of 1991.

This bill will establish a center for tobacco products in the Public Health Service for the purpose of: First, expanding Federal education and information efforts; second, researching patterns of tobacco product use and cessation; third, coordinating education and research within the Public Health Service; and fourth, providing information to foreign countries where tobacco use is on the rise. An authorization of \$110 million is provided for fiscal year 1991 for these purposes.

The bill will also require disclosure to the public of tar and nicotine levels as well as additives to each brand, other than flavorings, fragrances, colorings, and spices. Additives that

significantly increase the risk of the product may be restricted.

The bill would replace the current warning label on cigarette packs with a new, more compelling label stating, "Surgeon General's Warning: Smoking Is Addictive. Once you start you may not be able to stop." This warning label will be moved from the side of the package to the front and back of the package and increased in size to 20 percent of the surface area.

The current Federal preemption on regulation of local tobacco advertising and promotion is repealed with respect to stationary outdoor advertising and transit advertising. It is my understanding that the American Civil Liberties Union, which had expressed concern over preemption language in a previous version, is not opposed to the provision in the bill.

These are important steps toward stopping the Nation's No. 1 preventable cause of death: tobacco use. The statistics are shocking. Each year smoking kills almost 400,000 Americans, more than 1,000 a day. The tragedy is that tobacco use begins early. Ninety percent of all cigarette nicotine addiction occurs before the smoker's 21st birthday; 50 percent occurs before age 14. Once individuals begin smoking a great majority will be unable to quit.

Because the human and economic costs of smoking are enormous, we need to do everything we can to make sure everyone, particularly every young person, is educated thoroughly on the impact tobacco will have on his or her life. We need to replace the glamorous images of tobacco use with a clear picture of the ugly realities associated with it: addiction, illness, and death.

This bill is directed in particular to preventing children, pregnant women, and other high risk groups from becoming users. And for smokers who want to quit, this bill will provide more opportunities and more effective ways in which to quit. If this information changes the behavior of even a small proportion of the people it reaches, this is likely to be one of the most cost-effective measures we will have enacted in the recent past.

I am proud to join Senator KENNEDY, the American Heart Association, the American Lung Association, the American Cancer Society, and more than 75 other organizations in supporting this much needed legislation.●

● Mr. DURENBERGER. Mr. President, I am pleased to join the distinguished chairman of the Senate Labor and Human Resources Committee in introducing the Tobacco Product Education and Health Protection Act of 1991. It is my hope that this year we will be able to enact this legislation into law.

Mr. President, cigarette smoking is the leading preventable cause of death in the United States. It is directly responsible for more than 300,000 deaths

each year in the United States, or more than one of every six deaths in our country. Anything that we can do to encourage people to stop smoking, and to discourage everybody from starting to smoke, will be vital to ensure the health and well-being of millions of people in this country.

There are several features of this bill that should be highlighted. First, the bill establishes a center for tobacco products in the Public Health Service. This center will administer a national information program aimed at educating the public on the health implications of tobacco use. Grants will be provided to develop public service announcements and paid advertisements aimed at discouraging people from starting to smoke and to encourage them to stop smoking.

Mr. President, a critical element of this legislation is the new incentive grant program which encourages States to better enforce laws prohibiting the sale of tobacco products to individuals under 18. The best way to avoid tobacco addiction is to convince people under 18 not to even start smoking. Through public information programs and tougher enforcement of State laws, we stand a better chance that the generation now growing up will not become addicted to smoking.

Mr. President, ever since the 1964 Surgeon General's landmark report on cigarette smoking, the evidence against smoking has been overwhelming. The programs outlined in the bill we are introducing today should not be controversial; this bill itself should not be controversial. But as my colleagues may recollect, similar legislation was not enacted last year because of the controversy surrounding the lifting of the Federal preemption of cigarette advertising.

In its current form, this legislation partially lifts the Federal preemption, but only with respect to the time and location of cigarette advertising. Many questions still remain to be resolved as to the scope of the proposed exemption. I anticipate that the Senate Labor Committee will hold extensive hearings to determine the constitutional and interstate commerce implications of this exception.

However, Mr. President, if we are going to do anything to convince young people not to start smoking, we must do something about the marketing and promotion of cigarettes. And that entails finding ways to counter the billions that cigarette companies spend to promote smoking as socially "right," socially "hip," and socially "cool."

What is the most universally recognized symbol of the macho American male?—the Marlboro man plastered on billboards throughout the world. Professional stock car racers compete for hundreds of thousands of dollars, before crowds of thousands and television

audiences of millions to win the coveted "Winston" Cup—an award not associated with the late Prime Minister of Great Britain. If we are going to end smoking in America, we are going to have to get serious about countering these images.

Mr. President, this bill is another step in the Federal Government's long standing commitment to ending cigarette smoking in America. Let us pass this legislation without delay.●

By Mr. ROBB (for himself and Mr. WARNER):

S. 1089. A bill to require an environmental impact statement regarding the federally owned I-95 sanitary landfill at Lorton, prior to the expansion of such landfill, and for other purposes; to the Committee on Environment and Public Works.

METROPOLITAN WASHINGTON, DISTRICT OF COLUMBIA, WASTE MANAGEMENT STUDY ACT

● Mr. ROBB. Mr. President, I rise today to propose legislation which will help preserve one of our Nation's scenic wonders, the Chesapeake Bay, and will help to reduce the amount of waste generated by the Federal Government.

For years, the I-95 sanitary landfill in Lorton, VA, has symbolized our Nation's trash disposal problem. The landfill is the primary dumping ground for refuse from Washington, DC, including much of the waste generated by the Federal Government's operations in this area. Despite the best efforts of local residents, the pile of refuse just kept growing and growing.

At the same time, leachate from the landfill was polluting Mills Branch and the Occoquan River, and from there flowed into the Chesapeake Bay. As you know, I've worked and regional leaders since my term as Governor to help save the bay, and I didn't want this pollution to continue. No one who cherishes the bay—whether a Virginian, a Marylander, or a resident of the District—would want to stand by and let that happen.

Today, I'm introducing a bill which will help to solve not only a local problem, but which will change the way our entire region deals with waste, and should provide a model for the Nation. First, it requires the Federal Government and Federal facilities in this area to get their act together on waste disposal. As you know, Mr. President, I've long been identified with trying to eliminate waste in government. But it is also necessary to cut down on the waste which comes out of government.

Second, the bill recognizes that fighting waste locally is often ineffective, and that a regional solution is needed. It creates a task force, bringing together governments from Maryland, Virginia, the District of Columbia, and the Federal level to address the refuse problem comprehensively. And third, it ensures that any expansion of the I-95 landfill will be made only after envi-

ronmental considerations are taken into account, by way of a formal environmental impact statement.

This way, the environment is protected; the Federal taxpayer may get a reprieve from costly piecemeal disposal contracts, and residents near landfills in the Washington area gain peace of mind.

Many people have come together to make this possible. I appreciate the efforts of the senior Senator from Virginia, JOHN WARNER, who is a cosponsor of this bill. Senator WARNER and Representative JIM MORAN joined me in refusing to allow the environmental impact process to be circumvented.

This legislation does not solve our region's trash problem in one fell swoop. But it sets us on the right road, the road which leads to a cleaner and safer future.●

By Mr. KASTEN:

S. 1090. A bill to amend the Agricultural Act of 1949 to clarify that a refund in the price received for milk shall not be considered as any type of price support or payment for purposes of certain highly erodible land and wetland conservation requirements, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

DAIRY ASSESSMENT CONSERVATION LEGISLATION.

● Mr. KASTEN. Mr. President, I rise today to introduce legislation that will help clarify some dairy conservation requirements.

USDA recently published a final rule in the Federal Register which will require all dairy farmers to file an approved conservation program for their farm—and maintain that program—in order to have their assessment refunded.

Mr. President, it should be understood that participation in the Sodbuster Swampland Programs is voluntary, and that the requirements apply only to those producers who choose to participate in those programs. However, dairy assessments are mandatory. By requiring compliance with conservation in order to have dairy assessments refunded, dairy farmers are being forced by the Federal Government to participate in supposedly voluntary conservation programs. This is wrong, and it must be corrected.

My legislation will correct this wrong. Simply stated, my bill will clarify that a refund in the price received for milk shall not be considered as any type of price support or payment for purposes of certain conservation requirements.

I hope my colleagues will join me in correcting this wrong.●

By Mr. ADAMS:

S. 1091. A bill to require that certain information relating to nursing home

nurse aides and home health care aides be collected by the National Center for Health Statistics and the Bureau of Labor and Statistics, and for other purposes; to the Committee on Labor and Human Resources.

LONG-TERM HEALTH CARE WORKERS INFORMATION ACT

● Mr. ADAMS. Mr. President, today I arise to introduce the Long-Term Health Care Workers Information Act. This bill focuses on the workers who are the backbone of nursing home and home health care in our nation. I am referring to the thousands of health care aides who provide assistance to the frail, chronically ill who need assistance with activities of daily living, such as feeding, bathing, and dressing. Because most of these caregivers are low-income women and most of the recipients of their care are elderly women, this legislation is a critical women's issue in our long-term care system.

There are some 1.5 million people living in our Nation's nursing homes, and most of them are very old and frail. Many of them and at least 20 percent of the elderly living at home need some type of assistance with activities of daily living. In most cases these services are provided by health care aides, not health care professionals such as nurses. In fact, health care aides provide more than 80 percent of the direct patient care in long-term care facilities.

In 1986, over half a million persons worked as nursing home aides and there were at least 300,000 home health aides. Given the scarcity of data on these two jobs, it is very difficult to estimate the needs for the future. The Department of Labor does rate home health aides as one of the fastest growing occupations for the next 15 years. And many nursing homes are experiencing shortages of nursing aides. Surprisingly, there is little information on a nationwide scale about these workers, their wages, benefits and working conditions. Consequently, these caregivers are overlooked when Federal programs affecting long-term care services are developed.

My bill requires the National Center for Health Statistics [NCHS] and the Bureau of Labor Statistics [BLS] to collect demographic and employment and benefit data on nursing home aides and home health aides. It also requires NCHS to prepare a report outlining a variety of demographic statistics about nursing home and home health care aides. Finally, it directs BLS to establish occupational codes for nursing home and home health care aides so that future wage surveys conducted by the Bureau will include information specifically about these workers.

Mr. President, I would particularly like to thank the American Federation of State, County and Municipal Employees [AFSCME] and the Older Wom-

en's League for their assistance in crafting this piece of legislation.

As Congress debates the crisis in long-term care, we need accurate and current data about all aspects of the problem. At an April 26 hearing of my Subcommittee on Aging on home and community-based long-term care and the Older Americans Act, I heard about the need to know more about nursing home aides and home health care aides, because these workers are major players in delivering quality long-term care.

The Long-Term Health Care Workers Information Act is an important first step towards providing us with that critical information. I ask my colleagues to join me in cosponsoring this important piece of legislation and I ask unanimous consent that a copy of the bill be printed in the RECORD.

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

S. 1091

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 "Long-Term Health Care Workers Information Act".

SEC. 2. DEFINITIONS.

As used in this Act:

(1) **NURSING HOME NURSE AIDE.**—The term "nursing home nurse aide" means an individual employed at a nursing or convalescent home who assists in the care of patients at such a home under the direction of nursing and medical staff.

(2) **HOME HEALTH CARE AIDE.**—The term "home health care aide" means an individual who—

(A) is self-employed or is employed by a government, charitable, nonprofit, or proprietary agency; and

(B) cares for elderly, convalescent, or handicapped individuals in the home of the individuals by performing routine home assistance (such as housecleaning, cooking, and laundry) and assisting in the health care of such individuals under the direction of a physician or home health nurse.

SEC. 3. INFORMATION REQUIREMENTS.

(a) **NATIONAL CENTER FOR HEALTH STATISTICS.**—The Director of the National Center for Health Statistics of the Centers for Disease Control shall collect, and prepare a report containing, demographic information on home health care aides and nursing home nurse aides, including information on the—

(1) age, race, marital status, education, number of children and other dependents, gender, and primary language, of the aides; and

(2) location of facilities at which the aides are employed in—

(A) rural communities; or

(B) urban or suburban communities.

(b) **BUREAU OF LABOR STATISTICS.**—The Commissioner of the Bureau of Labor Statistics shall collect, and prepare a report containing, information on home health care aides and nursing home nurse aides, including—

(1) information on conditions of employment, including—

(A) with respect to both home health care aides and nursing home nurse aides—

(i) the length of employment of the aides at each place of employment;

(ii) the type of employer of the aides (such as a for-profit, private nonprofit, charitable, or government employer, or an independent contractor);

(iii) the number of full-time, part-time, and temporary positions for the aides;

(iv) the number and type of work-related injuries occurring to the aides;

(v) the ratio of aides to professional staff;

(vi) the types of tasks performed by the aides, and the level of skill needed to perform the tasks; and

(vii) the number of hours worked each week by the aides; and

(B) with respect to nursing home nurse aides—

(i) the type of facility (such as a skilled care or intermediate care facility) of the employer of the aides;

(ii) the number of beds at the facility, and

(iii) the ratio of the aides to beds at the facility; and

(2) information on employment benefits in the aides, including—

(A) the type of health insurance coverage, including—

(i) whether the insurance plan covers dependents;

(ii) the amount of copayments and deductibles; and

(iii) the amount of premiums;

(B) the type of pension plan coverage;

(C) the amount of vacation, disability, and sick leave;

(D) wage rates; and

(E) the extent of work-related training provided.

SEC. 4. REPORTS.

(a) **PREPARATION.**—The reports required by subsections (a) and (b) of section 3 shall be prepared and organized in such a manner as the Director of the National Center for Health Statistics and the Commissioner of the Bureau of Labor Statistics, respectively, may determine to be appropriate.

(b) **PRESENTATION OF INFORMATION.**—The reports required by section 3 shall not identify by name individuals supplying information for purposes of the reports. The reports shall present information collected in the aggregate.

(c) **TRANSMITTAL.**—Not later than 12 months after the date of enactment of this Act, the reports required by section 3 shall be transmitted to the appropriate committees of the Congress.

SEC. 5. OCCUPATIONAL CODE.

The Commissioner of the Bureau of Labor Statistics shall include an occupational code covering nursing home nurse aides and an occupational code covering home health care aides in each wage survey conducted by the Bureau that begins after the date of enactment of this Act.●

By Mrs. KASSEBAUM:

S. 1092. A bill to permit national banking associations to establish and operate branches in States other than the States in which their main offices are located, subject to applicable State statutory law; to the Committee on Banking, Housing, and Urban Affairs.

STATE CONTROL OVER INTERSTATE BRANCH BANKING

● Mrs. KASSEBAUM. Mr. President, I rise today to introduce legislation addressing the issue of interstate branch banking. Let me begin, Mr. President, by pointing out there is a significant

difference between interstate banking and interstate branching.

Interstate banking may mean permitting out-of-State banks to buy in-State banks and operate them as separately incorporated subsidiaries. Interstate banking may also mean permitting an out-of-State bank to establish a separately chartered in-State bank subsidiary.

Interstate branching may mean one of two things. First, it may mean an out-of-State bank can set up shop in a new State simply by leasing a store front, installing an automatic teller and putting its sign on the front door. Interstate branching may also mean that an out-of-State holding company can simply dissolve its separately incorporated in-State subsidiary bank and convert it into a branch store-front operation. By converting the separately incorporated in-State subsidiary into a branch store operation, the out-of-State holding company can eliminate many of the former subsidiary's employees, terminate the need for local service providers, get rid of the local board of directors, replace the local bank president with a branch manager, and transfer much of the operation to the bank holding company's out-of-State headquarters.

Under current law, States have the power to open themselves to interstate banking. Almost every State has decided to do so in one form or another, although few have decided to permit interstate banking without some type of controls and safeguards.

Under current law, States also have the power to open themselves to interstate branching by State chartered, nonmember banks. Few States have decided to open themselves to such interstate branching.

Under current law, States have no power to open themselves to interstate banking by national or member banks. Federal law prohibits the States from making this decision.

The Department of the Treasury proposal effectively mandates complete interstate branching after a relatively short transition period. As you can see, this is a complete about-face from the current law. Instead of prohibiting States from deciding whether they want interstate branching, the Treasury proposal forces them to accept interstate branching within their borders even if they are adamantly opposed.

Mr. President, such a 180-degree reversal of our Federal policy is not sound. A better approach would be to give States the ability to decide affirmatively whether they want out-of-State national bank branches in their State. States should be able to maintain at least some control over out-of-State branches operating within their borders.

Accordingly, I am introducing legislation allowing States to decide wheth-

er they want to open themselves to out-of-State national bank branches and on what terms and conditions they want to do so.

This is a sound middle ground between the Treasury's proposal, which forces unwilling States to accept interstate branching, and the current law, which prohibits willing States from allowing it. This is a very important issue, and I look forward to its considerations by the full Senate.♦

By Mr. BIDEN (for himself, Mr. HATCH, Mr. PELL, Mr. HELMS, Mr. SARBANES, Mr. CRANSTON, and Mr. DODD):

S. 1093. A bill to establish a commission to study the feasibility, effect, and implications for United States foreign policy, of instituting a radio broadcasting service to the People's Republic of China to promote the dissemination of information and ideas to that nation, with particular emphasis on developments in China itself; to the Committee on Foreign Relations.

BROADCASTING TO CHINA ACT

♦ Mr. BIDEN. Mr. President, today I am introducing, along with Senators HATCH, PELL, HELMS, CRANSTON, SARBANES, and DODD, the Broadcasting to China Act. This legislation is designed to pave the way for a new initiative in United States foreign policy: the support of radio broadcasting to the People's Republic of China of information about developments within that immensely large and troubled nation.

The legislation takes the first step in this initiative by establishing a commission to examine the feasibility, and the costs and benefits, of such a radio service, which would be modeled on two existing radio facilities of proven merit: Radio Free Europe, and Radio Liberty.

For over 40 years, Radio Free Europe and Radio Liberty have disseminated news and information to the Soviet Union and Eastern Europe about developments in that region, helping to spread the message of freedom across the Iron Curtain. Through four tortured decades in the lives of those nations, these broadcasts heartened dissidents from Berlin to Bucharest and across the Soviet Union, inspiring hope and courage among those suffering under communist tyranny.

Those radios helped maintain the flame of freedom in an era of darkness.

More recently, Radio Marti has provided accurate information to the people of Cuba, where the flow of news has been carefully restricted by a dictator who fears the truth. Radio Marti is a testament to our determination to promote the spread of information and ideas to those living under the rule of despots.

Mr. President, China's severe restriction on the flow of information is an unchallenged fact. Since coming to power in 1949, the Communist leader-

ship in Beijing has maintained tight control over the dissemination of news, telling the Chinese people only what it wants them to hear.

This policy continues today. The State Department's annual report on human rights practices describes current Chinese policy clearly:

The Chinese Government maintains television and radio broadcasting under strict party and government control * * *. And continues to jam most Chinese-language broadcasts of the Voice of America and British Broadcasting Corporation.

These restrictions represent a denial of a fundamental right enshrined in article 19 of the Universal Declaration of Human Rights, which affirms that all people have the "right to seek, receive and impart information and ideas through any media and regardless of frontiers."

These restrictions are a repugnant manifestation of the Communist idea—now fully discredited around the globe—that the party and the State must control not only the lives of the people, but their every thought as well.

Unfortunately, the Bush administration continues to believe that the United States must maintain close ties with the leadership in Beijing. I believe strongly that another channel of communication is more important—with the people of China. The democratic ideal is alive in China, and we should not shrink from encouraging those who embody it.

Currently, the Voice of America plays an important role in filling the information gap in China with nearly 20 hours of daily radio broadcasting. But this broadcasting focuses on international events rather than developments within China itself.

The service contemplated by this legislation could provide a critical complement to current Voice of America broadcasting, emphasizing not only Chinese events but also developments in neighboring states in East Asia—especially those where democracy is slowly taking root, such as the Philippines, South Korea, and Taiwan.

This legislation would create a temporary commission comprised of experts on China and on international broadcasting. The commission would have 6 months to review the many issues involved in expanding United States broadcasting to China and to present its recommendations. Just such a procedure was followed in the early 1980's, when a commission established by President Reagan examined the question of radio broadcasting to Cuba.

This week the Foreign Relations Committee began consideration of the State Department authorization bill for fiscal year 1992. I am pleased that the Broadcasting to China Act has already been included in the bill approved by the Subcommittee on International Operations and now awaits ac-

tion by the full committee. I wish to express my appreciation to the subcommittee's chairman, Senator KERRY of Massachusetts, and to express my hope and expectation that the full committee will act similarly in approving this legislation.

Mr. President, the Broadcasting to China Act continues longstanding United States policy, by supporting the dissemination of accurate information, and by promoting democratic ideals, among citizens in countries of critical importance to United States interests. I hope my colleagues will support this legislation. I invite their cosponsorship.

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

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

S. 1093

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 "Broadcasting to China Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) according to the annual human rights report issued by the Department of State for 1990, the Government of the People's Republic of China maintains television and radio broadcasting "under strict party and government control" and "continues to jam most Chinese-language broadcasts of the Voice of America and the British Broadcasting Corporation";

(2) fundamental to long-standing United States foreign policy has been support for the right of all people to "seek, receive and impart information and ideas through any media and regardless of frontiers" as affirmed in Article 19 of the Universal Declaration of Human Rights;

(3) pursuant to this policy, the United States has for decades actively supported the dissemination of accurate information and the promotion of democratic ideals among citizens in countries of critical importance to United States interests;

(4) prominent in the implementation of this policy has been support for Radio Free Europe, Radio Liberty, and Radio Marti, which have broadcast accurate and timely information to the oppressed people of Eastern Europe, the Soviet Union, and Cuba, respectively, about events occurring in those countries;

(5) the introduction of similar radio broadcasting to the People's Republic of China could complement existing Voice of America programming by increasing the dissemination to the Chinese people of accurate information and ideas relating to developments in China itself; and

(6) such broadcasting to the People's Republic of China, conducted in accordance with the highest professional standards, would serve the goals of United States foreign policy by promoting freedom in mainland China.

SEC. 3. COMMISSION ON BROADCASTING TO THE PEOPLE'S REPUBLIC OF CHINA.

(a) ESTABLISHMENT.—There is established a Commission on Broadcasting to the People's Republic of China (hereafter in this Act re-

ferred to as the "Commission") which shall be an independent commission in the executive branch.

(b) MEMBERSHIP.—The Commission shall be composed of 11 members from among citizens of the United States, who shall within 45 days of the enactment of this Act be appointed in the following manner:

(1) The President shall appoint 3 members of the Commission.

(2) The Speaker of the House of Representatives shall appoint 2 members of the Commission.

(3) The Majority Leader of the Senate shall appoint 2 members of the Commission.

(4) The Minority Leader of the House of Representatives shall appoint 2 members of the Commission.

(5) The Minority Leader of the Senate shall appoint 2 members of the Commission.

(c) CHAIRMAN.—The President, in consultation with the congressional leaders referred to in subsection (b), shall designate 1 of the members to be the Chairman.

(d) QUORUM.—A quorum, consisting of at least 6 members, is required for the transaction of business.

(e) VACANCIES.—Any vacancy in the membership of the commission shall be filled in the same manner as the original appointment was made.

SEC. 4. FUNCTIONS.

(a) PURPOSE.—The Commission shall examine the feasibility, effect, and implications for United States foreign policy, of instituting a radio broadcasting service to the People's Republic of China to promote the dissemination of information and ideas to that nation, with particular emphasis on developments in China itself.

(b) SPECIFIC ISSUES TO BE EXAMINED.—The Commission shall examine all issues related to instituting such a service, including—

- (1) program content;
- (2) staffing and legal structure;
- (3) transmitter and headquarters requirements;
- (4) costs; and
- (5) expected effect on developments within China and on Sino-American relations.

(c) METHODOLOGY.—The Commission shall conduct studies, inquiries, hearings, and meetings as it deems necessary.

(d) REPORT.—Not later than 180 days after the date of enactment of this Act, the Commission shall submit to the President, the Speaker of the House of Representatives, and the President of the Senate a report describing its activities in carrying out the purpose of subsection (a) and including recommendations regarding the issues of subsection (b).

SEC. 5. ADMINISTRATION.

(a) COMPENSATION AND TRAVEL EXPENSES.—

(1) Members of the Commission—
(A) except as provided in paragraph (2), shall each receive compensation at a rate of not to exceed the daily equivalent of the annual rate of basic pay payable for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day such member is engaged in the actual performance of the duties of the Commission; and

(B) shall be allowed travel expenses, including per diem in lieu of subsistence at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(2) Any member of the Commission who is an officer or employee of the United States shall not be paid compensation for services performed as a member of the Commission.

(b) SUPPORT FROM EXECUTIVE AND LEGISLATIVE BRANCHES.—

(1) EXECUTIVE AGENCIES.—Executive agencies shall, to the extent the President deems appropriate and as permitted by law, provide the Commission with appropriate information, advice, and assistance.

(2) CONGRESSIONAL COMMITTEES.—Congressional committees shall, as deemed appropriate by their chairmen, provide appropriate information, advice, and assistance to the Commission.

(c) EXPENSES.—Expenses of the Commission shall be paid from funds available to the Department of State.

SEC. 6. TERMINATION.

The Commission shall terminate upon submission of the report described in section 4.●

By Mr. CRANSTON (for himself,
Mr. SPECTER, Mr. DECONCINI,
Mr. GRAHAM, Mr. AKAKA, and
Mr. DASCHLE):

S. 1095. A bill to amend title 38, United States Code, to improve reemployment rights and benefits of veterans and other benefits of employment of certain members of the uniformed services; to the Committee on Veterans' Affairs.

UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT

● Mr. CRANSTON. Mr. President, as chairman of the Committee on Veterans' Affairs, I am pleased to introduce S. 1095, the proposed Uniformed Services Employment and Reemployment Rights Act of 1991. This bill would completely revise chapter 43 of title 38, United States Code, in order to clarify veterans' reemployment rights [VRR] law provisions and to make improvements in various aspects of this law. I am joined in introducing this bill by the committee's ranking minority member, Mr. SPECTER, and by committee members DECONCINI, GRAHAM, AKAKA, and DASCHLE.

This bill is similar to H.R. 1578, as introduced in the House of Representatives by the chairman of the House Veterans' Affairs Subcommittee on Education, Training, and Employment, Mr. PENNY on March 21. H.R. 1578 was reported by the House Committee on Veterans' Affairs on May 9 (H. Rept. No. 102-56) and passed by the House on May 14.

BACKGROUND

Mr. President, the VRR provisions, first enacted in 1940, are codified in chapter 43 of title 38. The current VRR law provides job security to employees who leave their civilian jobs in order to enter active military service, voluntarily or involuntarily. Within certain limits, the law generally entitles the individual who serves in the military to return to his or her former civilian job after being discharged or released from active duty under honorable conditions. For purposes of seniority, status, and pay, the employee is entitled to be treated as though he or she had never left. The effect of this law is often characterized as enabling the returning veteran to step back on the se-

niority escalator at the point he or she would have occupied without interruption for military service. The law applies both to active-duty service and to training periods served by reservists and members of the National Guard.

Mr. President, the VRR law is intended to encourage noncareer service in the uniformed services by eliminating or minimizing the disadvantages to civilian careers and employment which occur as a result of such service. The bill that we are introducing today would help ensure that the VRR law effectively and fairly serves this purpose.

It is important that both employees and employers be able to understand the VRR law clearly so that active-duty servicemembers and reservists, whether they serve on active duty during an extended conflict or participate in routine training, do not experience unnecessary delays or disputes in returning to their former civilian jobs. Unfortunately, over the last 50 years the VRR law has become a confusing and cumbersome patchwork of statutory amendments and judicial constructions that, at times, hinder the resolution of claims. Thus, this bill would amend the VRR law to restate past amendments in a clearer manner and to incorporate important court decisions interpreting the law. The substantive rights at the heart of the VRR law would remain as valuable protection to those who provide this country with noncareer service in the uniformed services.

Mr. President, Congress has long recognized that the support of civilian employers is necessary if the uniformed services are to be able to recruit and retain noncareer personnel. I sincerely appreciate the very cooperative and patriotic manner in which the vast majority of employers have carried out their responsibilities under the VRR law. Our bill is designed to take into account the legitimate interests and needs of employers and to assist them by stating their obligations in a clear fashion.

Mr. President, as my colleagues are aware, Operations Desert Shield and Desert Storm and the mobilization of more than 220,000 reservists and National Guard members in connection with the Persian Gulf conflict brought to the attention of Congress both the VRR law and another measure, the Soldiers' and Sailors' Civil Relief Act of 1940, enacted near the onset of World War II. As a result, certain amendments to both laws were enacted recently in an effort to address the most immediate needs of reservists and active-duty personnel serving in connection with the Persian Gulf conflict. With respect to the VRR, the Soldiers' and Sailors' Civil Relief Act Amendments of 1991 (Public Law 102-12) enacted on March 18, amended chapter 43 of title 38 to first, provide for the reinstatement of health insurance for re-

servists called to active duty and their families, without waiting periods or exclusion of coverage for preexisting conditions, in cases in which coverage would have been provided if the servicemember had not been called to active duty, and second, clarify existing reemployment rights for reservists called to active duty for periods of 90 days or longer. The Persian Gulf War Veterans' Benefits Act of 1991 (title III.C. of Public Law 102-25), enacted on April 6, amended chapter 43 to require employers to first, take affirmative steps to provide necessary retraining for persons seeking reinstatement under the VRR law, and second, make reasonable accommodations for disabled persons seeking reinstatement. These were important changes, but our work with the VRR law on these occasions made it abundantly clear that the entire law needs to be revised.

Mr. President, many of the provisions in this bill are intended only to restructure and clarify current law. At this time, I will only discuss in detail provisions of the new chapter 43 that would make significant substantive changes to the VRR law.

PROHIBITION AGAINST DISCRIMINATION AND ACTS OF REPRISAL AGAINST RESERVISTS

Mr. President, the proposed new section 4321 of title 38 would expand the current prohibition against discrimination, which provides that a person may not be denied hiring, retention in employment, or any promotion or other incident or advantage of employment because of an obligation as a member of the Reserves or National Guard. The new section would provide that a person who serves in the uniformed services, or who has plans to serve, past service, or an obligation for future service, may not be denied initial employment, reemployment, continuation of employment, promotion, or any other benefits of employment by an employer on the basis of service or the individual's plan or obligation to serve. As a further expansion, the bill would prohibit employer reprisals against employees who have taken an action to enforce their employment or reemployment rights or against witnesses in such cases.

Mr. President, to maintain a strong and effective Reserve force, it is necessary to ensure reservists that they will not have to sacrifice their civilian job security and advancement because of an obligation for service in the uniformed services. This provision would strengthen considerably the current-law proscription against discrimination.

MAXIMUM PERIOD OF SERVICE FOR COVERAGE

Under current law, a person is permitted to remain on active duty for a total of 4 years and still retain reemployment rights. An additional year of eligibility for reemployment rights is granted if a person remains on active duty beyond the 4-year period at the

request of, and for the convenience of, the Federal Government. The service limitations in current law apply only to active-duty service.

Proposed new section 4322 of title 38 would simplify this four-plus-one limitation by replacing it with a 5-year limit on the cumulative length of absence from a position of employment for reemployment rights purposes. The 5-year service limitations would apply to all types of service in the uniformed services.

However, in certain instances, training needs, emergency situations, or other extraordinary national defense needs may require noncareer servicemembers to serve longer than 5 years. As the VRR law is intended to protect civilian employment in order to encourage noncareer military service, the new section would provide for certain exceptions to the 5-year service limit. These exceptions would include service required to complete an initial period of obligated service, involuntary retention on active duty during a war or national emergency, National Guard and Reserve training requirements under specific statutes, additional training determined by the Secretary of Defense to be necessary for individual professional development or skill training, and any category of service specified in regulations prescribed by the Secretary of Labor in consultation with the Secretary of Defense.

SCOPE OF COVERAGE

Mr. President, under current law, an individual is eligible for reemployment rights only if the position held prior to absence for service in the uniformed services was "other than temporary." There is no definition of "temporary" for reemployment purposes, and the scope of the exclusion is unclear. Over the past 50 years, the courts have determined that many positions that employers would describe as temporary are covered by the current law. Thus, it is unclear how much the actual scope of coverage will be increased by this provision. As first proposed by the distinguished chairman of the Committee on Labor and Human Resources, Mr. KENNEDY, in S. 336, our bill would repeal the exclusion of temporary positions. In proposing the application of the reemployment rights law to temporary positions, I intend to remove one potentially contentious issue—whether a particular job was temporary or not—that could create an unnecessary obstacle to prompt reemployment.

The inclusion of temporary positions would not alter for employers the fundamental protection in current law—and incorporated in our bill—against having to reemploy an individual when the employer's circumstances have changed so as to make it impossible or unreasonable to do so. I also note that the employer is only obligated to restore the individual to a position that

he or she would have attained by continuous employment without interruption for service in the uniformed services. Thus, a temporary employee would have no greater job security upon being reemployed.

APPLICATIONS FOR REEMPLOYMENT

Mr. President, under current law, distinctions are made among types or categories of military training or service for the purposes of reemployment rights. For example, the time periods during which a person must report back to work vary depending on the type of service, and an employee who is ordered to active duty as a reservist is treated differently than an employee who is inducted into the Armed Forces.

Under proposed new section 4322 all types of service would be treated as "service in the uniformed services" and time periods during which a person must return to work or make an application for reemployment would be based on the length of an individual's absence for that service.

In addition, proposed new section 4322 would provide for an extension of up to 2 years of reemployment reporting dates for persons who are hospitalized for or convalescing from a service-connected injury or illness. Current law provides for an extension of reporting requirements by up to 1 year while the individual is hospitalized. In my view, this does not allow sufficient time for recovery or rehabilitation. Appropriate physical and vocational rehabilitation can take a considerable amount of time during and beyond hospitalization. This bill would afford persons with service-connected disabilities a more reasonable amount of time for recovery and rehabilitation.

REASONABLE ACCOMMODATION OF DISABLED PERSONS

Mr. President, as I noted earlier, the Persian Gulf War Veterans' Benefits Act of 1991 amended the VRR law to require employers to make reasonable accommodations for disabled persons seeking reemployment. This provision was derived from a provision of S. 336 as introduced by Senator KENNEDY. However, in conference with the House an exemption from this requirement was added for certain employers, primarily small businesses. When the Senate considered that legislation, I noted my concern that disabled veterans seeking to return to jobs with small employers would not have the clear right to reasonable accommodation even where it would not result in undue hardship for the employer. As promised, I did revisit this issue in the development of a revision of the reemployment rights law. Thus, proposed section 4323 contains no limitation on the applicability of the reasonable accommodation requirement. To erase all doubt as to the applicability of this provision, I am proposing that section 2027 of title 38, added in Public Law 102-25, be repealed.

EMPLOYMENT RIGHTS AND BENEFITS

Continuation of Insurance Coverage: Proposed new section 4325 would provide for, at the employee's request, a continuation of employer-offered insurance coverage for up to 18 months after an individual enters on duty in a uniformed service. The employee generally could be required to pay no more than 102 percent of the premium required of other employees for such a continuation of coverage, and a person serving for less than 31 days may not be required to pay more than the normal employee share of any premium.

When Congress passed a similar health benefit provision in the Consolidated Omnibus Budget Reconciliation Act of 1985, it exempted group health plans sponsored by the Federal Government and certain church-related organizations, as well as private sector, State, and local plans maintained by employers with fewer than 20 employees in the previous year. The proposed new section would close those gaps and provide the health care option for all employees entering the uniformed service.

Retention Rights: Mr. President, under current law, retention rights for reemployed persons are based upon length of service in the uniformed services. Thus, the law generally requires that persons who are reemployed in their civilian jobs after serving for 90 days or more cannot be discharged without cause for 1 year. A person who served less than 90 days cannot be discharged without cause for 6 months.

I believe that a person's retention rights should be linked to the amount of previous employment with a particular employer, not the length of absence for service in the uniformed services. For example, an employee with 18 years of seniority who must report for a month of reserve training should not have only 6 weeks of protection upon returning to the job. Thus, proposed new section 4325 would provide a person who had been employed with an employer for less than 4 years, including time spent in the uniformed services, with 6 months of retention rights. A person who had been employed with an employer for 4 or more years, again including time spent in the uniformed services, could not be discharged without cause for 1 year.

Accrued Leave: Mr. President, proposed new section 4325 also would provide that a person, upon submitting a written request to his or her employer, would be able to use accrued leave while serving in the uniformed services. Under current law, many employers treat persons ordered to active duty as if they were on furlough or leave without pay. Thus, the salary that they earn from the uniformed services, which often is less than their civilian pay, becomes their only income. This provision would allow employees with accrued annual leave with pay to use

that leave while serving in the uniformed services, thereby helping to alleviate the hardship of a suddenly reduced income.

Employee Pension Benefit Plans: Proposed new section 4326 would clarify conflicting Federal case law regarding employee rights to various pension benefits plans while on active duty with the uniformed services. All pension benefit plans described in the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2)) or under Federal or State laws governing pension benefits for governmental employees—whether defined-benefit or defined-contribution plans—would be covered by the new law. Under this provision, for pension purposes, a person would be treated as not having incurred a break in service with the employer; service in the uniformed services would be considered service with the employer; the employer who reemploys the person would be liable for funding any resulting obligation; and the reemployed person would be entitled to any accrued benefits from employee contributions to the extent that the person makes payments.

Entitlement Limitations: Mr. President, a number of lawsuits have arisen regarding extended reserve and National Guard "training" tours of duty. Although current section 2024(d) of title 38 does not provide a limit on the nature, timing, frequency, or duration of any period of military training, a number of judicial decisions have upheld the application of a "reasonableness" requirement to military leave requests. It is my belief that such a test is contrary to the purposes of the VRR law and unduly constrains the ability of the uniformed services to determine the best use of its reserve members. Proposed new section 4327 would clarify conflicting Federal case law regarding limitations on entitlement to reemployment rights and benefits by providing that entitlement does not depend upon the timing, frequency, duration, or nature of a person's service. This provision would preclude training requests being subject to a "reasonableness" test by employers to determine a reservist's entitlement to reemployment rights and benefits.

ASSISTANCE IN OBTAINING REEMPLOYMENT OR OTHER EMPLOYMENT RIGHTS OR BENEFITS

Mr. President, under current law, the Secretary of Labor is required to assist persons who seek the Secretary's help in obtaining reemployment. In carrying out this requirement, the Secretary utilizes State and Federal agencies and volunteers. Proposed new section 4332 would expand the role of the Secretary by giving the Secretary the authority to conduct investigations of complaints and make reasonable efforts to ensure compliance with the reemployment rights law. This section also would provide clear instructions regarding the submission of a complaint

to the Secretary of Labor and the Secretary's responsibilities in providing assistance.

INVESTIGATIONS OF COMPLAINTS

Mr. President, most reemployment cases currently are resolved without the need for litigation. Upon receiving a complaint from a returning employee, the Department of Labor notifies the employer and investigates the circumstances under which restoration was denied to determine if the employee is entitled to the job. The Department then attempts to achieve voluntary compliance with the law by the employer to obviate the need for litigation.

In order to strengthen the ability of the Department to investigate and resolve these cases in a timely manner, proposed new section 4332 would authorize the Secretary of Labor to request by subpoena the attendance and testimony of witnesses and the production of documents relating to any matter under investigation.

ENFORCEMENT

Federal Government Employees: Mr. President, in the case of failure or refusal by the Federal Government to comply with reemployment rights law, current law provides the Office of Personnel Management with the authority to order compliance and to require compensation for loss of salary or wages for the employee concerned. These cases are adjudicated by the Merit Systems Protections Board, before which claimants must represent themselves or retain private counsel at their own expense. Unlike employees of State or private employers, Federal employees receive no Federal representation in adjudicating their reemployment rights.

Mr. President, this bill would rectify the inequity that exists for Federal workers who seek enforcement of the VRR law. Under proposed new section 4333, Federal employees whose cases are not resolved successfully by the Department of Labor would be able to request representation by the Office of Special Counsel before the MSPB. Alternatively, they could appear before the MSPB with representation of their own choosing.

In addition, Federal employees would be able to petition a U.S. Court of Appeals to review a decision of the MSPB and could continue to be represented by Special Counsel at the appellate level. Both the MSPB and Court of Appeals would have the authority to award reasonable attorneys fees, expert witness fees, and other litigation expenses to individuals who prevail.

Employees of State and Private Employers: Under current law, the employees of State and private employers are provided with representation for their VRR claims by U.S. Attorneys. Thus, responsibility for determining which cases merit representation is dispersed throughout 94 Federal dis-

strict jurisdictions, which has led to some differential treatment of VRR claims based on where the individual seeking reemployment lives. Proposed new section 4334 would give the Attorney General the authority to decide which cases will receive representation. This should help to ensure that the provision of Federal representation is dependent more upon the merits of individual cases and less upon the location of the employee concerned.

As in the case of Federal employees, this section would give individuals the option of choosing private counsel and would authorize the award of attorneys' fees and expenses to employees who prevail.

OUTREACH PROGRAM

Mr. President, the best way to ensure timely reemployment is to provide employers and employees with accurate information regarding their rights, benefits, and obligations under the law. Thus, this bill would require the Secretary of Labor, after consultation with the Secretaries of Defense, Transportation, Health and Human Services, and Veterans Affairs, to make reemployment rights information available to veterans, persons serving in the uniformed services, and employers of such persons.

CONCLUSION

Mr. President, I urge my colleagues to support this legislation to clarify and strengthen the veterans' reemployment rights law.

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

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

S. 1095

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 "Uniformed Services Employment and Reemployment Rights Act of 1991".

SEC. 2. REVISION OF CHAPTER 43 OF TITLE 38.

(a) RESTATEMENT AND IMPROVEMENT OF EMPLOYMENT AND REEMPLOYMENT RIGHTS.—Chapter 43 of title 38, United States Code, is amended to read as follows:

"CHAPTER 43—EMPLOYMENT AND REEMPLOYMENT RIGHTS OF PERSONS WHO SERVE IN THE UNIFORMED SERVICES

"SUBCHAPTER I—PURPOSES, RELATION TO OTHER LAW, AND DEFINITIONS

"Sec.

"4301. Purposes; sense of Congress.

"4302. Relation to other law; construction.

"4303. Definitions.

"4304. Honorable service required.

"SUBCHAPTER II—EMPLOYMENT AND REEMPLOYMENT RIGHTS AND LIMITATIONS: PROHIBITIONS

"4321. Discrimination against persons who serve in the uniformed services and acts of reprisal prohibited.

"4322. Reemployment rights of persons who perform service in the uniformed services.

"4323. Reemployment positions.

"4324. Special rules for reemployment by the Federal Government.

"4325. Seniority, insurance, and other employment rights and benefits.

"4326. Employee pension benefit plans.

"4327. Entitlement to rights and benefits not dependent on timing or nature of service.

"SUBCHAPTER III—ASSISTANCE IN SECURING EMPLOYMENT AND REEMPLOYMENT RIGHTS; ENFORCEMENT

"4331. Definition.

"4332. Assistance in securing reemployment or other employment rights or benefits.

"4333. Enforcement of rights with respect to the Federal Government.

"4334. Enforcement of rights with respect to State or private employer.

"SUBCHAPTER IV—INVESTIGATION OF COMPLAINTS

"4341. Conduct of investigation; subpoenas.

"SUBCHAPTER V—MISCELLANEOUS

"4351. Regulations.

"4352. Severability.

"SUBCHAPTER I—PURPOSES, RELATION TO OTHER LAW, AND DEFINITIONS

§ 4301. Purposes; sense of Congress

"(a) The purposes of this chapter are—

"(1) to encourage non-regular and non-career service in the uniformed services by eliminating or minimizing the disadvantages to civilian careers and employment which can result from such service; and

"(2) to minimize the disruption to the lives of persons performing service in the uniformed services and to the lives of their former employers, their fellow employees, and their communities, by providing for the prompt reemployment of such persons upon their completion of such service under honorable conditions.

"(b) It is the sense of Congress that the Federal Government should be a model employer in carrying out the reemployment practices provided for in this chapter.

§ 4302. Relation to other law; construction

"(a) Nothing in this chapter shall supersede, nullify, or diminish any provision of Federal or State law (including any local law or ordinance), or any provision of a plan provided, contract entered into, or policy or practice adopted, by an employer, which establishes a right or benefit that is more beneficial to a person referred to in section 4301(a)(2) of this title than a right or benefit provided for such person in this chapter or is in addition to a right or benefit provided for such person in this chapter.

"(b) This chapter supersedes any State law or employer plan, contract, or policy or practice that would have the effect of limiting in any manner any right or benefit provided by this chapter, including any State law or employer plan, contract, or policy or practice that establishes a prerequisite to the exercise of any such right or the receipt of any such benefit that is not a prerequisite established by this chapter.

"(c) Nothing in this chapter shall be interpreted to limit in any way any of the rights conferred by the Americans with Disabilities Act of 1990 (Public Law 101-336; 42 U.S.C. 12101 et seq.).

§ 4303. Definitions

"For the purposes of this chapter:

"(1) The term "Attorney General" means the Attorney General of the United States or any person designated by the Attorney General to carry out a responsibility of the Attorney General under this chapter.

"(2) The term 'benefit' or 'benefit of employment' means any advantage, profit, privilege, gain, status, account, or interest that accrues by reason of an employment contract or an employer practice or custom (other than wages or salary for work performed) and includes rights under a pension plan, insurance coverage and awards, rights under an employee stock ownership plan, any bonus, severance pay, and supplemental unemployment benefit, an entitlement to leave with or without pay, work hours, and the location of employment.

"(3)(A) Except as provided in subparagraph (B), the term 'employer' means any person, institution, organization, or other entity that pays salary or wages for work performed or that has control over employment opportunities, including—

"(i) a person, institution, organization, or other entity to whom the employer has delegated the performance of employment-related responsibilities;

"(ii) the Federal Government;

"(iii) a State; and

"(iv) any successor in interest to a person, institution, organization, or other entity referred to in this subparagraph.

"(B) In the case of a National Guard technician employed under section 709 of title 32, the term 'employer' means the adjutant general of the State in which the technician is employed.

"(4) The term 'Federal Government' includes the United States Postal Service, the Postal Rate Commission, any nonappropriated fund instrumentality of the United States, and a Government corporation (as defined in section 103(1) of title 5).

"(5) The term 'reasonable accommodation' has the meaning given such term in section 101(9) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111(9)).

"(6) The term 'seniority' means longevity in employment together with any benefits of employment which accrue with, or are determined by, longevity in employment.

"(7) The term 'service in the uniformed services' means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, and a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty.

"(8) The term 'undue hardship' has the meaning given such term in section 101(10) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111(10)).

"(9) The term 'uniformed services' means the Armed Forces and the commissioned corps of the Public Health Service.

§ 4304. Honorable service required

"A person's entitlement to the benefits of this chapter by reason of the service of such person in one of the uniformed services terminates upon the occurrence of any of the following events:

"(1) A separation of such person from such uniformed service with a dishonorable or bad conduct discharge.

"(2) A separation of such person from such uniformed service under other than honorable conditions, as characterized pursuant to regulations prescribed by the Secretary concerned.

"(3) In the case of service on active duty, a release of such person from active duty under other than honorable conditions, as characterized pursuant to such regulations.

"(4) A dismissal of such person permitted under section 1161(a) of title 10.

"(5) A dropping of such person from the rolls pursuant to section 1161(b) of title 10.

"SUBCHAPTER II—EMPLOYMENT AND REEMPLOYMENT RIGHTS AND LIMITATIONS; PROHIBITIONS

"§ 4321. Discrimination against persons who serve in the uniformed services and acts of reprisal prohibited

"(a) A person who performs, has performed, applies to perform, or has an obligation to perform service in a uniformed service shall not be denied initial employment, reemployment, retention in employment, promotion, or any benefit of employment by an employer on the basis of that service or obligation.

"(b) An employer shall be considered to have denied a person initial employment, reemployment, retention in employment, promotion, or a benefit of employment by an employer in violation of this section if the person's service, application for service, or obligation for service in the uniformed services is a motivating factor in the employer's action, unless the employer can demonstrate that the action would have been taken in the absence of such service, application, or obligation.

"(c)(1) An employer may discriminate in employment against or take any adverse employment action against any person because such person has taken an action to enforce a protection afforded any person under this chapter, has testified or otherwise made a statement in or in connection with any proceeding under this chapter, has assisted or otherwise participated in an investigation under this chapter, or has exercised a right provided for in this chapter.

"(2) The prohibition in paragraph (1) shall apply with respect to a person regardless of whether that person has performed service in the uniformed services.

"§ 4322. Reemployment rights of persons who perform service in the uniformed services

"(a) Subject to subsections (b) and (c), any person who is absent from a position of employment by reason of the performance of service in the uniformed services shall be entitled to the reemployment rights and benefits and other employment benefits of this chapter if—

"(1) the person (or an appropriate officer of the uniformed service in which such service is performed) has given advance written or verbal notice of such service to such person's employer;

"(2) except as provided in subsection (c) of this section, the cumulative length of the absence and of any previous absences from a position of employment with that employer by reason of service in the uniformed services does not exceed five years; and

"(3) the person reports or submits an application to such employer upon completion of such service in accordance with the provisions of subsection (d).

"(b) No notice is required under subsection (a)(1) if the giving of such notice is precluded by military necessity or, under all of the relevant circumstances, the giving of such notice is otherwise impossible or unreasonable. A determination of military necessity, impossibility, or unreasonableness for the purposes of this subsection shall be made by the Secretary concerned and shall not be subject to judicial review.

"(c) A person referred to in subsection (a) shall be entitled to the rights and benefits referred to in such subsection even though

the cumulative length of the person's absences from a position of employment with the employer by reason of service in the uniformed services exceeds five years if the absence which results in a cumulative absence in excess of five years is a result of the performance of—

"(1) service required to complete an initial period of obligated service;

"(2) service from which, through no fault of that person, the person could not obtain a discharge or release in time to prevent the cumulative absences from exceeding five years;

"(3) service required under section 270 of title 10 or section 502(a) or 503(a) of title 32 or required to fulfill additional training requirements determined by the Secretary concerned to be necessary for professional development or for completion of skill training or retraining;

"(4) service pursuant to—

"(A) an order to, or retention on, active duty under section 672(a), 672(g), 673, 673b, 673c, or 688 of title 10;

"(B) an order to, or retention on, active duty (other than for training) under any other provision of law during a war or national emergency declared by the President or by Congress;

"(C) an order to active duty (other than for training) in support (as determined by the Secretary concerned) of an operational mission for which personnel have been ordered to active duty under section 673b of title 10;

"(D) an order to active duty in support (as determined by the Secretary concerned) of a critical mission or requirement of the uniformed services; or

"(E) a call into Federal service under chapter 15 of title 10 or section 3500 or 8500 of such title; or

"(5) any other category of service specified by the Secretary of Labor, in consultation with the Secretary of Defense, in regulations prescribed pursuant to section 4351.

"(d)(1) Subject to paragraphs (2) and (3), a person referred to in subsection (a) shall, upon the completion of a period of service in the uniformed services, notify the employer referred to in such subsection of the person's return to a position of employment with such employer as follows:

"(A) In the case of a person who is absent from a position of employment for less than 31 days, by reporting to the employer—

"(i) not later than the beginning of the first full regularly scheduled work period on the first full calendar day following the completion of the period of service and a period for the safe transportation of the person from the place of that service to the workplace of the employer; or

"(ii) as soon as possible after the expiration of the period required under clause (i), if reporting within the period referred to in such clause is impossible or unreasonable through no fault of the person.

"(B) In the case of a person who is absent from a position of employment for a period of any length for the purposes of an examination to determine the person's fitness to perform service in the uniformed services, by reporting in the manner and time referred to in subparagraph (A).

"(C) In the case of a person who is absent from a position of employment for more than 30 days but less than 181 days, by submitting an application for reemployment with the employer not later than 31 days after the completion of the period of service.

"(D) In the case of a person who is absent from a position of employment for more than 180 days, by submitting an application for re-

employment with the employer not later than 90 days after the completion of the period of service.

"(2) A person who is hospitalized for, or convalescing from, an illness or injury incurred in, or aggravated by, the performance of a period of service in the uniformed services shall report to the person's employer (in the case of a person described in subparagraph (A) or (B) of paragraph (1)) or submit an application for employment with such employer (in the case of a person described in subparagraph (C) or (D) of such paragraph) at the end of the period (not to exceed two years) that is necessary for the person to recover from such illness or injury.

"(3) A person referred to in subparagraph (A) or (B) of paragraph (1) who fails to report to an employer within the time period referred to in such paragraph shall be considered to have failed to report for such work on schedule but may be treated by the employer no less favorably than the employer treats other absent employees pursuant to the employer's established policy or the general practices of the employer relating to employee absences.

"(e)(1) A person who submits an application for reemployment in accordance with subparagraph (C) or (D) of subsection (d)(1) shall provide to the person's employer (upon the request of such employer) documentation to establish that—

"(A) the person's application is timely;

"(B) the person has not exceeded the service limitations set forth in subsection (a)(3) (except as permitted under subsection (c)); and

"(C) the person's entitlement to the benefits under this chapter has not terminated under section 4304 of this title.

"(2) Documentation of any matter referred to in paragraph (1) that is issued pursuant to regulations prescribed by the Secretary concerned shall satisfy the documentation requirements in such paragraph.

"(3) An employer shall reemploy in accordance with the provisions of this chapter a person who fails to provide documentation that satisfies the requirements prescribed pursuant to paragraph (2) if the failure occurs because such documentation does not exist or is not readily available at the time of the request of the employer. If, after such reemployment, documentation becomes available that establishes that such person does not meet one or more of the requirements referred to in clauses (A) through (C) of paragraph (1), the employer of such person may terminate employment of the person and the provision of any rights or benefits afforded the person under this chapter.

"§ 4323. Reemployment positions

"(a) Subject to subsections (b) and (c), a person entitled to reemployment under section 4322 of this title upon completion of a period of service in the uniformed services shall be reemployed in a position of employment as follows:

"(1) In the case of a person who is not disabled—

"(A) in a position of employment in which the person would have been employed if the continuous employment of such person with the employer had not been interrupted by such service, or a similar position of like status and pay, the duties of which the person is qualified to perform; or

"(B) if not qualified to perform the duties of a position pursuant to subparagraph (A), in the position of employment in which the person was employed on the date of the commencement of the service in the uniformed services, or a position with like status and

pay, the duties of which the person is qualified to perform.

"(2)(A) In the case of a person who is disabled, one of the following positions in the order of priority in which the positions are listed:

"(i) A position referred to in paragraph (1)(A).

"(ii) A position referred to in paragraph (1)(B).

"(iii) A position similar to a position referred to in clause (i) that is consistent with the circumstances of the person's case, the duties of which the person is qualified to perform.

"(iv) A position of lesser status and pay than a position referred to in clause (iii) that is consistent with the circumstances of the person's case, the duties of which the person is qualified to perform.

"(B) An employer shall employ a person in a position referred to in clauses (i) through (iv) of subparagraph (A) even if the employer must make a reasonable accommodation for the disability of such person (and any limitations related to such disability) to facilitate the person's ability to perform the duties of that position.

"(b) A person shall be considered qualified to perform the duties of a position of employment under subsection (a) if the person can perform the essential functions of the position or will be able to perform such functions (1) after receiving training provided by the employer to refresh or update the necessary skills of that person, or (2) through other reasonable efforts undertaken by the employer.

"(c)(1) An employer is not required to reemploy a person under this chapter if the employer's circumstances have so changed as to make such reemployment impossible or unreasonable.

"(2) An employer is not required to make an accommodation under subsection (a) or provide training or undertake any other effort under subsection (b) if such accommodation, training, or effort would impose an undue hardship on the operation of the business of the employer to do so.

"(3) In any administrative or judicial proceeding involving an issue of whether (A) any reemployment referred to in paragraph (1) is impossible or unreasonable because of a change in an employer's circumstances, or (2) any accommodation, training, or effort referred to in paragraph (2) would impose an undue hardship on the operation of the business of the employer, the employer shall have the burden of proving the impossibility or unreasonableness of undue hardship.

"(b)(1) If two or more persons request reemployment under this chapter in the same position of employment by reason of an interruption of employment resulting from service in the uniformed services, the person whose continuous employment was so interrupted earlier shall be reemployed in that position.

"(2) Any person entitled to reemployment under this section who is not reemployed in a position of employment by reason of paragraph (1) shall be entitled to be reemployed as follows:

"(A) In the case of a person who is not disabled, in any other position referred to in subsection (a)(1) (in the order of priority set out in that subsection) that provides a similar status and pay to a position referred to in paragraph (1) of this subsection, consistent with circumstances of such person's case.

"(B) In the case of a person who is disabled, in any other position referred to in subsection (a)(2) (in the order of priority set

out in that subsection) that provides a similar status and pay to a position referred to in paragraph (1) of this subsection, consistent with circumstances of such person's case.

"§ 4324. Special rules for reemployment by the Federal Government

"(a) If the reemployment of a person under this chapter in a particular Federal Government position is not feasible, the Director of the Office of Personnel Management shall ensure that such person is offered an alternative position of employment in the executive branch that satisfies the requirements of section 4323(a) of this title.

"(b)(1) For the purposes of subsection (a), the Director of the Office of Personnel Management shall determine whether the reemployment of a person in a position in an executive agency, the United States Postal Service, or the Postal Rate Commission is feasible.

"(2) For the purposes of subsection (a), the Director of the Office of Personnel Management shall accept a determination that the reemployment of a person in a position described in paragraph (A) or (B) is not feasible from the official referred to in that subparagraph, as follows:

"(A) In the case of a position in the legislative branch or the judicial branch, the officer or employee authorized to appoint a person to that position.

"(B) In the case of a National Guard technician position in a State, the adjutant general of that State.

"(c) Subsection (a) does not apply to a person whose reemployment in a legislative or judicial branch position or in a position as a National Guard technician is not feasible if such person is not eligible to acquire a civil service status necessary for transfer to a position—

"(1) in the case of a person whose position of employment would be in the legislative or judicial branch, in the competitive service in accordance with section 3304(c) of title 5; or

"(2) in the case of a person whose position of employment would be as a National Guard technician, in the competitive service in accordance with section 3304(d) of such title.

"(d) A person's entitlement to reemployment under this section does not entitle such person to retention, preference, or displacement rights over any person who, without regard to the provisions of this chapter, has superior retention, preference, or displacement rights under the provisions of title 5 that relate to veterans and other preference eligibles (as defined in section 2108 of such title).

"§ 4325. Seniority, insurance, and other employment rights and benefits

"(a) A person who is reemployed under section 4323 or 4324 of this title shall be entitled to the same seniority such person would have had if the person's employment had not been interrupted by service in the uniformed services.

"(b) For the purposes of this section, a person who is reemployed pursuant to section 4323 or 4324 of this title in a position of civilian employment shall be considered to have been on a leave of absence while performing service in the uniformed services and shall be entitled to such rights and benefits provided to other employees of the employer who are on furlough or leave of absence under a plan, contract, or policy or practice in force at the beginning of the period of such service or which becomes effective during such period. Such person may be required to pay the employee cost, if any, of any funded benefit continued pursuant to such plan, contract, or policy or practice.

"(c)(1) A person whose civilian employment with an employer is interrupted by service in the uniformed services shall, at such person's request, be covered by insurance provided by such employer for other employees of the employer during the period of such service. In no event shall such coverage be required to be provided for more than 18 months after the commencement of such service. Such person may be required to pay not more than 102 percent of any premium required of other employees for the continuation of any insurance coverage that is continued under this paragraph, except that a person who performs service in the uniformed services for less than 31 days such person may not be required to pay more than the employee share, if any, of the cost of such coverage.

"(2) In the case of a person whose coverage by an employer-offered health insurance as an employee is terminated by reason of the service of such person in the uniformed services, an exclusion or waiting period may not be imposed in connection with coverage of such person upon reemployment by the employer under this chapter, or in connection with any other person who is covered by the insurance by reason of the reinstatement of the coverage of such person upon reemployment, if—

"(A) an exclusion or waiting period would not have been imposed under such insurance had coverage of such person by such insurance not been terminated as a result of such service; and

"(B) the condition of such person has been determined by the Secretary not to have been incurred or aggravated in the line of duty in the military, naval, or air service.

"(d)(1) Subject to paragraph (2), a person who is reemployed in a position of employment by an employer under section 4323 or 4324 of this title may not be involuntarily removed from such position, except for cause—

"(A) within 180 days after the date of reemployment, if the total of the person's periods of employment by the employer before such reemployment was less than 48 months; or

"(B) within one year after the date of reemployment, if the total of the person's periods of employment by such employer before such reemployment was more than 48 months.

"(2) For the purposes of paragraph (1), a person's period of employment with an employer shall include the period of such person's absences from such employment by reason of service in the uniformed services.

"(e)(1) Any person described in paragraph (3) whose employment with an employer referred to in that paragraph is interrupted by service in the uniformed services shall be entitled to use during such interruption any annual leave with pay accumulated by the person before the commencement of such service. A person shall use annual leave with pay under this paragraph by submitting a written request for such use to the person's employer before the commencement of such service.

"(2) Subject to the policy or practice of an employer referred to in paragraph (1), a person referred to in such paragraph shall accrue annual leave with pay during the period of service that interrupts the person's employment with the employer and shall (upon the written request of the person) be entitled to use any leave accumulated by reason of such accrual.

"(3) A person entitled to the benefit described in paragraph (1) is a person who—

"(A) has accumulated annual leave with pay under a policy or practice of a State (as an employer) or a private employer; or

"(B) has accumulated such leave as an employee of the Federal Government pursuant to subchapter I of chapter 63 of title 5.

§ 4326. Employee pension benefit plans

"(a)(1) In the case of a right provided pursuant to an employee pension benefit plan described in section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2)) or a right provided under any Federal or State law governing pension benefits for governmental employees, the right to pension benefits of a person reemployed under this chapter shall be determined under this subsection.

"(2)(A) A person reemployed under this chapter shall be treated as not having incurred a break in service with the employer or employers maintaining the plan by reason of such person's period or periods of service in the uniformed services.

"(B) Each period served by a person in the uniformed services shall, upon reemployment under this chapter, be deemed to constitute service with the employer or employers maintaining the plan for purpose of determining the nonforfeiture of the person's accrued benefits and for the purpose of determining the accrual of benefits under the plan.

"(b)(1) An employer reemploying a person under this chapter shall be liable to an employee benefit pension plan for funding any obligation of the plan to provide the benefits described in subsection (a)(2). For purposes of determining the amount of such liability and for purposes of section 515 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1145) or any similar Federal or State law governing pension benefits for governmental employees, service in the uniformed services that is deemed under subsection (a) to be service with the employer shall be deemed to be service with the employer under the terms of the plan or any applicable collective bargaining agreement.

"(2) A person reemployed under this chapter shall be entitled to accrued benefits pursuant to subsection (a) that are derived from employee contributions only to the extent the person makes payment to the plan with respect to such contributions. No such payment may exceed the amount the person would have been permitted or required to contribute had the person remained continuously employed by the employer throughout the period of service described in subsection (a)(2)(B).

"(c) Any employer who reemploys a person under this chapter and who is an employer contributing to a multiemployer plan, as defined in section 3(37) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(37)), under which benefits are or may be payable to such person by reason of the obligations set forth in this chapter, shall, within 30 days after the date of such reemployment, provide notice of such reemployment to the administrator of such plan.

§ 4327. Entitlement to rights and benefits not dependent on timing or nature of service

"A person's entitlement to a right on benefit provided under this chapter does not depend upon the timing, frequency, or duration of the person's performance of service in the uniformed services or the nature of such service in the uniformed services.

SUBCHAPTER III—ASSISTANCE IN SECURING EMPLOYMENT AND REEMPLOYMENT RIGHTS; ENFORCEMENT

§ 4331. Definition

"For the purposes of this subchapter, the term 'wrongful personnel action' means the following:

"(1) In the case of a State (as an employer) or a private employer, an action taken by the employer in violation of a provision of this chapter or a failure by the employer to take an action required by the provisions of this chapter.

"(2) In the case of the Federal Government—

"(A) an action taken by an officer or employee of the Federal Government in violation of a provision of this chapter or a failure by such an officer or employee to take an action required by the provisions of this chapter; or

"(B) a failure of the Director of the Office of Personnel Management to take an action required of the Director under section 4324 of this title.

§ 4332. Assistance in securing reemployment or other employment rights or benefits

"(a)(1) Any person who claims to have been subject to a wrongful personnel action may submit a complaint regarding such action to the Secretary of Labor.

"(2) A complaint submitted under paragraph (1) shall be in a form prescribed by the Secretary of Labor and shall include—

"(A) the name and address of the employer or potential employer against whom the complaint is directed; and

"(B) a summary of the allegations upon which the complaint is based.

"(b) The Secretary of Labor shall investigate each complaint submitted to such Secretary pursuant to subsection (a). If the Secretary of Labor determines as a result of the investigation that the allegation of the wrongful personnel action in such complaint is valid, such Secretary shall make reasonable efforts to ensure that the individual named in the complaint complies with the provisions of this chapter.

"(c) If the efforts of the Secretary of Labor with respect to a complaint under subsection (b) are unsuccessful, the Secretary shall notify the person who submitted the complaint of—

"(1) the results of the Secretary's investigation;

"(2) the efforts made by the Secretary; and

"(3) the complainant's entitlement to proceed under the enforcement of rights provisions provided under section 4333 of this title (in the case of a person submitting a complaint against the Federal Government) or 4334 of this title (in the case of a person submitting a complaint against a State or private employer).

"(d) The Secretary of Labor shall carry out the responsibilities of such Secretary under this section through the Assistant Secretary of Labor for Veterans' Employment and Training.

§ 4333. Enforcement of rights with respect to the Federal Government

"(a)(1) A person who receives a notification from the Secretary of Labor of an unsuccessful resolution of a complaint relating to a wrongful personnel action pursuant to section 4332(c) of this title may request that the Secretary of Labor refer the complaint for litigation before the Merit Systems Protection Board. The Secretary of Labor shall refer the complaint regarding such wrongful action to the Office of Special Counsel established by section 1211 of title 5.

"(2)(A) If the Special Counsel determines that the allegation of a wrongful personnel action in such complaint is valid, the Special Counsel may initiate an action regarding such complaint before the Merit Systems Protection Board and, upon the request of the person submitting the complaint, represent the person before the Board.

"(B) If the Special Counsel decides not to initiate an action or represent a person before the Merit Systems Protection Board as authorized under subparagraph (A), the Special Counsel shall notify such person of that decision and the reasons for the decision.

"(b)(1) A person referred to in paragraph (2) may submit a complaint alleging a wrongful personnel action directly before the Merit Systems Protection Board. A person who seeks a hearing or adjudication under this paragraph may be represented at such hearing or adjudication in accordance with the rules of the Board.

"(2) A person entitled to submit a complaint to the Merit Systems Protection Board under paragraph (1) is a person who—

"(A) has chosen not to apply to the Secretary of Labor for assistance regarding the complaint under section 4332(a);

"(B) has received a notification from the Secretary of Labor under section 4332(c) of this title;

"(C) has chosen not to be represented before the Board by the Special Counsel pursuant to subsection (a)(2)(A); or

"(D) has received a notification of a decision from the Special Counsel under subsection (a)(2)(B).

"(c)(1) The Merit Systems Protection Board shall adjudicate any complaint brought before the Board pursuant to subsection (a)(2)(A) or (b)(1).

"(2) If the Board determines that an officer of the Federal Government has not complied with the provisions of this chapter relating to the reemployment of a person by the Federal Government, the Board shall enter an order requiring such officer to comply with such provisions and to compensate such person for any loss of wages or benefits suffered by such person by reason of such lack of compliance.

"(3) Any compensation received by a person pursuant to an order under paragraph (1) shall be in addition to any other right or benefit provided for by this chapter and shall not be deemed to diminish any such right or benefit.

"(4) If the Board determines as a result of a hearing or adjudication conducted pursuant to paragraph (1) that a person is entitled to an order referred to in paragraph (2), the Board may, in its discretion, award such person reasonable attorney fees, expert witness fees, and other litigation expenses.

"(d) A person may petition the United States Court of Appeals for the Federal Circuit to review a final order or decision of the Merit Systems Protection Board that denies such person the relief sought. Such petition and review shall be in accordance with the procedures set forth in section 7703 of title 5.

"(e) A person may be represented by the Special Counsel in an action for review of a final order or decision issued by the Merit Systems Protection Board pursuant to subsection (c) that is brought pursuant to section 7703 of title 5 unless the person was not represented by the Special Counsel before the Merit Systems Protection Board regarding such order or decision.

§ 4334. Enforcement of rights with respect to a State or private employer

"(a)(1) A person who has submitted a complaint of a wrongful personnel action by a State (as an employer) or a private employer to the Secretary of Labor pursuant to section 4332(a) of this title and who has received a notification of the unsuccessful resolution of the complaint under section 4332(c) of this title, may request that the Secretary of Labor refer the complaint to the Attorney General. The Attorney General may com-

mence an action for appropriate relief on behalf of such person in an appropriate United States district court. The Attorney General shall appear on behalf of, and act as the attorney for, the person in the prosecution of such action.

"(2)(A) A person referred to in subparagraph (B) may commence an action for appropriate relief in an appropriate United States district court.

"(B) A person entitled to commence an action for relief with respect to a complaint under subparagraph (A) is a person who—

"(i) has chosen not to apply to the Secretary of Labor for assistance regarding the complaint under section 4332(a);

"(ii) has chosen not to request that the Secretary of Labor refer the complaint to the Attorney General under subsection (a)(1); or

"(iii) has been refused representation by the Attorney General with respect to the complaint under such subsection.

"(b) In the case of an action against a State as an employer, the appropriate district court is the court for any district in which the State exercises any authority or carries out any function. In the case of a private employer the appropriate district court is the district court for any district in which the private employer of the person maintains a place of business.

"(c)(1) The district courts of the United States shall have jurisdiction, upon the filing of a motion, petition, or other appropriate pleading by or on behalf of the person entitled to a right or benefit under this chapter to require the employer to comply with the provisions of this chapter and to require the State or private employer, as the case may be, to compensate the person for any loss of wages or benefits suffered by reason of such employer's wrongful personnel action. Any such compensation shall be in addition to, and shall not be deemed to diminish, any of the benefits provided for in such provisions.

"(2)(A) No fees or court costs may be charged or taxed against any person claiming rights under this chapter.

"(B) In any action or proceeding commenced by a person under subsection (a)(2) and in which such person is the prevailing party, the court may, in its discretion, award such person reasonable attorney fees, expert witness fees, and other litigation expenses.

"(3) The court may use its full equity powers, including temporary or permanent injunctions and temporary restraining orders, to vindicate fully the rights of persons under this chapter.

"(4) An action under this chapter may be initiated only by a person claiming rights or benefits under the provisions of subchapter II of this chapter, and not by an employer, prospective employer, or other entity with obligations under this chapter.

"(5) In any such action, only the State, private employer, or potential employer (as the case may be) or, in the case of benefits described in section 4326 of this title, an employee pension benefit plan referred to in that section, shall be considered a necessary party respondent.

"(6) No State statute of limitations shall apply to any proceeding under this section.

"(7) A State shall be subject to the same remedies, including prejudgment interest, as may be imposed upon any private employer under this section.

"SUBCHAPTER IV—INVESTIGATION OF COMPLAINTS

"§ 4341. Conduct of investigation; subpoenas

"(a) In carrying out any investigation under this chapter, the Secretary of Labor shall have reasonable access to documents of the complainant or an employer that the Secretary considers relevant to the investigation. The Secretary may examine and duplicate such documents.

"(b) In carrying out investigations under this chapter, the Secretary of Labor may require by subpoena the attendance and testimony of witnesses and the production of documents relating to any matter under investigation. In case of disobedience of the subpoena or contumacy and after a request by the Secretary of Labor, the Attorney General may apply to the district court of the United States for any district in which such disobedience or contumacy occurs for an order enforcing the subpoena.

"(c) Upon application, the district courts of the United States shall have jurisdiction to issue writs commanding any person or employer to comply with the subpoena of the Secretary of Labor or to comply with any order of such Secretary made pursuant to a lawful inquiry under this chapter. The district courts shall have jurisdiction to punish a failure to obey a subpoena or other lawful order of such Secretary as a contempt of court.

"SUBCHAPTER VI—MISCELLANEOUS

"§ 4351. Regulations

"(a) The Secretary of Labor, in consultation with the Secretary of Defense, may prescribe regulations relating to the implementation of this chapter with respect to reemployment and the provision of other employment rights and benefits by States (as employers) and private employers.

"(b) The Director of the Office of Personnel Management (in consultation with the Secretary of Labor and the Secretary of Defense) may prescribe regulations relating to the implementation of this chapter by the Federal Government (as an employer). This subsection does not authorize the Director to prescribe regulations relating to the responsibilities or activities of the Merit Systems Protection Board or the Office of the Special Counsel under this chapter.

"§ 4352. Severability

"If any provision of this chapter, or the application of such provision to any person or circumstances, is held invalid, the validity of the remainder of this chapter, or the application of such provision to persons or circumstances other than those as to which the provision is held invalid, shall not be affected."

(b) TABLE OF CHAPTERS.—The tables of chapters at the beginning of title 38, United States Code, and the beginning of part III of such title are each amended by striking out the item relating to chapter 43 and inserting in lieu thereof the following:

"43. Employment and reemployment rights of persons who serve in the uniformed services 4301".

(c) REVISION OF DEFINITION OF "STATE" FOR REEMPLOYMENT PURPOSES.—Section 101(20) of title 38, United States Code, is amended by adding at the end the following new sentence: "For the purposes of chapter 43, such term also includes Guam, the Virgin Islands, other possessions of the United States, and the agencies and political subdivisions thereof."

(d) OUTREACH PROGRAM.—(1) Not later than 180 days after the date of the enactment of

this Act, the Secretary of Labor, after consultation with the Secretary of Defense, the Secretary of Transportation, the Secretary of Health and Human Services, and the Secretary of Veterans Affairs shall make available to veterans and persons who perform service in the uniformed services and the employers of veterans and such persons information relating to the reemployment and additional employment rights, benefits, and obligations of such veterans, persons, and employers under the provisions of such chapter.

(2) For the purposes of this subsection:

(A) The term 'veteran' shall have the meaning given such term in section 101(2) of title 38, United States Code.

(B) The term 'uniformed services' shall have the meaning given such term in section 4303(9) of title 38, United States Code (as added by subsection (a) of this section).

(e) REPORT RELATING TO IMPLEMENTATION OF REEMPLOYMENT RIGHTS PROVISIONS.—Not later than one year after the date of the enactment of this Act, the Secretary of Labor, the Attorney General, and the Special Counsel referred to in section 4333(a)(1) of title 38, United States Code (as added by subsection (a)), shall each submit a report to the Congress relating to the implementation of chapter 43 of such title (as added by such subsection).

SEC. 3. REPEAL OF TITLE 5 PROVISIONS RELATING TO REEMPLOYMENT RIGHTS OF RESERVISTS.

(a) REPEAL.—Subchapter II of chapter 35 of title 5, United States Code, is repealed.

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of such chapter is amended by striking out the items relating to subchapter II and section 3551.

SEC. 4. CONFORMING AMENDMENTS.

(a) TITLE 38.—Section 5303A(b)(3) of title 38, United States Code, is amended—

(1) by striking out "or" at the end of clause (E);

(2) by striking out the period at the end of clause (F) and inserting in lieu thereof "or"; and

(3) by adding at the end thereof the following new clause:

"(G) to reemployment benefits under chapter 43 of this title."

(b) TITLE 5.—Section 1204(a)(1) of title 5, United States Code, is amended by striking out "section 2023" and inserting in lieu thereof "chapter 43".

(c) TITLE 10.—Section 706(c)(1) of title 10, United States Code, is amended by striking out "section 2021" and inserting in lieu thereof "chapter 43".

SEC. 5. TECHNICAL AMENDMENT.

Section 9(d) of Public Law 102-16 (105 Stat. 55) is amended by striking out "Act" the first place it appears and inserting in lieu thereof "section".

SEC. 6. TRANSITION RULES AND EFFECTIVE DATES.

(a) APPLICABILITY OF CHAPTER 43 TO PERSONS COMMENCING SERVICE AFTER DATE OF ENACTMENT.—

(1) AFTER 90 DAYS AFTER SUCH DATE.—The provisions of chapter 43 of title 38, United States Code (as added by section 2(a) of this Act), and section 5303A(b)(3)(G) of such title (as added by section 4(a) of this Act) shall apply to persons who commence the performance of periods of service in the uniformed services after the 90-day period beginning on the date of the enactment of this Act.

(2) WITHIN 90 DAYS AFTER SUCH DATE.—(A)(i) Subject to subparagraph (B), any person who commences the performance of a period of service in the uniformed services during the

90-day period referred to in paragraph (1) shall be covered by the provisions of chapter 43 of title 38, United States Code (as added by section 2(a) of this Act), and section 5303A(b)(3)(G) of such title (as added by section 4(a) of this Act).

(ii) For the purposes of section 4322(a)(1) of such title (as so amended) a person referred to in clause (i) shall be deemed to have satisfied the notification requirement referred to in such section.

(B) Any person referred to in subparagraph (A)(i) who completes the performance of service referred to in that subparagraph within the time period referred to in that subparagraph shall be covered by the provisions of chapter 43 of title 38, United States Code, in effect on the day before the date of the enactment of this Act.

(b) APPLICABILITY OF CHAPTER 43 TO PERSONS PERFORMING ACTIVE DUTY ON DATE OF ENACTMENT.—

(1) IN GENERAL.—(A) Subject to paragraph (2), any person who is performing service in the uniformed services on the date of the enactment of this Act shall be covered by the provisions of chapter 43 of title 38, United States Code (as added by section 2(a) of this Act), and section 5303A(b)(3)(G) of such title (as added by section 4(a) of this Act).

(B) For the purposes of section 4322(a)(1) of such title (as so amended) a person referred to in subparagraph (A) shall be deemed to have satisfied the notification requirement referred to in such section.

(C) For the purposes of calculating the cumulative length of service performed by a person referred to in this paragraph under section 4322(a)(2) of such title (as so amended), any service in the uniformed services (other than service referred to in section 4322(c) of such title (as so amended)) shall be included.

(2) ALTERNATIVE REPORTING REQUIREMENT.—Notwithstanding paragraph (1), a person referred to in subparagraph (A) shall report to work in accordance with the provisions of section 2024(d) of title 38, United States Code, in effect on the day before the date of the enactment of this Act.

(c) SPECIAL RULE FOR APPLICABILITY OF INSURANCE PROVISIONS.—Notwithstanding subsections (a)(2)(B) and (b)(1), a person referred to in such subsections shall be covered by the provisions of section 2021(b)(1) of title 38, United States Code (relating to insurance benefits), in effect on the day before the date of the enactment of this Act until the person has received notice of the provisions of section 4325(c) of such title (as amended by this Act) and has had a reasonable opportunity to elect to be covered by the provisions of such section 4325(c) (as so amended).

(d) REEMPLOYMENT OF DISABLED PERSONS.—

(1) IN GENERAL.—Section 4323(a)(2) of chapter 43 of title 38, United States Code (as amended by section 2(a) of this Act) shall apply to reemployments initiated on or after August 1, 1990.

(2) REPEAL.—(A) Effective as of August 1, 1990, section 2027 of title 38, United States Code (as in effect on the day before the date of the enactment of this Act), is repealed.

(B) Effective as of August 1, 1990, the table of sections at the beginning of chapter 43 of such title (as in effect on the day before the date of the enactment of this Act) is amended by striking out the item relating to section 2027.

(e) DEFINITION.—For the purposes of this section, the term "service in the uniformed services" shall have the meaning given such term in section 4303(7) of title 38, United States Code (as added by section 2(a) of this

Act).

Mr. SPECTER. Mr. President, I am please to join my colleague ALAN CRANSTON, the distinguished chairman of the Committee on Veterans' Affairs, as an original cosponsor of S. 1095, the Uniformed Services Employment and Reemployment Rights Act of 1991. This bill would amend the veterans' reemployment rights [VRR] law (chapter 43 of title 38, United States Code) to provide a basic reorganization of the VRR law, and to assure that returning service members are protected in all aspects of their employment—except for pay and work performed—as if they had been continuously employed during such period of service.

Since 1940, veterans, reservists, and members of the National Guard have enjoyed varying degrees of protection that assured their return to civilian preservice employment following military duty. During those 50 years, VRR law has grown in size and complexity. Nevertheless, since its last substantial recodification in 1974, more than 600 court cases have further defined the limits of the law. Not surprisingly, occasional confusion has resulted, leading to the need for this bill.

I am pleased to report to my colleagues that S. 1095 draws in large part on 3 years of hard work by a task force comprised of representatives of the Departments of Labor, Defense, and Justice, and of the Office of Personnel Management. The majority and minority staffs of the Committee on Veterans' Affairs, in a bipartisan effort, have worked together and with administration officials to produce the bill we introduce today. While there may be a few technical matters to work out, I am confident that all concerns can be resolved.

This area of the law, Mr. President, can be highly technical. But to the individual citizen-soldiers—the men and women on whom this Nation has proudly relied in times of military crisis—these rights are critical. Further, our total force policy makes our country more dependent than ever on the Reserve components for essential military readiness. There can be no clearer demonstration of this than the current situation in the Persian Gulf, when many of our friends and neighbors unhesitatingly traded business attire for desert fatigue uniforms to protect our interests thousands of miles from home.

The purpose of S. 1095 is to clarify the rights of these brave men and women. I am proud to be associated with such an effort, and look forward to testimony on this bill at the committee's May 23, 1991, hearing.

By Mr. KOHL:

S. 1096. A bill to ensure the protection of motion picture copyrights, and for other purposes; to the Committee on the Judiciary.

MOTION PICTURE ANTI-PIRACY ACT

• Mr. KOHL. Mr. President, during the 1980's the video-cassette recorder revolutionized American viewing habits. In the course of the last decade, it has become easier and less expensive to watch a movie at home. The statistics tell an impressive story: Revenues for video-cassette rentals in 1990 totaled over \$10 billion, and actually surpassed earnings from theatrical exhibitions and television sales. And though small by comparison, cable pay-per-view is expanding dramatically, thus giving consumers an additional outlet for home viewing.

Generally, video-cassette technology has benefited American society. It has enhanced our entertainment industry, which holds copyrights to the motion pictures; given consumers unprecedented choice and convenience at moderate prices; fostered entrepreneurialism; and created hundreds of thousands of new jobs.

But the success of this industry is threatened by high-technology pirates who illegally duplicate these protected works. According to the Motion Picture Association of America [MPAA], domestic piracy costs the industry more than \$600 million annually, while foreign copying costs more than \$1.2 billion each year.

Unauthorized copying stifles creativity because bootleggers undermine the integrity of the copyright system. Moreover, honest video dealers who refuse to make illegal copies suffer, too, because the few vendors who do peddle illegal copies can offer more videotapes at lower prices. But the biggest loser from illegal copying is the consumer, who too often watches videos with inferior sound and picture quality.

During the past few years, the entertainment industry has sought to protect its creative investments by treating video-cassettes and pay-per-view programming with anticopying processes. The processes do not affect the picture or sound quality of the original works, but they ensure that no watchable copies can be made from those originals. In fact, more than half of all new video-cassettes are copy-protected by this process, and the studios are experimenting with another process that is designed to deter copying in the growing pay-per-view area.

Unfortunately, the success of these anticopying technologies has spawned a cottage industry of pirates dedicated to developing devices that defeat these technologies. These devices, sometimes known as black boxes, effectively neutralize copy protection systems and allow counterfeiters to make clean copies. Black boxes and similar systems undermine our copyright laws and unfairly rob artists, creators, and distributors of the royalties to which they are entitled.

Though there are criminal laws on the books to punish this type of illegal copying, law enforcement does not have the resources to catch the vast majority of video pirates. And current copyright law is inadequate to solve the problem. While duplicating a copy protected movie amounts to copyright infringement, the contributory infringer can often escape liability. The sad truth is that unless we provide a real weapon to effectively battle video pirates, we will not be able to halt the flood of bootleg videotapes.

To ensure that consumers are protected and to respond to the threat of video piracy, today I am introducing the Motion Picture Anti-Piracy Act of 1991 with my colleagues HOWARD BERMAN, MEL LEVINE, and BARNEY FRANK in the House. Simply put, the Act would create a private enforcement mechanism to protect legitimate copyrights.

Our bill is straightforward, effective and limited in scope. First, by adding a new section to the Copyright Act, the measure would reaffirm that a copyright holder has the exclusive right to protect his or her works from unauthorized copying. And it would explicitly allow the holder of a copyrighted work to protect against any unauthorized duplication. It would update the definition of infringers to include those who import, manufacture, sell or distribute black boxes or other similar technologies that defeat copyright protection. And, because video bootleggers will often find ways to defeat the latest developments in copy protection, the proposal would address both tangible technologies—like the black box—as well as intangible circuitry which negates copy protection.

Second, our bill would amend the Electronic Communications Privacy Act to prohibit devices whose primary purpose or effect is to deactivate copy-protection systems. This provision now carries criminal penalties of up to 5 years imprisonment, a \$10,000 fine, or both. The measure would make civil remedies available as well, including injunctions, actual and punitive damages, attorneys' fees and litigation costs.

However, the Act is carefully crafted and limited in scope: It would neither circumscribe legal VCR use—as recognized by the Supreme Court in the Sony Betamax case—nor limit emerging VCR technologies. Further, it would affect only those devices and circuitry the stated purpose of which is merely a pretext for piracy, and not equipment with a legitimate primary purpose.

The United Kingdom has already enacted similar legislation. And the U.S. Register of Copyrights has endorsed this proposal in principle.

Mr. President, American copyright holders lose nearly \$2 billion to video pirates each year. The Motion Picture

Anti-Piracy Act, though not a panacea for the problem of illegal copying, would give the entertainment industry the muscle to win this fight itself. Indeed, the MPAA has strongly endorsed this crucial legislation, which I believe will soon become law. I urge my colleagues to join me in supporting it.

I ask unanimous consent that a copy of the Motion Picture Anti-Piracy Act of 1991 be printed in the RECORD.

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

S. 1096

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 "Motion Picture Anti-Piracy Act of 1991".

SEC. 2. SCOPE OF EXCLUSIVE RIGHTS IN AUDIOVISUAL WORKS.

(a) SCOPE OF EXCLUSIVE RIGHTS.—Chapter 1 of title 17, United States Code, is amended by adding after section 119 the following new section:

"SEC. 120. SCOPE OF EXCLUSIVE RIGHTS: RIGHT TO PROTECT AUDIOVISUAL WORKS.

"The exclusive right to reproduce a copyrighted audiovisual work under section 106 includes the right to protect such audiovisual work from authorizing copying through the use of a process, treatment, or mechanism that prevents or inhibits copying."

(b) CONFORMING AMENDMENTS.—(1) The table of sections at the beginning of chapter 1 of title 17, United States Code, is amended by adding at the end the following new item:

"Sec. 120. Scope of exclusive rights: Right to protect audiovisual works."

(2) Section 106 of title 17, United States Code (relating to exclusive rights of copyrighted works), is amended by striking "119" and inserting "120".

SEC. 3. INFRINGEMENT.

Section 501 of title 17, United States Code (relating to infringement of copyright), is amended by adding after subsection (e) the following new subsection:

"(f) A person is an infringer of the copyright in any audiovisual work that has been processed or treated for the purpose of preventing or inhibiting the copying of such audiovisual work, if that person imports, manufactures, sells, or distributes any equipment or device, or any component or circuitry incorporated into any equipment or device, the primary purpose or effect of which is to avoid, bypass, deactivate, or otherwise circumvent the process, treatment, mechanism, or system used by the owner of a copyright to prevent or inhibit copying."

SEC. 4. IMPORTATION.

Section 603(a) of title 17, United States Code (relating to importation prohibitions) is amended by inserting before the period at the end the following: ", including the provisions of section 501(f) relating to the importation of certain equipment and devices".

SEC. 5. CRIMINAL VIOLATIONS.

Section 2512(1) of title 18, United States Code (relating to prohibitions on the manufacture, distribution, possession, and advertising of communication interception devices), is amended as follows:

(1) Paragraph (a) is amended—

(A) by inserting "(1)" after "(a)";

(B) by adding "or" after the semicolon; and

(C) by adding at the end the following:

"(ii) sends through the mail, or sends or carries in interstate or foreign commerce, any electronic, mechanical, or other device, or any component or circuitry incorporated into any equipment or device, knowing or having reason to know that the primary purpose or effect of such equipment, device, component, or circuitry is to avoid, bypass, deactivate, or otherwise circumvent any process, treatment, mechanism, or system designed to prevent or inhibit the copying of a copyrighted audiovisual work;"

(2) Paragraph (b) is amended—

(A) by inserting "(1)" after "(b)"; and

(B) by adding at the end the following:

"(i) manufactures, assembles, sells, or possesses with the intent of deriving commercial benefit, any electronic, mechanical, or other device, or any component or circuitry incorporated into any equipment or device, knowing or having reason to know that the primary purpose or effect of such equipment, device, component, or circuitry is to avoid, bypass, deactivate, or otherwise circumvent any process, treatment, mechanism, or system designed to prevent or inhibit the copying of a copyrighted audiovisual work; or"

(3) Paragraph (c) is amended—

(A) in clause (i), by striking "; or" and inserting a comma;

(B) by adding "or" at the end of clause (ii); and

(C) by adding after the clause (ii) the following:

"(iii) any electronic, mechanical, or other device, or any component or circuitry incorporated into any equipment or device, knowing or having reason to know that the primary purpose or effect of such equipment, device, component, or circuitry is to avoid, bypass, deactivate, or otherwise circumvent any process, treatment, mechanism, or system designed to prevent or inhibit the copying of a copyrighted audiovisual work."

SEC. 6. CIVIL ACTIONS TO RECOVER FOR CRIMINAL VIOLATIONS.

(a) Section 2520 of title 18, United States Code (relating to recovery of civil damages) is amended—

(1) by inserting "(1)" before "Except"; and

(2) by adding at the end the following:

"(2) Any person aggrieved by a violation of—

"(A) section 2512(1)(a)(ii),

"(B) section 2512(1)(b)(ii), or

"(C) section 2512(1)(c) to the extent that such section relates to equipment, devices, components, or circuitry described in clause (iii) of such section,

may in a civil action recover from any person who engaged in that violation such relief as may be appropriate."•

ADDITIONAL COSPONSORS

S. 20

At the request of Mr. ROTH, the names of the Senator from Virginia [Mr. ROBB] and the Senator from Idaho [Mr. SYMMS] were added as cosponsors of S. 20, a bill to provide for the establishment and evaluation of performance standards and goals for expenditures in the Federal budget, and for other purposes.

S. 38

At the request of Mr. MOYNIHAN, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of S.

38, a bill to deny the People's Republic of China most-favored-nation trade treatment.

S. 104

At the request of Mr. PRESSLER, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 104, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for amounts paid by a physician as principal and interest on student loans if the physician agrees to practice medicine for 2 years in a rural community.

S. 139

At the request of Mr. DASCHLE, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 139, a bill to amend the Internal Revenue Code to make permanent, and to increase to 100 percent, the deduction of self-employed individuals for health insurance costs.

S. 152

At the request of Mr. COATS, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 152, a bill to amend the Internal Revenue Code of 1986 to increase the personal exemption to \$4,000.

S. 173

At the request of Mr. HOLLINGS, the names of the Senator from Alaska [Mr. MURKOWSKI] and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of S. 173, a bill to permit the Bell Telephone Cos. to conduct research on, design, and manufacture telecommunications equipment, and for other purposes.

S. 493

At the request of Mr. KENNEDY, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of S. 493, a bill to amend the Public Health Service Act to improve the health of pregnant women, infants, and children through the provision of comprehensive primary and preventive care, and for other purposes.

S. 512

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 512, a bill to authorize an additional \$25 million for the National Cancer Institute to conduct certain research on breast cancer, and for other purposes.

S. 622

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 622, a bill to amend title 18 of the United States Code to require drug testing for released Federal prisoners.

S. 623

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 623, a bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to maintain the current Federal-State funding ratio for the Justice Assistance Grant Program.

S. 640

At the request of Mr. KASTEN, the name of the Senator from New Hamp-

shire [Mr. SMITH] was added as a cosponsor of S. 640, a bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes.

S. 642

At the request of Mr. COATS, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 642, a bill to amend the Internal Revenue Code of 1986 to increase the personal exemption for dependents of a taxpayer.

S. 643

At the request of Mr. COATS, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 643, a bill to amend the Internal Revenue Code of 1986 to increase the personal exemption for dependent children of a taxpayer who are 6 years old or younger.

S. 701

At the request of Mr. COATS, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 701, a bill to amend the Internal Revenue Code of 1986 to increase the amount of the exemption for dependent children under age 18 to \$3,500, and for other purposes.

S. 732

At the request of Mr. BIDEN, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of S. 732, a bill to amend the Energy Reorganization Act of 1974 to create an independent Nuclear Safety Board.

S. 774

At the request of Mr. BREAUX, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 774, a bill to amend the Solid Waste Disposal Act to provide for State management of solid waste; to reduce and regulate the interstate transportation of solid wastes; and for other purposes.

S. 810

At the request of Mr. HARKIN, the names of the Senator from Maryland [Ms. MIKULSKI] and the Senator from Colorado [Mr. WIRTH] were added as cosponsors of S. 810, a bill to improve counseling services for elementary school children.

S. 844

At the request of Mr. DOMENICI, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 844, a bill to provide for the minting and circulation of \$1 coins.

S. 878

At the request of Mr. DODD, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 878, a bill to assist in implementing the plan of action adopted by the World Summit for Children, and for other purposes.

S. 879

At the request of Mr. DASCHLE, the names of the Senator from Alabama

[Mr. HEFLIN], the Senator from North Carolina [Mr. SANFORD], and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of S. 879, a bill to amend the Internal Revenue Code of 1986 to clarify the treatment of certain amounts received by a cooperative telephone company indirectly from its members.

S. 911

At the request of Mr. KENNEDY, the names of the Senator from West Virginia [Mr. ROCKEFELLER] and the Senator from South Dakota [Mr. DASCHLE] were added as cosponsors of S. 911, a bill to amend the Public Health Service Act to expand the availability of comprehensive primary and preventative care for pregnant women, infants, and children and to provide grants for home-visiting services for at-risk families, to amend the Head Start Act to provide Head Start services to all eligible children by the year 1994, and for other purposes.

S. 924

At the request of Mr. KENNEDY, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 924, a bill to amend the Public Health Service Act to establish a program of categorical grants to the States for comprehensive mental health services for children with serious emotional disturbance, and for other purposes.

S. 958

At the request of Mr. THURMOND, the names of the Senator from North Carolina [Mr. HELMS] and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of S. 958, a bill to amend title 32, United States Code, to authorize Federal support of State defense forces.

S. 1009

At the request of Mr. COATS, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 1009, a bill to amend the Internal Revenue Code of 1986 to increase the amount of the exemption for dependent children under age 18 to \$4,000, and for other purposes.

S. 1060

At the request of Mr. HARKIN, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 1060, a bill to authorize appropriations for local rail freight assistance through fiscal year 1994.

S. 1072

At the request of Mr. LAUTENBERG, the name of the Senator from Illinois [Mr. DIXON] was withdrawn as a cosponsor of S. 1072, a bill to amend title 23, United States Code, with respect to gross vehicle weights on the National System of Interstate and Defense Highways, and for other purposes.

SENATE JOINT RESOLUTION 36

At the request of Mr. PRESSLER, the name of the Senator from Maryland [Mr. SARBANES] was added as a cospon-

sor of Senate Joint Resolution 36, a joint resolution to designate the months of November 1991, and November 1992, as "National Alzheimer's Disease Month."

SENATE JOINT RESOLUTION 49

At the request of Mr. SARBANES, the names of the Senator from Oregon [Mr. HATFIELD], the Senator from New Mexico [Mr. DOMENICI], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of Senate Joint Resolution 49, a joint resolution to designate 1991 as the "Year of Public Health" and to recognize the 75th anniversary of the founding of the Johns Hopkins School of Public Health.

SENATE JOINT RESOLUTION 74

At the request of Mr. LIEBERMAN, the names of the Senator from Indiana [Mr. COATS], the Senator from Idaho [Mr. CRAIG], the Senator from Arizona [Mr. DECONCINI], the Senator from Nebraska [Mr. EXON], the Senator from Utah [Mr. GARN], the Senator from Oregon [Mr. HATFIELD], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Indiana [Mr. LUGAR], the Senator from Maryland [Mr. SARBANES], the Senator from Alabama [Mr. SHELBY], and the Senator from Minnesota [Mr. WELLSTONE], were added as cosponsors of Senate Joint Resolution 74, a joint resolution designating the week beginning July 21, 1991, as "Lyme Disease Awareness Week."

SENATE JOINT RESOLUTION 108

At the request of Mr. ADAMS, the names of the Senator from Nevada [Mr. REID], the Senator from Florida [Mr. GRAHAM], the Senator from Arkansas [Mr. PRYOR], the Senator from Michigan [Mr. RIEGLE], the Senator from Hawaii [Mr. INOUE], the Senator from California [Mr. CRANSTON], the Senator from Massachusetts [Mr. KERRY], the Senator from Hawaii [Mr. AKAKA], the Senator from North Carolina [Mr. SANFORD], the Senator from Maryland [Mr. SARBANES], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from North Dakota [Mr. BURDICK], the Senator from North Dakota [Mr. CONRAD], the Senator from Arizona [Mr. DECONCINI], the Senator from Michigan [Mr. LEVIN], the Senator from Ohio [Mr. GLENN], the Senator from New Jersey [Mr. BRADLEY], the Senator from Maryland [Ms. MIKULSKI], the Senator from Alabama [Mr. SHELBY], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Tennessee [Mr. SASSER], the Senator from Nevada [Mr. BRYAN], the Senator from Oklahoma [Mr. BOREN], the Senator from South Dakota [Mr. DASCHLE], the Senator from Ohio [Mr. METZENBAUM], the Senator from New York [Mr. MOYNIHAN], the Senator from Illinois [Mr. DIXON], the Senator from Kansas [Mr. DOLE], the Senator from Wisconsin [Mr. KASTEN], the Senator from Wyoming [Mr. SIMPSON], the Senator from California [Mr. SEY-

MOUR], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Montana [Mr. BURNS], the Senator from Idaho [Mr. SYMMS], the Senator from Idaho [Mr. CRAIG], the Senator from Iowa [Mr. GRASSLEY], the Senator from Maine [Mr. COHEN], the Senator from Missouri [Mr. BOND], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Indiana [Mr. COATS], the Senator from Florida [Mr. MACK], the Senator from Utah [Mr. HATCH], the Senator from South Carolina [Mr. THURMOND], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Pennsylvania [Mr. SPECTER], and the Senator from Oklahoma [Mr. NICKLES] were added as cosponsors of Senate Joint Resolution 108, a joint resolution to designate the week of May 13, 1991, through May 19, 1991, as "National Senior Nutrition Week."

SENATE JOINT RESOLUTION 111

At the request of Mr. BRADLEY, the names of the Senator from Massachusetts [Mr. KENNEDY], the Senator from Texas [Mr. BENTSEN], the Senator from Georgia [Mr. FOWLER], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Ohio [Mr. GLENN], the Senator from Hawaii [Mr. INOUE], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Missouri [Mr. BOND], the Senator from Missouri [Mr. DANFORTH], the Senator from Colorado [Mr. BROWN], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Mississippi [Mr. COCHRAN], the Senator from Idaho [Mr. CRAIG], the Senator from New York [Mr. D'AMATO], the Senator from Kansas [Mr. DOLE], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Utah [Mr. GARN], the Senator from Washington [Mr. GORTON], the Senator from Vermont [Mr. JEFFORDS], the Senator from Wisconsin [Mr. KASTEN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Oregon [Mr. PACKWOOD], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Wyoming [Mr. WALLOP], the Senator from Nebraska [Mr. EXON], and the Senator from California [Mr. SEYMOUR] were added as cosponsors of Senate Joint Resolution 111, a joint resolution marking the 75th anniversary of chartering by Act of Congress of the Boy Scouts of America.

SENATE JOINT RESOLUTION 115

At the request of Mr. MOYNIHAN, the names of the Senator from Washington [Mr. ADAMS] and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of Senate Joint Resolution 115, a joint resolution to designate the week of June 10, 1991, through June 16, 1991, as "Pediatric AIDS Awareness Week."

SENATE JOINT RESOLUTION 140

At the request of Mr. WARNER, the names of the Senator from Michigan [Mr. LEVIN] and the Senator from Cali-

fornia [Mr. SEYMOUR] were added as cosponsors of Senate Joint Resolution 140, a joint resolution to designate the week of July 27 through August 2, 1991, as "National Invent America Week."

SENATE JOINT RESOLUTION 141

At the request of Mr. WARNER, the names of the Senator from New Hampshire [Mr. RUDMAN], the Senator from New York [Mr. D'AMATO], the Senator from Montana [Mr. BURNS], the Senator from Louisiana [Mr. BREAU], the Senator from Rhode Island [Mr. PELL], the Senator from New Mexico [Mr. DOMENICI], the Senator from Kansas [Mr. DOLE], the Senator from California [Mr. CRANSTON], the Senator from Nevada [Mr. BRYAN], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of Senate Joint Resolution 141, a joint resolution to designate the week beginning July 21, 1991, as "Korean War Veterans Remembrance Week."

SENATE CONCURRENT RESOLUTION 23

At the request of Mr. MACK, the names of the Senator from Mississippi [Mr. COCHRAN], the Senator from Mississippi [Mr. LOTT], the Senator from Indiana [Mr. LUGAR], and the Senator from Idaho [Mr. SYMMS] were added as cosponsors of Senate Concurrent Resolution 23, a concurrent resolution deploring the blatant destruction of the environment in the Persian Gulf region, and declaring that Saddam Hussein and the current Iraqi regime should be held liable under U.N. Security Council Resolution 686 for these cruel acts against the environment.

SENATE CONCURRENT RESOLUTION 38—GRANTING THE CONSENT OF CONGRESS TO AN INTERSTATE COMPACT

Mr. SMITH submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 38

Whereas controversy currently exists whether certain islands in the Piscataqua River and inner Portsmouth Harbor should be viewed within the jurisdiction of New Hampshire or Maine;

Whereas controversy exists between the New Hampshire State Port Authority and the Harbor Master of the town of Kittery in the State of Maine as to jurisdiction in sections of the aforesaid river and harbor.

Whereas historical research shows that the true jurisdictional boundary line between the two States in the aforesaid areas has never been laid out with detailed determinations by either the Supreme Court of the United States or by duly authorized persons on behalf of both States;

Whereas the Government of the United States in the year 1800 chose to locate the "United States Navy Yard at Portsmouth, New Hampshire" on one of these islands in the harbor, and has since added three adjoining islands to this facility; and

Whereas a certain island presently known as "Badger's Island" is also a point in con-

trovres between the two States: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That (1) The consent of Congress be granted to the States of New Hampshire and Maine to negotiate and enter into a compact for the purpose of ascertaining and establishing the true jurisdictional boundary line between the two States in the Piscataqua River and inner Portsmouth Harbor; and (2) *Provided,* That any such compact shall not be binding or obligatory upon either of the parties thereto unless and until the same shall have been ratified by the legislature of each of the said States and approved by the Congress of the United States.

NEW HAMPSHIRE-MAINE BORDER DISPUTE

Mr. SMITH. Mr. President, I rise today to call the Senate's attention to an ongoing border dispute between the State of New Hampshire and the State of Maine. This border dispute directly calls into question the true location of the Portsmouth, NH Naval Shipyard which was established by the Federal Government almost 200 years ago.

This historic shipyard sits on a group of four small islands in the middle of the Piscataqua River, which has traditionally formed the interstate boundary between New Hampshire and Maine.

These islands are right in the middle of the river, and the question that naturally arises is what side of the islands does the interstate boundary pass through. You would think that after 355 years, since the founding of the colonial provinces of New Hampshire and Maine, this question would have been settled.

However, a thorough review of the historical record clearly shows that the boundary has never been definitively established in the vicinity of the Portsmouth Naval Shipyard. For decades, people in New Hampshire and people in the U.S. Government always understood the shipyard to be located in Portsmouth, NH. Indeed, the shipyard continues to be officially known as the Portsmouth Naval Shipyard, Portsmouth, NH and even the mailing address for the shipyard is Portsmouth, NH.

For people on the other side of the river, in the State of Maine, the shipyard is thought to be part of the town of Kittery, ME, which sits on the shore of the Piscataqua River. Mr. President, this can become very confusing when you consider that the island Maine thinks belongs to them actually sits in the middle of Portsmouth Harbor, and the jurisdiction of this entire harbor has always belonged to the State of New Hampshire.

In March 1989, at the request of New Hampshire shipyard worker, Victor Bourre, who has made herculean and heroic efforts on this issue, I began an extensive inquiry into the boundary question. This included researching the history of the Portsmouth Naval Shipyard and jurisdictional questions concerning Portsmouth Harbor. This re-

search was exhaustive, Mr. President, and we collected and analyzed every scrap of information relating to this issue dating back 355 years to the discovery and colonization of New Hampshire and Maine. We looked at maps, royal charters, deeds, wills, and contracts.

I am not going to take time today to go over the findings of over 15 months of research conducted by my office on this matter. However, I will do so at a later date.

Mr. President, the attorney general of New Hampshire and the American law division of the Library of Congress have concluded that the boundary has never been definitively established in the vicinity of the Portsmouth Naval Shipyard. And I will add that the evidence we have looked at and studied overwhelmingly supports the conclusion that the shipyard has historically been considered part of New Hampshire. As a result, we feel that when the boundary is finally laid out, it will be in New Hampshire's favor.

At face value, one might ask, what difference does it really make whether the shipyard is in New Hampshire or Maine, because it has been Federal property now since the 1800's? Mr. President, when you consider the fact that the almost 200-year-old official seal and official flag of the State of New Hampshire depicts a ship being built at the Portsmouth Naval Shipyard on Badgers Island in 1776—Badgers Island was the birthplace of the U.S. Navy. These are the docks with the U.S.S. *Raleigh* moving out into the harbor. That is the New Hampshire seal—it was depicting the State of Maine. You realize that for heritage reasons alone, this border dispute must be settled and the boundary must be officially laid out.

Mr. President, there is another important aspect to this New Hampshire/Maine border dispute which has a direct impact on over 4,000 New Hampshire employees who work at the shipyard. Right now, they are being forced by the Federal Government to pay taxes to the State of Maine. This mandatory tax-withholding practice was the result of a request several years ago from the State of Maine to the U.S. Government to have Maine taxes withheld at the shipyard.

This request should never have been granted by the Federal Government and no one to this day can give me a straight answer on why the Federal Government is withholding Maine taxes at a facility it has always considered to be in New Hampshire.

Mr. President, I have here over 1,000 petitions from the New Hampshire workers at the Portsmouth shipyard demanding an immediate stop to this unjust tax-withholding practice by the Federal Government. At the very least, Mr. President, this Congress owes it to the workers at the Portsmouth ship-

yard to stop this practice until the boundary question over the shipyard is resolved, either by the Supreme Court or an interstate compact between Maine and New Hampshire.

Today, I am introducing legislation to do just that, and I urge my two colleagues from the State of Maine to join me in efforts to suspend this tax until the boundary question is resolved. If it is in Maine, you can tax; if it is in New Hampshire, do not tax us. I would note that the Justice Department and the Treasury Department have expressed no objection to passage of this legislation to suspend the tax withholding.

Mr. President, I am also introducing legislation today granting the consent of Congress for New Hampshire and Maine to negotiate an interstate compact to resolve this boundary question once and for all. Again, I urge my colleagues from the State of Maine to join me in sponsoring this legislation and also colleagues from around the other States of the country.

Mr. President, I fully realize this is a matter which only directly concerns New Hampshire and Maine. But I would urge my colleagues, for the sake of tax fairness for the Federal employees at the Portsmouth, NH Naval Shipyard, to support this legislation. Every day that goes by for these workers, money is being unfairly taken out of their paychecks. It is up to us here in the Congress to do what we can to help these workers and resolve this boundary dispute.

Mr. President, I now ask unanimous consent that a copy of my June 1990 statement and summary of the conclusions of the boundary research be printed in the RECORD following my remarks.

I also ask unanimous consent that a statement by the attorney general of New Hampshire on this matter be printed in the RECORD.

Finally, I ask unanimous consent to print in the RECORD a copy of a resolution sponsored by Ed Dupont of the New Hampshire senate and representative Janet Pelley of the New Hampshire House, on the shipyard border dispute which has recently been approved by the New Hampshire senate and house of representatives.

Thank you, Mr. President, and I yield the floor.

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

FACTS

The original grants and charter from the King of England to Captain John Mason for the setting up of the Province of New Hampshire include all islands and islets in the Piscataqua River. The charter is dated August 19, 1635.

The Province of Maine charter from the King does not include any islands in the Piscataqua River or any jurisdiction over any portions of the river.

2. The original dwellers on the islands in the harbor were New Hampshire residents

who came over on the Captain Mason's ship from England to settle the Province of New Hampshire. (Names: Dr. Renald Fernald, the first doctor to settle in New Hampshire, and his sons Thomas and William, as well as Mr. Thomas Withers.)

3. New Hampshire was once part of Massachusetts when Maine was still a separate Province. During this period, the river of Piscataqua was entirely under the jurisdiction of Massachusetts, not Maine.

4. Portsmouth, as established, comprised Piscataqua and Strawberry Bank. Kittery and York County, as established, consisted of that portion of lands "beyond" the river of Piscataqua northerly.

5. Early deed records confirm that the "Crooked Lane" portion of Piscataqua River has always been considered part of the river and is still a navigable channel in 1990.

6. The entire deed history of Clark Island at the Navy yard is recorded in New Hampshire, and several of the early deeds, probate records and depositions for other parts of the Seavey Island complex and Badger's Island are recorded and attested to by New Hampshire commissioners and recorders of deeds.

7. Two-hundred and fifty years ago in 1740, the King of England decided that the boundary between New Hampshire and Maine would pass up "through the mouth of the harbor and so on up the middle of the river." However, boundary records clearly show that the boundary around the islands in the middle of the river has never been laid out.

8. After the 1740 decision, New Hampshire increased its use of the islands in the harbor which today comprise the Navy yard.

During the War of Independence, through the colonial period which followed, and into the 1880s, New Hampshire built and maintained forts on the islands in the harbor, including Seavey's Island and Badger's Island, which were recognized as part of the State of New Hampshire.

Badger's Island belonged to Governor John Langdon of New Hampshire.

The Governor, council, and Legislature of New Hampshire passed official acts to fortify the entire harbor and regulate all shipping coming into Portsmouth Harbor.

9. Portsmouth, New Hampshire has always been recognized the world over as the birthplace of the American Navy.

All shipbuilding in Portsmouth for the United States was conducted on the islands in the harbor, mainly Badger's Island.

One of these ships, the U.S.S. *Raleigh*, is depicted in the State seal of New Hampshire sitting on the stocks on Badger's Island.

10. The United States Navy Yard at Portsmouth, New Hampshire was established in the year 1800 because of Portsmouth's reputation for shipbuilding.

The Federal Government records the purchase of the island in the harbor as "ground purchased at Portsmouth, New Hampshire."

11. The citizens of Portsmouth, New Hampshire presented petitions to the Navy and Congress for improvements at their Navy yard during the 1800s.

All improvements at the Navy yard from 1800 through the late 1900s are the result of involvement and support by the New Hampshire congressional delegation and the State of New Hampshire. There was never any involvement by the State of Maine as the shipyard was considered to be in New Hampshire.

12. Maps of both Maine and New Hampshire dating back to the 1700s show the Navy yard as part of New Hampshire.

13. Old histories, publications, and newspapers of Portsmouth, Kittery, and the Navy yard have always shown the Navy yard as part of Portsmouth, New Hampshire.

14. Federal Government records for nearly 200 years have always listed the shipyard as New Hampshire, not Maine. Includes appropriation measures in the Congress and documents at the shipyard. Also, up until last month, New Hampshire was the State for 35 years that established, paid, and administered Federal unemployment compensation programs for people who got laid off at the shipyard, including people who reside in Maine.

15. The New Hampshire State Port Authority continues to exercise jurisdiction over Portsmouth Harbor, and the State of New Hampshire is currently paying \$4.7 million for dredging projects in the northern channel adjacent to Badger's Island. New Hampshire, nor Maine, has always been involved with dredging in the harbor since 1878.

16. The boundary where the shipyard is located was not laid out by the Supreme Court in the 1976 ocean fishing dispute, nor does the 1976 consent decree by New Hampshire and Maine prevent litigation to settle the boundary involving the shipyard and Badger's Island.

17. The Navy yard, Badger's Island, and the harbor of Portsmouth, New Hampshire comprise a proud part of New Hampshire's heritage spanning more than 350 years and needs to be properly recognized as such.

18. Maine taxation of shipyard workers and residents on the islands in Portsmouth Harbor is completely unjustified and should immediately be suspended pending final resolution of this matter.

STATEMENT OF GOV. JUDD GREGG AND ATTORNEY GENERAL JOHN ARNOLD ON THE PORTSMOUTH NAVAL SHIPYARD

At the request of Governor Judd Gregg, Attorney General John P. Arnold has conducted a preliminary review of the status of the boundary line between the States of New Hampshire and Maine along the Piscataqua River. The Governor asked the Attorney General to include in his analysis the issue of the location of the boundary line in the area of the Portsmouth Naval Shipyard islands and whether New Hampshire may have a claim of ownership to all or a portion of those islands. The Governor requested the Attorney General to undertake this review after Congressman Bob Smith brought the issue to the State's attention. The Attorney General reviewed a large number of historical documents provided by Congressman Smith, and additional historical records, and also researched legal issues raised by this boundary line question. The Governor indicated that he has been briefed by the Attorney General on the State's initial review of the issue of the Piscataqua River boundary line between New Hampshire and Maine. "Based on the preliminary views of the Attorney General that the boundary between the two states along the Piscataqua River does not appear to be definitely established in the vicinity of the Portsmouth Naval Shipyard, I have asked the Attorney General's Office to pursue this issue further," the Governor said. Gregg indicated that additional research will clearly be necessary, but that he wants the Attorney General to consider all appropriate avenues to resolve the boundary issue, up to and including action in the United States Supreme Court.

Attorney General Arnold confirmed that his office has conducted a review of the numerous legal and factual issues involved in this boundary line question, and that his initial conclusion is that the issue of the New Hampshire-Maine boundary in the vicinity of the Shipyard islands merits further pursuit.

"I want to stress that before we pursue this matter further, however, it is essential that my office, together with experts in the field, investigate the historical record, as well as legal precedent, in greater depth," Arnold indicated. He added that the first step in resolving the dispute would be to enter into discussions with the State of Maine. If such discussions result in an agreement locating the boundary line, the resolution would have to be adopted by both states and approved by Congress under Article I of the United States Constitution. Barring a resolution in that manner, the only judicial forum empowered to decide boundary issues between states is the United States Supreme Court.

A brief background summary of the New Hampshire-Maine Piscataqua River boundary line issue is attached.

BACKGROUND SUMMARY

The State's preliminary review indicates that disputes over the location of the boundary line between New Hampshire and Maine along the Piscataqua river go back to the original grants of what is now New Hampshire to Mason and his heirs and of what is now Maine to Gorges and his heirs in the early part of the 17th Century.

There are five islands relevant to this dispute lying between Portsmouth, New Hampshire and Kittery, Maine in the Piscataqua River. From west to east, these five islands are Langdons Island, presently known and historically better known as Badger's Island; Continental Island, better known as Dennett's, Lay Claim Navy, or Fernald's Island; Seavey's Island; Jamaica Island; and Clark Island. Starting in the early 1800s, the United States Navy acquired Fernald's, Seavey's, Jamaica, and Clark Islands for the Portsmouth Naval Shipyard. During the ensuing years, the Navy gradually filled in the river lying between Fernald's, Seavey's, and Jamaica Islands for use by the Shipyard; now the three are one large island in the Piscataqua River commonly known as Seavey Island.

By Consent Decree entered in 1977, the United States Supreme Court accepted the agreement of New Hampshire and Maine locating the lateral marine boundary line between New Hampshire and Maine from Portsmouth Harbor out to the Isles of Shoals, *New Hampshire v. Maine*, 434 U.S. 1 (1977). The boundary line up the Piscataqua River in the vicinity of the Portsmouth Naval Shipyard, however, has never been definitively located.

The central issue in the present dispute concerns a decree adopted in 1740 by King George II. In the early 18th century, a lingering boundary dispute flared up between New Hampshire and Massachusetts (which then owned what is now the State of Maine). Although the primary focus of the dispute was the southern boundary between the two colonies along the Merrimack River, also involved was the northern boundary between New Hampshire and what is now Maine. King George II appointed a Board of Commissioners to resolve the dispute. The Commissioners heard arguments by both parties and issued their decision in 1737; both parties promptly appealed the decision to the King. As a result, in 1740, King George II issued a decree concerning these boundary lines. That decree reads in pertinent part as follows:

"And as to the Northern Boundary between the said Provinces, the Court Resolve and Determine that the Dividing Line shall pass up thro the Mouth of Piscataqua Harbor and up the Middle of the River into the River of Newichwanneck (part of which is now called Salmon Falls). . . ."

New Hampshire has found no evidence that the actual location boundary decreed by the King has ever been determined. Thus it is the meaning and application of the King's 1740 Decree which is the core of the current dispute and which will be the focal point for the Attorney General's further pursuit.

JOINT RESOLUTION

Whereas, there presently exists a border dispute between the state of New Hampshire and the state of Maine concerning the location of the interstate boundary in the vicinity of the Portsmouth, New Hampshire Naval Shipyard and inner Portsmouth Harbor; and Whereas, the attorney general of New Hampshire has stated his determination that the historical record provides no evidence that the actual location of the boundary decreed by King George II in 1740 has ever been determined in the vicinity of the Portsmouth, New Hampshire Naval Shipyard and inner Portsmouth Harbor; and

Whereas, the governor of New Hampshire has asked the attorney general of New Hampshire to consider all appropriate avenues to resolve the boundary issue, up to and including action in the United States Supreme Court; now, therefore, be it

Resolved by the Senate and House of Representatives in General Court convened:

That the attorney general of New Hampshire shall consider all appropriate avenues to resolve the boundary issue, including action in the United States Supreme Court and to locate and definitively establish the interstate boundary in the vicinity of the Portsmouth, New Hampshire Naval Shipyard and inner Portsmouth Harbor; and

That no agreement or consent decree which concerns resolution of the border dispute be allowed to take effect unless approved by the house of representatives and senate of the state of New Hampshire.●

Mr. SMITH. I thank the Chair.

Mr. KENNEDY. Mr. President, will the Senator be good enough to yield for a brief question?

Mr. SMITH. Yes.

Mr. KENNEDY. I heard the Senator make his comments and remarks when he was talking about the founding of the American Navy. Some of us in Massachusetts believe the founder was John Barry, of Massachusetts, and I am interested in the Senator's historical references as he was referring back to that particular area of dispute.

As the Senator knows, Maine used to be a part of Massachusetts. So, I will look forward to reviewing the careful research done by my friend to follow this even more closely because he roused my interest in what is perceived today and certainly probably is an issue between New Hampshire and Maine.

AMENDMENTS SUBMITTED

VETERANS PROGRAMS FOR HOUSING AND MEMORIAL AFFAIRS

CRANSTON AMENDMENT NO. 243

Mr. DIXON (for Mr. CRANSTON) proposed an amendment to the bill (H.R.

232) to amend title 38, United States Code, with respect to veterans programs for housing and memorial affairs, and for other purposes, as follows:

On page 2, line 1, strike out "fiscal year" and insert in lieu thereof "September 30,".

On page 2, lines 4 and 5, strike out "in fiscal year 1991 and continuing thereafter," and insert in lieu thereof "on October 1, 1990,".

On page 2, line 8, insert a comma after "re-course".

On page 2, line 21, strike out "1991" and insert in lieu thereof "1992".

On page 2, line 24, strike out "1991" and insert in lieu thereof "1992".

On page 2, below line 24, insert the following:

(c) REPORT RELATING TO APPRAISAL REVIEW.—Section 1831(f) of such title is further amended by adding at the end the following new paragraphs:

"(4) Not later than April 30 of each year following a year in which the Secretary authorizes lenders to determine reasonable value of property under this subsection, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report relating to the exercise of that authority during the year in which the authority was exercised.

"(5) A report submitted pursuant to paragraph (4) of this subsection shall include, for the period covered by each report—

"(A) the number and value of loans made by lenders exercising the authority of this subsection;

"(B) the number and value of such loans reviewed by the appraisal-review monitors referred to in paragraph (2) of this subsection;

"(C) the number and value of loans made under this subsection of which the Secretary received notification of default;

"(D) the amount of guaranty paid by the Secretary to such lenders by reason of defaults on loans as to which reasonable value was determined under this subsection; and

"(E) such recommendations as the Secretary considers appropriate to improve the exercise of the authority provided for in this subsection and to protect the interests of the United States."

On page 3, lines 13 and 14, strike out "for or receipts of Federal" and insert in lieu thereof "for, or receipts of, Federal".

On page 5, line 5, strike out "1991" and insert in lieu thereof "1992".

On page 7, line 17, strike out "paragraph" and insert in lieu thereof "subsection".

On page 13, line 5, strike out "when" and insert in lieu thereof "on the date".

On page 13, line 16, strike out "revolving fund" and insert in lieu thereof "special account referred to in subsection (c)".

On page 13, lines 21 and 22, strike out "and veterans in compensated work-therapy programs".

On page 13, line 24, strike out "acquire" and insert in lieu thereof "in acquiring".

On page 16, between lines 20 and 21, insert the following:

SEC. 12. AUTHORITY OF THE SECRETARY OF VETERANS AFFAIRS TO CARRY OUT SPECIFIED ADMINISTRATIVE REORGANIZATION.

(a) AUTHORITY FOR ADMINISTRATIVE REORGANIZATION.—The Secretary of Veterans Affairs may carry out the administrative reorganization described in subsection (b) without regard to section 210(b)(2) of title 38, United States Code.

(b) SPECIFIED REORGANIZATION.—Subsection (a) applies to the organizational re-

alignment of management responsibility for the Department of Veterans Affairs Data Processing Centers, together with the corresponding organizational realignment of associated Information Resources Management operational components and functions within the Department of Veterans Affairs central office, as such realignment was described in the detailed plan and justification submitted by the Secretary of Veterans Affairs in January 4, 1991, letters to the Chairmen of the Committees on Veterans' Affairs of the Senate and the House of Representatives.

SEC. 13. AMENDMENTS TO LAWS TO REFLECT THE CONVERSION OF THE VETERANS' ADMINISTRATION TO THE DEPARTMENT OF VETERANS AFFAIRS.

(a) LAWS CODIFIED IN TITLE 2, U.S.C.—Section 255 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905) is amended by striking out the last two items in subsection (g)(2) and inserting in lieu thereof the following:

"Department of Veterans Affairs, Loan guaranty revolving fund (36-4025-0-3-704); and
"Department of Veterans Affairs, Servicemen's group life insurance fund (36-4009-0-3-701)".

(b) TITLE 5, U.S.C.—

(1) The following sections of title 5, United States Code, are amended by striking out "Veterans' Administration" and inserting in lieu thereof "Department of Veterans Affairs": sections 2108(2), 5102(c)(14), 5342(a)(2)(C), 7103(a)(3), 8101(20), 8116(a)(3), 8312(2)(A), and 8313(3)(A).

(2) The following sections of such title are amended by striking out "Department of Medicine and Surgery, Veterans' Administration" and inserting in lieu thereof "Veterans Health Administration of the Department of Veterans Affairs": sections 4301(2)(C), 5102(c)(3), and 6301(2)(B)(v).

(3) Section 5355 of such title is amended by striking out "Administrator of Veterans Affairs" and inserting in lieu thereof "Secretary of Veterans Affairs".

(4) Section 8339(g) of such title is amended by striking out "Veterans' Administration pension or compensation" in the second and third sentences and inserting in lieu thereof "pension or compensation from the Department of Veterans Affairs".

(5) Section 8347(m)(2) of such title is amended by striking out "Administrator" and inserting in lieu thereof "Secretary".

(6) Section 503 of the Supplemental Appropriations Act, 1987 (5 U.S.C. 7301 note), is amended by striking out "Veterans' Administration" in subsection (a)(2)(I) and inserting in lieu thereof "Department of Veterans Affairs".

(c) LAWS CODIFIED IN TITLE 7, U.S.C.—Section 202 of the Agricultural Act of 1949 (7 U.S.C. 1446a) is amended by striking out "Administrator of Veterans Affairs" in the matter preceding subsection (a), in subsection (a), and in subsection (c) and inserting in lieu thereof "Secretary of Veterans Affairs".

(d) LAWS CODIFIED IN TITLE 12, U.S.C.—

(1) Section 912 of the Housing and Urban Development Act of 1970 (12 U.S.C. 1709-2) is amended by striking out "Veterans' Administration" both places it appears in paragraph (1) and inserting in lieu thereof "Department of Veterans Affairs".

(2) The National Housing Act (12 U.S.C. 1701 et seq.) is amended—

(A) by striking out "Veterans' Administration" in subsection (c)(2)(D) of section 302 (12 U.S.C. 1717) and inserting in lieu thereof "Department of Veterans Affairs"; and

(B) by striking out "Administrator of Veterans' Affairs" in section 512 (12 U.S.C. 1731a) and inserting in lieu thereof "Secretary of Veterans Affairs".

(3) Section 107 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1735g) is amended—

(A) by striking out "Administrator of Veterans' Affairs" in subsection (a)(2)(B) and inserting in lieu thereof "Secretary of Veterans Affairs"; and

(B) by striking out "Administrator of Veterans' Affairs" both places it appears in subsection (e) and inserting in lieu thereof "Secretary of Veterans Affairs".

(4) Section 8 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2607) is amended by striking out "Administrator of Veterans' Affairs" in subsection (c)(5) and inserting in lieu thereof "Secretary of Veterans Affairs".

(e) LAWS CODIFIED IN TITLE 15, U.S.C.—Section 718 of the Business Opportunity Development Reform Act of 1988 (Public Law 100-656; 15 U.S.C. 644 note) is amended by striking out "Veterans Administration" in subsection (b)(10) and inserting in lieu thereof "Department of Veterans Affairs".

(f) TITLE 18, U.S.C.—

(1) Section 289 of title 18, United States Code, is amended by striking out "Administrator of Veterans' Affairs" and inserting in lieu thereof "Secretary of Veterans Affairs".

(2) Section 1114 of such title is amended by striking out "Veterans Administration" and inserting in lieu thereof "Department of Veterans Affairs".

(g) LAWS CODIFIED IN TITLE 20, U.S.C.—The Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) is amended as follows:

(1) The following provisions are amended by striking out "Veterans Administration" and inserting in lieu thereof "Department of Veterans Affairs":

(A) Subsection (a)(1)(E) of section 131 (20 U.S.C. 1017).

(B) Subsection (d)(1)(C) of section 411B (20 U.S.C. 1070a-2).

(C) Subsection (c)(1)(C) of section 411C (20 U.S.C. 1070a-3).

(D) Subsection (c)(1)(C) of section 411D (20 U.S.C. 1070a-4).

(2) Section 420A (20 U.S.C. 1070e-1) is amended—

(A) in subsection (b)(2)(B), by striking out "Administrator of Veterans' Affairs" and inserting in lieu thereof "Secretary of Veterans Affairs";

(B) in subsection (c)(2)—

(i) by striking out "Administrator of Veterans' Affairs" (hereinafter referred to as the "Administrator") and inserting in lieu thereof "Secretary of Veterans Affairs"; and

(ii) by striking out "Administrator" each of the three succeeding places in which it appears and inserting in lieu thereof "Secretary of Veterans Affairs"; and

(C) in subsection (d), by striking out "Veterans Administration" and "the Administrator" and inserting in lieu thereof "Secretary of Veterans Affairs" in both instances.

(h) REFERENCES IN TITLE 22, U.S.C.—

(1) LAWS CODIFIED IN TITLE 22.—Section 106 of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2456) is amended by striking out "Veterans Administration" in subsection (a)(1) and inserting in lieu thereof "Department of Veterans Affairs".

(2) REFERENCE PURSUANT TO LAW CODIFIED IN TITLE 22.—Any reference to the Veterans' Administration in any regulation prescribed or Executive order issued pursuant to section 827(a) of the Foreign Service Act of 1980

(22 U.S.C. 4067(a)) shall be deemed to be a reference to the Department of Veterans Affairs.

(i) LAWS CODIFIED IN TITLE 24, U.S.C.—

(1) The Naval Appropriation Act, 1946 (59 Stat. 201 et seq.), is amended in the first proviso in the fourth paragraph under the heading "BUREAU OF SUPPLIES AND ACCOUNTS" (24 U.S.C. 16a; 59 Stat. 208) by striking out "United States Veterans Administration" and inserting in lieu thereof "Department of Veterans Affairs".

(2) Section 2 of the Act of March 22, 1906 (24 U.S.C. 152), is amended—

(A) by striking out "Board of Managers of the National Home for Disabled Volunteer Soldiers" and inserting in lieu thereof "Secretary of Veterans Affairs"; and

(B) by striking out "as they may deem necessary" and inserting in lieu thereof "as the Secretary may consider necessary".

(j) LAWS CODIFIED IN TITLE 25, U.S.C.—

(1) The Act of February 25, 1933 (25 U.S.C. 14), is amended—

(A) by striking out "Veterans Administration" and inserting in lieu thereof "Department of Veterans Affairs"; and

(B) by striking out "Administrator of Veterans' Affairs" and inserting in lieu thereof "Secretary of Veterans Affairs".

(2) Section 716 of the Indian Health Care Improvement Act (25 U.S.C. 1680f) is amended—

(A) by striking out "Veterans Administration" and inserting in lieu thereof "Department of Veterans Affairs" in each of the following subsections: subsections (a), (b)(3), (b)(4), (b)(6), (c)(1)(A), and (c)(1)(B);

(B) in subsection (c)(1), by striking out "Within 30 days" and all that follows through "directed to" and inserting in lieu thereof "Not later than December 23, 1988, the Director of the Indian Health Service and the Secretary of Veterans Affairs shall"; and

(C) in subsection (c)(2), by striking out "Not later than" and all that follows through "shall" and inserting in lieu thereof "Not later than November 23, 1990, the Secretary and the Secretary of Veterans Affairs shall".

(k) LAWS CODIFIED IN TITLE 29, U.S.C.—

(1) The Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.) is amended—

(A) by striking out "Veterans Administration" in the following provisions and inserting in lieu thereof "Department of Veterans Affairs": subsection (a)(11) of section 101 (29 U.S.C. 721), subsection (1)(2) of section 202 (29 U.S.C. 761a), and subsection (a)(1)(B)(ix) of section 502 (29 U.S.C. 792); and

(B) by striking out "Administrator of Veterans' Affairs" in the following provisions and inserting in lieu thereof "Secretary of Veterans Affairs": subsection (a)(1) of section 203 (29 U.S.C. 761b) and subsection (a) of section 501 (29 U.S.C. 791).

(2) The Job Training Partnership Act (29 U.S.C. 1501 et seq.) is amended—

(A) by striking out "Veterans Administration" in paragraph (27)(B) of section 4 (29 U.S.C. 1503) and inserting in lieu thereof "Secretary of Veterans Affairs";

(B) by striking out "Veterans Administration programs" in subsection (c)(10) of section 121 (29 U.S.C. 1531) and inserting in lieu thereof "programs of the Department of Veterans Affairs"; and

(C) by striking out "Administrator of Veterans' Affairs" in subsection (b)(2)(B) of section 441 (29 U.S.C. 1721) and inserting in lieu thereof "Secretary of Veterans Affairs".

(l) TITLE 31, U.S.C.—Title 31, United States Code, is amended as follows:

(1) Paragraphs (45), (74), (82), and (83) of section 1321(a) are amended by striking out "Veterans Administration" and inserting in lieu thereof "Department of Veterans Affairs".

(2) Section 3329(c)(1) is amended—

(A) by striking out "Administrator of Veterans' Affairs" and inserting in lieu thereof "Secretary of Veterans Affairs"; and

(B) by striking out "laws carried out by the Administrator" and inserting in lieu thereof "laws administered by the Secretary of Veterans Affairs".

(3) Section 3330 is amended—

(A) by striking out "Administrator of Veterans' Affairs" in subsection (a)(1)(B) and inserting in lieu thereof "Secretary of Veterans Affairs";

(B) by striking out "Administrator" in subsections (a)(2), (a)(3), and (d)(1)(A) and inserting in lieu thereof "Secretary of Veterans Affairs"; and

(C) by striking out "laws carried out by the Administrator" in subsections (b) and (c) and inserting in lieu thereof "laws administered by the Secretary of Veterans Affairs".

(4)(A) The heading of section 3330 is amended to read as follows:

"§ 3330. Payment of Department of Veterans Affairs checks for the benefit of individuals in foreign countries".

(B) The item relating to section 3330 in the table of sections at the beginning of chapter 33 is amended to read as follows:

"3330. Payment of Department of Veterans Affairs checks for the benefit of individuals in foreign countries."

(m) LAWS CODIFIED IN TITLE 33, U.S.C.—

(1) Section 9 of the Coast and Geodetic Survey Commissioned Officers' Act of 1948 (33 U.S.C. 853h) is amended by striking out "Veterans Administration" in subsection (e)(2) and inserting in lieu thereof "Secretary of Veterans Affairs".

(2) The second sentence of the second paragraph of section 16 of the Act of May 22, 1917 (33 U.S.C. 857) is amended by striking out "Veterans Administration" and inserting in lieu thereof "Secretary of Veterans Affairs".

(3) Section 3 of Public Law 91-621 (33 U.S.C. 857-3) is amended by striking out "Veterans Administration" in subsection (a)(1) and inserting in lieu thereof "Secretary of Veterans Affairs".

(n) LAWS CODIFIED IN TITLE 36, U.S.C.—

(1) The Act of July 23, 1947 (36 U.S.C. 67 et seq.) is amended by striking out "Veterans Administration" in section 3(2) (36 U.S.C. 67b(2)) and in section 9 (36 U.S.C. 67h) and inserting in lieu thereof "Department of Veterans Affairs".

(2) Section 3 of the Act of June 17, 1932 (36 U.S.C. 90c) is amended by striking out "United States Veterans Administration" and inserting in lieu thereof "Department of Veterans Affairs".

(3) Section 3 of Public Law 85-761 (36 U.S.C. 823) is amended by striking out "Veterans Administration" in subsection (b)(5) and inserting in lieu thereof "Department of Veterans Affairs".

(4) Section 15 of Public Law 85-769 (36 U.S.C. 865) is amended by striking out "Veterans Administration" and inserting in lieu thereof "Department of Veterans Affairs".

(5) Section 9 of Public Law 92-93 (36 U.S.C. 1159) is amended by striking out "Veterans Administration" and inserting in lieu thereof "Department of Veterans Affairs".

(6) Section 3(d) of Public Law 98-314 (36 U.S.C. 2403(d)) is amended by striking out "Veterans Administration" and inserting in

lieu thereof "Department of Veterans Affairs".

(7) Section 3 of Public Law 98-584 (36 U.S.C. 3103) is amended by striking out "Veterans' Administration Hospitals" in paragraph (3) and inserting in lieu thereof "medical facilities of the Department of Veterans Affairs".

(8) Section 3 of Public Law 99-172 (36 U.S.C. 3703) is amended by striking out "Veterans' Administration" in paragraph (5) and inserting in lieu thereof "Department of Veterans Affairs".

(c) LAWS CODIFIED IN TITLE 40, U.S.C.—Section 13 of the Public Buildings Act of 1959 (40 U.S.C. 612) is amended by striking out "Veterans' Administration installations" in paragraph (1)(H) and inserting in lieu thereof "installations of the Department of Veterans Affairs".

(d) LAWS CODIFIED IN TITLE 41, U.S.C.—The first section of the Act of June 25, 1938 (41 U.S.C. 46), commonly referred to as the "Wagner-O'Day Act", is amended by striking out "Veterans' Administration" in subsection (a)(1) and inserting in lieu thereof "Department of Veterans Affairs".

(e) LAWS CODIFIED IN TITLE 42, U.S.C.—(1) PUBLIC HEALTH SERVICE ACT.—The Public Health Service Act (42 U.S.C. 201 et seq.) is amended as follows:

(A) The following provisions are amended by striking out "Veterans' Administration" and inserting in lieu thereof "Department of Veterans Affairs":

(i) Subsection (k)(4)(C) of section 306 (42 U.S.C. 242k).

(ii) Subsection (e)(1) of section 544 (42 U.S.C. 290dd-3).

(iii) Subsection (e)(1) of section 548 (42 U.S.C. 290ee-3).

(B) The following provisions are amended by striking out "Administrator of Veterans Affairs" and inserting in lieu thereof "Secretary of Veterans Affairs":

(i) Subsection (c) of section 341 (42 U.S.C. 257).

(ii) Subsection (g) of section 548 (42 U.S.C. 290ee-3).

(C) Section 212 (42 U.S.C. 213) is amended by striking out "Veterans' Administration" in subsection (d) and inserting in lieu thereof "Secretary of Veterans Affairs".

(D) Subsection (a)(2)(B) of section 314 (42 U.S.C. 246) is amended—

(i) by striking out "Veterans' Administration" and inserting in lieu thereof "Department of Veterans Affairs";

(ii) by striking out "Administrator of Veterans Affairs" and inserting in lieu thereof "Secretary of Veterans Affairs"; and

(iii) by striking out "such Administration" and inserting in lieu thereof "such Department".

(E) Section 485 (42 U.S.C. 287c-2) is amended by striking out "Chief Nursing Officer of the Veterans' Administration" in subsection (b)(2)(A) and inserting in lieu thereof "chief nursing officer of the Department of Veterans Affairs".

(2) SAFE DRINKING WATER ACT AMENDMENTS OF 1986.—Section 109(c) of the Safe Drinking Water Act Amendments of 1986 (42 U.S.C. 300g-6 note) is amended by striking out "the Administrator of the Veterans' Administration" and inserting in lieu thereof "the Secretary of Veterans Affairs".

(3) SOCIAL SECURITY ACT.—The Social Security Act (42 U.S.C. 301 et seq.) is amended as follows:

(A) The following provisions are amended by striking out "Veterans' Administration" and inserting in lieu thereof "Department of Veterans Affairs":

(i) Subsections (a)(1)(B) and (e)(1)(B) of section 217 (42 U.S.C. 417).

(ii) Subsection (b)(5)(A) of section 1128 (42 U.S.C. 1320a-7).

(iii) Subsection (h)(1) of section 1814 (42 U.S.C. 1395f).

(iv) The heading of subsection (h) of section 1814.

(v) Subsection (a)(5)(F) of section 1928 (42 U.S.C. 1396s).

(B) The following provisions are amended by striking out "Veterans' Administration" each place it appears and inserting in lieu thereof "Secretary of Veterans Affairs":

(i) Subsection (h)(2) of section 228 (42 U.S.C. 428).

(ii) Subsection (f)(2) of section 462 (42 U.S.C. 662).

(iii) Subsection (a)(1) of section 1133 (42 U.S.C. 1320b-3).

(iv) Subsection (h)(2) of section 1814 (42 U.S.C. 1395f).

(C) Subparagraph (D) of section 202(t)(4) (42 U.S.C. 402(t)(4)) is amended—

(i) by striking out "Administrator of Veterans Affairs" and inserting in lieu thereof "Secretary of Veterans Affairs"; and

(ii) by striking out "if the Administrator" both places it appears and inserting in lieu thereof "Secretary of Veterans Affairs".

(D) Subsection (b)(1) of section 217 (42 U.S.C. 417) is amended by striking out "Veterans' Administration to be payable by it" and inserting in lieu thereof "Secretary of Veterans Affairs to be payable by him".

(E) Subsection (b)(2) of section 217 (42 U.S.C. 417) is amended—

(i) in the first sentence—

(I) by striking out "Veterans' Administration" the first place it appears and inserting in lieu thereof "Secretary of Veterans Affairs"; and

(II) by striking out "the Veterans' Administration" the second place it appears and inserting in lieu thereof "that Secretary";

(ii) in the second sentence, by striking out "Veterans' Administration" and inserting in lieu thereof "Secretary of Veterans Affairs";

(iii) in the third sentence—

(I) by striking out "If the Veterans' Administration" and inserting in lieu thereof "If the Secretary of Veterans Affairs"; and

(II) by striking out "it shall" and inserting in lieu thereof "the Secretary of Veterans Affairs shall";

(iv) in the fourth sentence—

(I) by striking out "Veterans' Administration" and inserting in lieu thereof "Secretary of Veterans Affairs"; and

(II) by striking out "such Administration" and inserting in lieu thereof "that Secretary"; and

(v) in the fifth sentence, by striking out "Veterans' Administration" and inserting in lieu thereof "Secretary of Veterans Affairs".

(F) Subsection (a)(1)(L) of section 1866 (42 U.S.C. 1395cc) is amended by striking out "Administrator of Veterans Affairs" and inserting in lieu thereof "Secretary of Veterans Affairs".

(4) OMNIBUS RECONCILIATION ACT OF 1980.—Section 966 of the Omnibus Reconciliation Act of 1980 (42 U.S.C. 632a) is amended—

(A) in subsection (c)(6)—

(i) by striking out "Veterans' Administration" both places it appears and inserting in lieu thereof "Department of Veterans Affairs"; and

(ii) by striking out "Administrator of Veterans Affairs" and inserting in lieu thereof "Secretary of Veterans Affairs"; and

(B) in subsection (e)(1), by striking out "Veterans' Administration" and inserting in lieu thereof "Secretary of Veterans Affairs".

(5) HOUSING ACT OF 1949.—Section 535 of the Housing Act of 1949 (42 U.S.C. 1490o) is amended—

(A) in subsections (a) and (b), by striking out "Administrator of Veterans Affairs" and inserting in lieu thereof "Secretary of Veterans Affairs"; and

(B) in subsection (c), by striking out "Veterans' Administration" and inserting in lieu thereof "Department of Veterans Affairs".

(6) LANHAM PUBLIC WAR HOUSING ACT.—The Act of October 14, 1940 (42 U.S.C. 1501 et seq.), popularly known as the "Lanham Public War Housing Act", is amended as follows:

(A) Section 601 (42 U.S.C. 1581) is amended by striking out "Veterans' Administration" each place it appears in subsection (d)(1) and inserting in lieu thereof "Secretary of Veterans Affairs".

(B) Section 607 (42 U.S.C. 1587) is amended by striking out "Veterans' Administration" in subsection (b) and inserting in lieu thereof "Secretary of Veterans Affairs".

(7) DEFENSE HOUSING AND COMMUNITY FACILITIES AND SERVICES ACT OF 1951.—The Defense Housing and Community Facilities and Services Act of 1951 is amended as follows:

(A) Section 302 (42 U.S.C. 1592a) is amended by striking out "Veterans' Administration" in subsections (a) and (c) and inserting in lieu thereof "Secretary of Veterans Affairs".

(B) Section 315(h) (42 U.S.C. 1592n(h)) is amended by striking out "Veterans' Administration" in the last sentence and inserting in lieu thereof "Secretary of Veterans Affairs".

(8) PUBLIC LAW 87-693.—The first section of Public Law 87-693 (42 U.S.C. 2651) is amended by striking out "Veterans' Administration" in subsection (c) and inserting in lieu thereof "Department of Veterans Affairs".

(9) OLDER AMERICANS ACT OF 1965.—The Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) is amended as follows:

(A) Section 207 (42 U.S.C. 3018) is amended by striking out "Administrator of the Veterans' Administration" in subsection (b)(3)(D) and inserting in lieu thereof "Secretary of Veterans Affairs".

(B) Section 301 (42 U.S.C. 3021) is amended by striking out "Veterans' Administration" in subsection (b)(2) and inserting in lieu thereof "Department of Veterans Affairs".

(C) Section 402 (42 U.S.C. 3030bb) is amended by striking out "Veterans' Administration" in subsection (b) and inserting in lieu thereof "Department of Veterans Affairs".

(10) HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS OF 1978.—Section 905 of the Housing and Community Development Amendments of 1978 (42 U.S.C. 3541) is amended by striking out "Administrator of Veterans Affairs" each place it appears in subsection (b) and inserting in lieu thereof "Secretary of Veterans Affairs".

(11) NATIONAL SCIENCE AND TECHNOLOGY POLICY, ORGANIZATION, AND PRIORITIES ACT OF 1976.—Section 401 of National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6651) is amended by striking out "Veterans' Administration" in subsection (b) and inserting in lieu thereof "Department of Veterans Affairs".

(12) NATIONAL ENERGY CONSERVATION POLICY ACT.—Section 253 of the National Energy Conservation Policy Act (42 U.S.C. 8232) is amended by striking out "Administrator of Veterans Affairs" in subsection (a) and inserting in lieu thereof "Secretary of Veterans Affairs".

(13) CONSUMER-PATIENT RADIATION HEALTH AND SAFETY ACT OF 1981.—The Consumer-Patient Radiation Health and Safety Act of 1981 (42 U.S.C. 10001 et seq.) is amended as follows:

(A) Section 979 (42 U.S.C. 10004) is amended by striking out "Administrator of Veterans'

Affairs" in subsections (a) and (b) and inserting in lieu thereof "Secretary of Veterans Affairs".

(B) Section 982 (42 U.S.C. 10007) is amended by striking out "Administrator of Veterans Affairs" and inserting in lieu thereof "Secretary of Veterans Affairs".

(C) Section 983(b) (42 U.S.C. 10008(b))—

(i) by striking out "(1) The Administrator of Veterans Affairs" and all that follows through "subtitle 38" and inserting in lieu thereof "The Secretary of Veterans Affairs, through the Chief Medical Director of the Department of Veterans Affairs, shall, to the maximum extent feasible consistent with the responsibilities of such Secretary and Chief Medical Director under title 38";

(ii) by striking out "over which the Administrator" and inserting in lieu thereof "over which that Secretary";

(iii) by striking out "Administrator" both places it appears in the second sentence and inserting in lieu thereof "Secretary of Veterans Affairs"; and

(iv) by striking out paragraphs (2) and (3).

(14) ALZHEIMERS'S DISEASE AND RELATED DEMENTIAS SERVICES RESEARCH ACT OF 1986.—The Alzheimers's Disease and Related Dementias Services Research Act of 1986 (42 U.S.C. 11201 et seq.) is amended as follows:

(A) Section 911 (42 U.S.C. 11211) is amended by striking out "Administrator of Veterans Affairs (or the designee of such Administrator)" in subsection (a)(11) and inserting in lieu thereof "Secretary of Veterans Affairs (or the designee of such Secretary)".

(B) Section 934 (42 U.S.C. 11261) is amended by striking out "Veterans Administration" in subsection (b)(1)(A) and inserting in lieu thereof "Department of Veterans Affairs".

(r) TITLE 44, U.S.C.—The text of section 503 of title 44, United States Code, is amended to read as follows:

"(a) Notwithstanding section 501 of this title, the Secretary of Veterans Affairs may use the equipment described in subsection (b) for printing and binding that the Secretary finds advisable for the use of the Department of Veterans Affairs.

"(b) The equipment referred to in subsection (a) is the printing and binding equipment that the various hospitals and homes of the Department of Veterans Affairs use for occupational therapy."

(s) TITLE 49, U.S.C.—Section 10723 of title 49, United States Code, is amended by striking out "Veterans Administration facility" in subsection (a)(1)(B)(i) and inserting in lieu thereof "facility of the Department of Veterans Affairs".

(t) LAWS CODIFIED IN TITLE 50, U.S.C. APPENDIX.—Section 11 of the Military Selective Service Act (50 U.S.C. App. 461) is amended by striking out "Administrator of Veterans Affairs" and inserting in lieu thereof "Secretary of Veterans Affairs".

SEC. 14. TECHNICAL AMENDMENTS TO TITLE 38, UNITED STATES CODE.

(a) CHAPTERS 1 AND 3 OF TITLE 38.—Part I of title 38, United States Code, is amended as follows:

(1) Section 101(21)(C) is amended by redesignating subclauses (a), (b), and (c) of clause (ii) as subclauses (I), (II), and (III), respectively.

(2) Section 102 is amended by striking out "(C)" before "For the purposes of" and inserting in lieu thereof "(c)".

(b) CHAPTERS 11 THROUGH 24 OF TITLE 38.—Part II of such title is amended as follows:

(1) Section 354 is amended—

(A) by inserting a comma in the section heading after "place"; and

(B) by inserting "(Public Law 98-542; 98 Stat. 2727)" in subsection (a) before the period at the end.

(2) Section 402(d) is amended by striking out "Secretary of the Department" and inserting in lieu thereof "Secretary of the department".

(3) Section 412(a) is amended by striking out "201" and inserting in lieu thereof "401".

(4) Section 423 is amended—

(A) by striking out "or section 321(b) of title 32," in the first sentence; and

(B) by striking out "1476(a) or 321(b)" in the second sentence.

(5) Section 503(a) is amended—

(A) in paragraph (8), by striking out "percent" and inserting in lieu thereof "percent"; and

(B) in paragraph (10)(A)—

(i) by striking out "Internal Revenue Code of 1954 (26 U.S.C. 6012(a))" and inserting in lieu thereof "Internal Revenue Code of 1986"; and

(ii) by striking out "section 143" and inserting in lieu thereof "section 7703".

(6) Section 508(b) is amended by striking out "per centum" and inserting in lieu thereof "percent".

(7) Sections 532(a) and 534(a) are amended—

(A) by striking out the semicolon at the end of paragraph (2) and inserting in lieu thereof a period; and

(B) by striking out the matter following paragraph (2).

(8) Section 601 is amended—

(A) in paragraph (2), by striking out "any veteran of the Indian Wars, or";

(B) by striking out paragraph (3);

(C) by redesignating paragraph (4) as paragraph (3);

(D) in paragraph (6)—

(i) by striking out "section 612(f)(1)(A)(i)" in subparagraph (A)(i) and inserting in lieu thereof "section 612(a)(5)(A)"; and

(ii) by striking out "section 612(f)(1)(A)(ii)" in subparagraph (B)(i)(II) and inserting in lieu thereof "section 612(a)(5)(B)"; and

(E) by transferring paragraph (9) within such section so as to appear before paragraph (5) and redesignating such paragraph as paragraph (4).

(9) Section 603 is amended—

(A) by striking out "section" before "paragraph" in subsection (a)(2)(B);

(B) by striking out "section 612(b)(1)(G)" in subsection (a)(7) and inserting in lieu thereof "section 612(b)(1)(F)"; and

(C) by inserting "(Public Law 100-322; 102 Stat. 501)" in subsection (c) before the period at the end.

(10) Section 610(a)(1)(H) is amended by striking out "the Spanish-American War, the Mexican border period," and inserting in lieu thereof "the Mexican border period".

(11) Section 612A(b)(1) is amended by striking out "paragraph (1)(A)(ii) of section 612(f)" and inserting in lieu thereof "section 612(a)(5)(B)".

(12) Section 618(c)(3) is amended by inserting "and" after "productivity".

(13) Section 620A(f)(1) is amended by striking out "during the period" before "beginning on".

(14) Section 628(a)(2)(D) is amended by striking out "is (i)" and inserting in lieu thereof "(1) is".

(15) Section 630(a) is amended—

(A) by striking out "(1)" after "(a)"; and

(B) by redesignating subparagraph (A), clause (i), clause (ii), and subparagraph (B) as paragraph (1), subparagraph (A), subparagraph (B), and paragraph (2), respectively.

(16) Section 765 is amended—

(A) in paragraph (4), by redesignating clauses (i) and (ii) as clauses (A) and (B), respectively; and

(B) in each of paragraphs (8) and (9), by redesignating clauses (a), (b), (c), (d), and (e) as clauses (A), (B), (C), (D), and (E), respectively.

(17) Section 770(g) is amended by striking out "the Internal Revenue Code of 1954" in clause (2) of the second sentence and inserting in lieu thereof "the Internal Revenue Code of 1986".

(18) The text of section 774 is amended to read as follows:

"(a) There is an Advisory Council on Servicemen's Group Life Insurance. The council consists of—

"(1) the Secretary of the Treasury, who is the chairman of the council;

"(2) the Secretary of Defense;

"(3) the Secretary of Commerce;

"(4) the Secretary of Health and Human Services;

"(5) the Secretary of Transportation; and

"(6) the Director of the Office of Management and Budget.

Members of the council shall serve without additional compensation.

"(b) The council shall meet at least once a year, or more often at the call of the Secretary of Veterans Affairs. The council shall review the operations of the Department under this subchapter and shall advise the Secretary on matters of policy relating to the Secretary's activities under this subchapter."

(19) Section 783 is amended by striking out "section 14 of title 25," and inserting in lieu thereof "the Act of February 25, 1933 (25 U.S.C. 14)".

(20) Section 901(d) is amended—

(A) by striking out "deems" and inserting in lieu thereof "considers";

(B) by striking out the comma after "this section"; and

(C) by striking out "United States Code".

(21) Section 1004(c)(2)(B) is amended by striking out "the date of the enactment of the Veterans' Benefits Improvement and Health-Care Authorization Act of 1986" and inserting in lieu thereof "October 28, 1986".

(22) Section 1010(b) is amended by striking out "the military departments" and inserting in lieu thereof "each military department".

(c) CHAPTERS 30 THROUGH 43 OF TITLE 38.—Part III of such title is amended as follows:

(1) Section 1415(c) is amended by striking out "the date of the enactment of the National Defense Authorization Act for Fiscal Years 1990 and 1991," and inserting in lieu thereof "November 29, 1989".

(2) The item relating to section 1423 in the table of sections at the beginning of chapter 30 is amended by striking out "chapter" and inserting in lieu thereof "subchapter".

(3) Section 1504(b) is amended by striking out "(29 U.S.C. 796)" and inserting in lieu thereof "(29 U.S.C. 796a)".

(4) Section 1517(a) is amended—

(A) by inserting "(29 U.S.C. 701 et seq.)" in paragraph (1) after "the Rehabilitation Act of 1973"; and

(B) by striking out the second period at the end of paragraph (2)(C).

(5) Section 1521(a)(3) is amended by inserting "and Training" after "Veterans' Employment".

(6) Section 1602(1)(A) is amended by inserting a comma after "January 1, 1977" the last place it appears.

(7) Section 1792(a) is amended by inserting "and Training" after "Veterans' Employment".

(8) Section 1812 is amended—

(A) in subsection (c)(5), by striking out "under this section" and inserting in lieu thereof "for purposes specified in this section"; and

(B) in subsection (1), by striking out "beginning 12 months following October 23, 1970,".

(9) Section 2011(2)(B) is amended by inserting a comma before "except for".

(10) Section 1931 is amended by striking out "the Comprehensive Employment and Training Act" and inserting in lieu thereof "the Job Training Partnership Act (29 U.S.C. 1501 et seq.)".

(d) CHAPTERS 51 THROUGH 61 OF TITLE 38.—Part IV of such title (as in effect immediately before the enactment of the Department of Veterans Affairs Health-Care Personnel Act of 1991) is amended as follows:

(1) Section 3004 is amended—

(A) by striking out "(1)" after "(a)";

(B) by striking out "(2)" and inserting in lieu thereof "(b)";

(C) by striking out "paragraph (1) of this subsection" and inserting in lieu thereof "subsection (a)"; and

(D) by striking out "(A)" and "(B)" and inserting in lieu thereof "(1)" and "(2)", respectively.

(2) Section 3101(d) is amended by striking out "the Internal Revenue Code of 1954" and inserting in lieu thereof "the Internal Revenue Code of 1986".

(3) Section 3116 is amended—

(A) by striking out "Within ninety days after the date of the enactment of this section, the" in subsection (a)(1) and inserting in lieu thereof "The";

(B) by striking out subsection (b); and

(C) by redesignating subsection (c) as subsection (b).

(4) Section 3305 is amended—

(A) in subsection (c), by striking out "the date of the enactment of this section," in paragraphs (1) and (2) and inserting in lieu thereof "October 7, 1980,"; and

(B) in subsection (d)—

(i) in the first sentence of paragraph (1), by striking out "Not later than 180 days after the date of the enactment of this section, the" and inserting in lieu thereof "The";

(ii) in the second sentence of paragraph (1), by striking out "such enactment date" and inserting in lieu thereof "October 7, 1980,";

(iii) in the third sentence of paragraph (1)—

(I) by striking out "existing"; and

(II) by inserting "in existence on October 7, 1980" after "such programs"; and

(iv) in paragraph (2), by striking out "After the date on which such regulations are first prescribed, no activity shall be considered" and inserting in lieu thereof "An activity may not be considered".

(5)(A) Section 3311 is amended to read as follows:

"§ 3311. Authority to issue subpoenas

"(a) For the purposes of the laws administered by the Secretary, the Secretary, and those employees to whom the Secretary may delegate such authority, to the extent of the authority so delegated, shall have the power to—

"(1) issue subpoenas for and compel the attendance of witnesses within a radius of 100 miles from the place of hearing;

"(2) require the production of books, papers, documents, and other evidence;

"(3) take affidavits and administer oaths and affirmations;

"(4) aid claimants in the preparation and presentation of claims; and

"(5) make investigations and examine witnesses upon any matter within the jurisdiction of the Department.

"(b) Any person required by such subpoena to attend as a witness shall be allowed and paid the same fees and mileage as are paid witnesses in the district courts of the United States."

(B) The item relating to such section in the table of sections at the beginning of chapter 57 is amended to read as follows:

"3311. Authority to issue subpoenas."

(6)(A) Section 3313 is amended by striking out "subpena" both places it appears in the text and inserting in lieu "subpoena".

(B) The heading of such section is amended to read as follows:

"§ 3313. Disobedience to subpoena."

(C) The item relating to such section in the table of sections at the beginning of chapter 57 is amended to read as follows:

"3313. Disobedience to subpoena."

(7) Sections 3501(a), 3502(a), and 3502(b) are amended by striking out "not more than \$2,000" and inserting in lieu thereof "in accordance with title 18".

(8) Section 3503 is amended—

(A) by adding at the end of subsection (b) the following: "An apportionment award under this subsection may not be made in any case after September 1, 1959."; and

(B) by striking out subsection (e).

(9) Section 3505(c) is amended—

(A) by striking out "clauses (1)," and inserting in lieu thereof "clauses (2),";

(B) by striking out "Secretary of the Treasury, as may be" and inserting in lieu thereof "Secretary of Transportation, as"; and

(C) by striking out "clause (2) of subsection (b) of this section" and inserting in lieu thereof "clause (1) of that subsection".

(e) CHAPTERS 71 THROUGH 76 OF TITLE 38.—Part V of such title (as in effect immediately before the enactment of the Department of Veterans Affairs Health-Care Personnel Act of 1991) is amended as follows:

(1) The tables of chapters before part I and at the beginning of part V are each amended by inserting "United States" before "Court of Veterans Appeals".

(2) Section 4001(a) is amended—

(A) by striking out "There shall be" and inserting in lieu thereof "There is";

(B) by inserting a period after "Board"; and

(C) by striking out "under the" and inserting in lieu thereof "The Board is under the".

(3) Section 4052(a) and 4061(c) are amended by striking out "court" and inserting in lieu thereof "Court".

(4) Section 4054 is amended by redesignating the second subsection (d) as subsection (e).

(5) Section 4092(c) is amended by striking out "United States Courts" and inserting in lieu thereof "United States Court".

(6) Section 4097(h)(1)(A)(i) is amended by striking out "subsection (1)" and inserting in lieu thereof "subsection (l)".

(7) Section 4202 is amended by striking out "section 5 of title 41" in paragraph (6) and inserting in lieu thereof "section 3709 of the Revised Statutes (41 U.S.C. 5)".

(8) Section 4209 is amended by striking out "child care" each place it appears and inserting in lieu thereof "child-care".

(9) Section 4322(d) is amended by inserting an open parenthesis before "adjusted in".

(10) Section 4331(b)(4) is amended by striking out "chapter 51" and inserting in lieu thereof "chapter 53".

(f) CHAPTERS 81 THROUGH 85 OF TITLE 38.—Part VI of such title (as in effect imme-

diately before the enactment of the Department of Veterans Affairs Health-Care Personnel Act of 1991) is amended as follows:

(1) The table of sections at the beginning of chapter 81 is amended—

(A) by transferring the item relating to section 5016 (as added by section 205(b) of Public Law 100-322) so as to appear immediately after the item relating to section 5015; and

(B) by revising the item relating to section 5035 so that the initial letter of the last word is lower case.

(2) Section 5002(d) is amended by striking out "section 5001" and inserting in lieu thereof "section 5011".

(3) Section 5007(a)(2)(B) is amended by striking out the second comma before "are most in need of".

(4) Section 5011A is amended—

(A) by striking out "or (g)" in subsection (b)(2)(A); and

(B) by striking out subsection (d) and inserting in lieu thereof the following:

"(d)(1) The Secretary of Veterans Affairs and the Secretary of Defense shall jointly review plans for the implementation of this section not less often than annually.

"(2) Whenever a modification to such plans is agreed to, the Secretaries shall jointly submit to the Committees on Veterans Affairs of the Senate and House of Representatives a report on such modification. Any such report shall be submitted within 30 days after the modification is agreed to."

(5) Section 5022(a)(3)(A) is amended—

(A) by striking out "State home" and inserting in lieu thereof "State"; and

(B) by striking out "the paragraph" and inserting in lieu thereof "this paragraph".

(6) Section 5034 is amended—

(A) by inserting "(a)" before "Within six months";

(B) by striking out "this section or any amendment to it" and inserting in lieu thereof "any amendment to this section"; and

(C) by designating the sentence at the end of paragraph (3) as subsection (b), realigning such sentence so as to appear full measure and indented, and striking out "such standards" at the end of such sentence and inserting in lieu thereof "the standards prescribed under subsection (a)(3)".

(7) Section 5035(a) is amended by striking out "After regulations" and all that follows through "any State" in the first sentence and inserting in lieu thereof "Any State".

(8) Section 5052 is amended—

(A) by redesignating paragraphs (a), (b), and (c) as paragraphs (1), (2), and (3), respectively; and

(B) by realigning those paragraphs to be indented two ems.

(9) Section 5053 is amended by striking out "hereunder" at the end of subsection (c) and inserting in lieu thereof "under this section".

(10) Section 5070(e) is amended by striking out "section 5012(a)" and inserting in lieu thereof "section 5022(a)".

(11) Section 5202(b) is amended by inserting a comma in the second sentence before "namely".

(g) TECHNICAL AMENDMENTS TO OTHER VETERANS STATUTES.—

(1) Effective as of May 20, 1988, section 415(b)(5)(C) of Public Law 100-322 (102 Stat. 551) is amended by striking out "paragraph (4)" and inserting in lieu thereof "paragraph (1)(D)".

(2) Effective as of November 18, 1988, the first quoted matter in section 101(b) of Public Law 100-687 (102 Stat. 4106) is amended by inserting "the" after "benefits under".

(3) Section 502 of Public Law 96-128 (93 Stat. 987) is amended by striking out "Internal Revenue Code of 1954" in the first sentence and the last sentence and inserting in lieu thereof "Internal Revenue Code of 1986".

On page 16, line 21, strike out "12. TECHNICAL CORRECTIONS." and insert in lieu thereof "15. OTHER TECHNICAL CORRECTIONS TO TITLE 38, UNITED STATES CODE."

SENATE ELECTION ETHICS ACT

BOREN AMENDMENT NO. 244

Mr. BOREN proposed an amendment to amendment No. 242 proposed by Mr. BOREN (and others) to the bill (S. 3) to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits for Senate selection campaigns, and for other purposes, as follows:

At the end of the amendment add the following:

SEC. . SENSE OF SENATE REGARDING FUNDING OF ACT.

- (a) FINDINGS.—The Senate finds that—
- (1) this Act does not provide for a funding mechanism to pay for the provisions cleaning up Senate election campaigns;
 - (2) a funding mechanism is necessary to pay for such provisions; and
 - (3) it is the position of the House of Representatives that under the Constitution all bills affecting revenue must originate in the House of Representatives.
- (b) SENSE OF THE SENATE.—It is the sense of the Senate that—
- (1) legislation to clean up Senate election campaigns shall be funded by removing subsidies for political action committees with respect to their political contributions or for other organizations with respect to their lobbying expenditures;
 - (2) legislation to clean up Senate election campaigns shall not be paid for by any general revenue increase on the American taxpayer;
 - (3) legislation to clean up Senate election campaigns shall not be paid for by reducing expenditures for any existing Federal program; and
 - (4) legislation to clean up Senate election campaigns shall not result in an increase in the Federal budget deficit.

GRAHAM AMENDMENT NO. 245

Mr. GRAHAM proposed an amendment to amendment No. 242 proposed by Mr. BOREN (and others) to the bill S. 3, supra, as follows:

On page 97, between lines 16 and 17, insert the following:

SEC. 405. DEBATES BY GENERAL ELECTION CANDIDATES WHO RECEIVE AMOUNTS FROM THE PRESIDENTIAL ELECTION CAMPAIGN FUND.

Section 315(b) of FECA (2 U.S.C. 441a(b)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) The candidates for a political party for the offices of President and Vice President who are eligible under section 9003 of the Internal Revenue Code of 1986 to receive payments from the Secretary of the Treasury shall not receive such payments unless both of such candidates agree in writing—

"(i) that the candidate for the office of President will participate in at least 4 de-

bates, sponsored by a nonpartisan or bipartisan organization, with all other candidates for that office who are eligible under that section; and

"(ii) that the candidate of the party for the office of Vice President will participate in at least 1 debate, sponsored by a nonpartisan or bipartisan organization, with all other candidates for that office who are eligible under that section.

"(B) If the Commission determines that either of the candidates of a political party failed to participate in a debate under subparagraph (A) and was responsible at least in part for such failure, the candidate of the party involved shall—

"(i) be ineligible to receive payments under section 9006 of the Internal Revenue Code of 1986; and

"(ii) pay to the Secretary of the Treasury an amount equal to the amount of the payments made to the candidate under that section."

NOTICES OF HEARINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I wish to announce that the Committee on Agriculture, Nutrition, and Forestry will hold a hearing on the nominations of Sheila C. Bair, of Kansas, and Joseph B. Dial, of Texas, to be commissioners of the Commodity Futures Trading Commission on Friday, May 17, 1991, at 10 a.m. in SR 332.

For further information, please contact Ken Ackerman of the committee staff at 224-2035.

Mr. LEAHY. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will be holding a hearing on the proposed legislation and reports on Government-sponsored enterprises [GSE's] and their implications for the Farm Credit Administration, the Farm Credit System, and the Federal Agriculture Mortgage Corporation. The hearing will take place on Tuesday, May 21, 1991, at 2:30 p.m., in SR 332. For further information, please contact Suzanne Smith of the committee staff at 224-2035.

Mr. LEAHY. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will be holding a hearing concerning Senator JEFFORD's cattle culling proposal on Wednesday, May 22, 1991, at 10:30 a.m., in SR 332. For further information, please contact Janet Breslin of the committee staff at 224-2035.

SUBCOMMITTEE ON MINERAL RESOURCES DEVELOPMENT AND PRODUCTION

Mr. BINGAMAN. Mr. President, I would like to announce that the hearing on S. 433, the Mining Law Reform Act of 1991, scheduled for 9:30 a.m., Thursday, May 23, 1991, before the Subcommittee on Mineral Resources Development and Production has been postponed. Notice of the new date and time will be listed in the RECORD when the hearing has been rescheduled.

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INTELLIGENCE

Mr. FORD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, May 16, 1991, at 8:45 a.m. to hold a closed hearing on intelligence matters.

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

SUBCOMMITTEE ON AFRICAN AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on African Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 16, at 2 p.m. to hold a hearing on the fiscal year 1992 foreign assistance request for Africa.

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

COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on May 16, 1991, at 2:30 p.m. on the nomination of JOHN PAUL HAMMERSCHMIDT of Arkansas, to be a member of the National Transportation Safety Board [NTSB].

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

SUBCOMMITTEE ON INTERNATIONAL FINANCE AND MONETARY POLICY

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on International Finance and Monetary Policy of the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Thursday, May 16, 1991, at 2 p.m. to conduct a hearing on the Treasury Department's Report to Congress on International Economic and Exchange Rate Policy.

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

SUBCOMMITTEE ON NUCLEAR REGULATION

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Nuclear Regulation, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, May 16, beginning at 2 p.m., to conduct a hearing on the Nuclear Reactor Licensing Act of 1991—title XII of S. 341; and on title V, subtitle A of S. 570, the National Energy Strategy Act, to amend the procedures under the Atomic Energy Act for licensing nuclear powerplants.

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

SUBCOMMITTEE ON COURTS AND ADMINISTRATIVE PRACTICE

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Courts and Administrative Practice of the Committee on the Judiciary, be authorized to meet during the session

of the Senate on Thursday, May 16, 1991, at 2 p.m., to hold a hearing on bankruptcy judgeship authorization and a general overview of the bankruptcy codes.

The PRESIDING OFFICER. Without objection, it is so ordered.
SUBCOMMITTEE ON READINESS, SUSTAINABILITY, AND SUPPORT

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Readiness, Sustainability and Support of the Committee on Armed Services be authorized to meet in open session on Thursday, May 16, 1991 at 2:30 p.m. to receive testimony on DOD facility management and the fiscal years 1992-93 military construction budget request in review of the fiscal years 1992-93 national defense authorization request.

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

ADDITIONAL STATEMENTS

AN AMERICAN SUCCESS STORY: ZEE FERRUFINO

● Mr. WIRTH. Mr. President, I would like to use this opportunity to recognize the considerable achievements of Zenón "Zee" Ferrufino—a well known business and community leader in Colorado—who is an example of the American Dream at work.

I have known Zee for many years, and have come to value his advice and insight. Anyone who has been involved in Colorado politics or business matters in the last 20 years knows and appreciates Zee. Not everyone knows his remarkable personal success story, however, and that is what I want to commemorate today.

Zee came to the United States from Bolivia in 1965. He rose from a variety of jobs until he jumped into the dangerous waters of small business. In 1972 he formed his business, Denver Fine Furniture, and through hard work and sound management built this enterprise into a Colorado business institution.

Throughout his rise to success as a business leader, however, Zee always made time for community service and helping others. He has a well-deserved reputation for charity and civic work. In 1978, he helped found the Colorado Hispanic Chamber of Commerce, and his recent work includes spearheading the activities of the Colorado Baseball Commission.

In short, Zee is a business leader with a sense of community and a conscience. Young men and women going into business should look at this man's life as an example of what is best in American commerce, politics, and community service.

I have a great regard for Zee and would ask that a copy of an article which appeared in the Denver Business

Journal on Zees' life be printed in the RECORD at this time.

The article follows:

[From the Denver Business Journal, Mar. 7, 1991]

FERRUFINO IS AMERICAN SUCCESS STORY, FROM A TO ZEE

(By Tom Locke)

In 1965, 21-year-old Zenon Ferrufino came to the United States to study aerial photography as a member of the Bolivian Air Force.

He fell in love with Colorado, which reminded him of his homeland, and after much red tape, he came here to settle.

"Especially if you live in Latin America, the land of opportunity is the United States," said Ferrufino.

Ferrufino took a variety of jobs, including mop making, insurance sales and furniture retailing. In 1972, he took the ultimate plunge in pursuing the American dream of opportunity, forming his own business—Denver Fine Furniture.

From that base, "Zee" Ferrufino has expanded into ownership of a promotions company and a whole music distribution company. Most recently, a company he heads bought Spanish-language radio station KBNO-AM in Denver. He also hopes to start a Spanish-language newspaper in the next two to three months.

But at the base of Ferrufino's success is Denver Fine Furniture, where he worked seven days a week and 12 to 14 hours a day in the early days of the business. "That pays, you know. If you work hard, eventually you will make a little money," he said.

In addition to hard work, Ferrufino has brought several strategies to his business that enable him to compete with the huge furniture stores that have volume-discount buying power. For one thing, Ferrufino marketed his business to Hispanics and, most particularly, to those who have trouble getting credit elsewhere.

One example is Denver-resident Susana Hernandez. Seven years ago, she was a new 20-year-old bride looking for living room furniture and "no one would give us any credit because we were just starting." No one, that is except Denver Fine Furniture, where they spent about \$900.

A couple of years later, Hernandez's mother bought a bedroom set there, and Denver Fine Furniture was "very understanding" when a job injury interrupted payments for a couple of months, she said.

With a \$5,000 loan from a silent partner and an agreement with a furniture warehouse to sell its furniture and appliances on a consignment basis, Ferrufino got Denver Fine Furniture started in a 2,000-square-foot space at 38th and Federal.

There was a part-time receptionist and there was Ferrufino, wearing many hats. He went to work at 8 a.m., did the necessary janitorial chores, opened the store at 10 a.m., closed it at 7:30 that night, then made deliveries.

The business grew, and what drove that growth was credit—not ordinary credit, but credit for those segments of the Hispanic population that couldn't get it elsewhere, including young couples who had not established credit and senior citizens who lived on Social Security checks.

"It was risky, but it was worth it," said Ferrufino.

In the beginning, some financing of furniture purchases at the store was provided through a bank or finance company, but only two or three people of 10 qualified. The store

took the risk on financing about 80 percent of the balance.

Through the 18 percent or so interest earned on the financing, Ferrufino was able to cover the losses on bad debt, but not much more than that. "We're not looking to make money in the finance," he said.

Even so, he said, until two or three years ago, the rate of delinquency on payments was only about 2 percent to 3 percent. With Denver's loss of jobs and movement of people out of the community, the default rate jumped to 10 percent, but the financing is still worth the expense, Ferrufino said.

The store now does all its own financing, which not only helps sales but also improves customer relations. Denver Fine Furniture will let a customer pay five or 10 days late without charging extra. It sends a friendly notice after a payment is 10 days late. Banks, on the other hand, are "really tough," said Ferrufino, citing actions such as calling people at work and assuming a take-you-to-court attitude toward payment.

Bilingual salespeople also help the store's service to the approximately 200,000 Hispanic people in the metro area. While Ferrufino figures that 90 percent of his customers speak English, at least 50 percent feel more comfortable speaking Spanish. "We try to go the extra mile to service them," he said.

That's paid off in strong word-of-mouth advertising, which Ferrufino considers superior to any other. But he also uses Spanish-language media to communicate his message, with about 60 percent spent on KBNO, where he has been a long-time adviser, 30 percent on television via Spanish-language Channel 43, and 10 percent through direct mail.

He now owns the two adjacent buildings the store occupies on West 32nd Avenue. Of the nearly \$500,000 in yearly revenues, a figure that "is just maintaining steady" for the last three or four years, the store gets roughly 70 percent from selling furniture and appliances and 30 percent from selling cassettes and compact discs, said Ferrufino.

Low overhead—he employs four at the store—also has helped him escape the undertow of Denver's economy over the last few years and given him a chance in competition with the furniture giants that buy discounted truckloads of 200 sets of furniture at a time while he is buying two or three.

The low overhead strategy—along with hiring additional salespeople and aiming the format more toward Mexican-oriented music—has also been implemented at KBNO. It is now breaking even after losing money before his company took over, said Ferrufino.

KBNO was bought last year by Colorado Communications Corp., owned by Ferrufino; Frank Ponce, owner of Ponce Furniture in Denver; Kenneth Salazar, executive director of the Colorado Natural Resources Department; and Marc Hand, who is general sales manager for the corporation.

Ponce, whose furniture stores compete with Ferrufino's, said Ferrufino was named to manage KBNO because he's proven himself. "I think he's capable. He's proved that he's a good businessman. I think he's successful in his furniture store," he said.

Of his mistakes in business, Ferrufino points to his failure to follow through on starting a furniture manufacturing company to improve his competitive position. Ferrufino attributes time devoted to politics and civic activities as one reason he never followed through with the manufacturing venture. Ron Montoya, president of the Hispanic Chamber of Commerce, said, "He's always doing something for organizations."

Ferruffino helped found the Hispanic Chamber in 1978, served on the board for many years and has "spent a lot of personal money in bettering the Hispanic community and the community in general," said Montoya. His commitments to the general community include work as a member of the Colorado Baseball Commission and activity in the Democratic Party.

Ferruffino's reputation as a businessman is excellent, said Montoya. "He's probably one of the better businessmen in the Hispanic community." As for KBNO, Montoya added, "I think he'll do excellent. Zee has a broad support base."

Al Perry, chairman of Lakewood-based media brokerage firm Satterfield and Perry, believes that three Spanish-language stations are too many for metro Denver. But, he said of KBNO's new owners, "with economies of operation, they should do well." KBNO now has 20 employees, including part-timers.

The purchase price for KBNO—whose parent company, Latino Broadcasting Corp., had filed Chapter 11 bankruptcy in 1985—was \$250,000, said Perry.

If Ferruffino gets a Spanish-language newspaper going, he hopes to realize further economies of operation by using KBNO offices, computers and salespeople for the newspaper operation, which he envisions as a weekly with 50 percent Spanish content and 50 percent English.

For Ferruffino, such an expansion is a natural extension of his interest in radio, a business he entered in part because of its broader scope in serving the community.

Said Ferruffino: "I've always been a believer that one person can make a difference."*

TRIBUTE TO SOMERSET, KY

• Mr. McCONNELL. Mr. President, I rise today to recognize the city of Somerset in central Pulaski County, KY. A city that is not only the birthplace of the famed, late Senator John Sherman Cooper, but also for its tourism at Lake Cumberland, only 6 miles away. The lake attracts boaters and tourists from across the Nation.

Somerset's population bulges by as much as 50 percent on warm, summer weekends, as tourists trek to Lake Cumberland for its relaxing get away offerings. Consequently, every fast food purveyor, mom and pop grocery store and down-home bait and tackle shop line the roads to and from the lake.

Not surprisingly, Somerset is also the home of one of the country's largest manufacturers of custom houseboats. This company regularly builds boats the size of modest, 2-bedroom homes. The largest of these is 95 feet by 20 feet, and many are only slightly smaller, some even include jacuzzis.

However Somerset wasn't always so successful. Ten years ago, if you drove through the town, you wouldn't have missed much other than a few stately homes, immaculately kept churches, and a decaying town square.

Now, thanks to the Downtown Development Corp., businesses have rediscovered the distinctive buildings lining the square. Parking meters were taken down, and vintage street lamps were

put up. These and other such changes helped bring Somerset back to life, and encouraged the tourists to pour in.

At this time, Mr. President, I would like to insert a Courier-Journal piece on the city of Somerset into the RECORD.

The article follows:

[From the Louisville Courier-Journal, Apr. 15, 1991]

SOMERSET

(By Kirsten Haukebo)

Approach Somerset from almost any angle—through deep, foggy river gorges or across rolling green hills—and it's hard to miss the Somerset Strip, an eight-mile string of restaurants, motels and businesses on U.S. 27.

Heading to Lake Cumberland, the area's main attraction, every major fast-food chain has its place on the crowded route. Mom-and-pop grocery stores advertise bait and tackle as well as bread and milk, and it's not uncommon to see speed boats sharing a lot with used cars. On sunny summer weekends, traffic inches along, bumper-to-bumper, bumper-to-boat.

This commercial district seems out of proportion in the otherwise quiet town. Cutting through the west side, the strip makes it quite possible to drive through Somerset without really seeing Somerset, at least not the real one.

Ten years ago, motorists bypassing the heart of town wouldn't have missed much more than a few stately homes, well-kept churches and a decaying town square. Ninety percent of the buildings on or near the square were vacant, says Donna Cody of the non-profit Downtown Development Corp. Businesses had been lured to U.S. 27 by traffic patterns and the lack of parking downtown.

A few years ago, though, business began to rediscover the few remaining distinctive older buildings downtown. The city ripped out parking meters, created a parking lot and added a sprinkling of antique street lamps. The result was a new life for downtown. Today, it's the occupancy rate that's 90 percent and there's even an art gallery on East Mount Vernon Street, two blocks north of the square.

One reason for the tug of war between downtown and U.S. 27 is tourism.

Lake Cumberland is six miles south of town, and many travelers from the north get there via Highway 27. In late spring, odd signs pop up along the strip: "Welcome Ohio Navy."

Tourism brought \$38 million to Pulaski County in 1989; more than 1,200 jobs are directly supported by tourism. And most of the tourists, are, in fact, boaters from Ohio.

"A few years ago, we did our own study on that," said Gib Gosser, director of the Somerset-Pulaski County Tourist Commission. "We had people out here on the corner counting out-of-state license tags. Sixty-eight percent were from Ohio, mostly Cincinnati and Dayton," he said. Also represented were Indiana, Michigan and Florida.

In 1986 and '87, the tourist commission named several hundred of the most frequent visitors "admirals" of the Ohio Navy and gave them a certificate. Visitors were nominated by motel and marina operators. "These were the ones who, when they walked into a motel, the manager knew them by their first name," Gosser said.

Gosser estimates that Somerset's population swells by nearly 50 percent during

peak vacation times. "The traffic is horrendous. Like many of the locals, I'm upset with the congestion, but when you figure each car is bringing thousands of dollars, it's worth it."

Most of the tourists are boaters; fewer are fishermen. On Lake Cumberland, monster houseboats rule the waters.

And some of the biggest are bought in Somerset, Lyndon Turpin, treasurer of Somerset Houseboats, says that about half of his company's customers buy houseboats to live on or because they're convenient and relatively easy to maneuver. The other half are interested in the boats as a status symbol.

A couple of buyers wanted the exact measurements of the other boats in their marina to be sure theirs would be the biggest, Turpin said.

"Both these people were very adamant at the time that this was the biggest boat."

The company, one of the country's largest builders of custom aluminum houseboats, knows about big boats. It regularly builds houseboats the size of modest two-bedroom homes. The largest was 95 feet by 20 feet, and many of them are only slightly smaller. Among the most popular options are Jacuzzis and central heat and air conditioning. Some boats even have Jacuzzis on the fly bridge.

Thankfully, Turpin, a Somerset native, has a good-natured sense of humor about his job. But he knows he owes his living to tourism. Tourists, not locals, buy the boats. "A lot of people here, if you say it's a tourist town, it seems to bother them," he said. "But that's what we are . . . and there's a lot of people like us who wouldn't be here if it wasn't."

The lake also attracts retired people as new residents. Mayor Smith Vanhook estimates that as many as half of the people who move to the area are retired. They find in Somerset the three things most in demand among older people, he said; low cost of living, recreation and medical facilities.

Somerset's unofficial town historian, O'Leary Meece, believes that one of the town's best traits is its acceptance of new comers. "This is going to sound like I've flipped my wig, but I think it's a cosmopolitan area. I think people who come to Somerset from Detroit or Atlanta are just as at home as people who have lived here all their lives. I don't think there is such a thing as being an outsider."

That openness is essentially practical, said Meece, 79, who was superintendent of Somerset Independent Schools for 22 years. "The attitude is, 'Your dollar is just as good as my dollar, whether you come from North Dakota, South Dakota or Timbuktu.'"

But there are limits. "If you tried to get a local whiskey option around here," Meece said, "you wouldn't find too many open minds."

The temperance movement had deep roots in Pulaski County. The first three criminal indictments handed down in 1799, the year Pulaski became a county, were for "retaining spirits," swearing "by the name of God," and gambling for a half-pint of whiskey.

By 1872, Somerset was a bustling but still temperate town. There were more than 16 shops, a bank, two hotels, a Masonic college, six churches, four Sabbath schools and "not a single whiskey shop," wrote an incredulous reporter that year in *The Interior Journal* of Stanford, Ky.

There are conflicting reports about how Somerset got its name. The prevailing theory is that it was named by a family from Somerset County, New Jersey, which in turn

had been named for Somerset County, England.

It seems that the family, whose name was Mott or Ogg—no one is sure—wanted the county seat to be on the hill where they had established a small colony. A rival faction wanted the town founded at a small spring. The groups eventually compromised. The spring would be the site of the new town and the New Jersey clan would get to name it as a consolation prize. The New Jerseyans apparently decided against the name Ogg (or Mott).

Not long after that, a group of Somerset settlers migrated again, traveling by wagon train to Texas. They again named their new home Somerset.

Growing tobacco, corn and other crops was the primary occupation in Pulaski County, and Somerset developed as a trading center for the products.

Some of the agricultural traditions linger. Retired farmer Joe Dutton still relishes the old, peaceful style of fox hunting in which the fox isn't caught. Dutton and his competitors listen as their hounds bark and yelp in pursuit of the fox. "For the music," Dutton explains.

Tradition is important in local politics and sports. In Pulaski County, where Republicans outnumber Democrats nearly 2 to 1, Republicans trace their alliance back to the Civil War. In Somerset, football has been the favored sport ever since three Somerset High School boys from the team of 1916 went on to become All-America players. "We found something we were good at and stuck with it," Meece said.

As in other small towns, the public square was the focus of social life. Richard Cooper, 76, recalls his first visit to the square as a 5-year-old clutching the hand of his older brother, John Sherman Cooper, the renowned statesman who died Feb. 21.

Their home on North Main Street was only a few blocks away, but it was a big, exciting trip for the younger Cooper, who recalls being dazzled by the sweet shops. "I must have liked it," he says, "because I ran away from home the next day so I could go back."

It seems a telling anecdote, because Cooper, a modest, gentle man who is the youngest and only survivor of the seven Cooper children, has remained in Somerset ever since.

John Sherman Cooper became a Republican U.S. Senator and ambassador to India and East Germany. He was the most prominent Republican of his era in Kentucky and his hometown remains the heart of the state's most Republican region, the 5th Congressional District. Today, Richard Cooper can look out his office window at Citizens National Bank, where he is vice chairman of the board, and see a statue of his big brother.

Meece recalls the days when people would hurry downtown early on Sunday to find a parking space for their cars, then sit on the brick walls around the square and "watch the ladies go by with their new hats."

The square retains traces of a livelier era. Every afternoon, Gary Grimsley works the square, hawking the Commonwealth-Journal as he has for 15 years. Motorists edge up beside him, roll down their windows and exchange coins for the local paper.

An art gallery in a second-story loft downtown pulls in 50 to 125 people for its openings, a turnout considered good for galleries in bigger cities. The 2-days Gallery, owned by Kirby Stephens, who runs a design firm, and lawyer John McClorey, features the work of artists from the region or those who have Kentucky roots.

An old movie theater downtown does a brisk business on weekend nights by charging less than the cinemas at the mall, and the Downtown Development Corp. organizes a yearly festival, farmers' markets and other events.

Downtown is still a place for chance meetings. If Richard Cooper takes a walk there, he might run into O'Leary Meece, who will, as usual, threaten him with a lawsuit. It's a joke the two have shared for nearly 60 years. The story is that Meece bought a used Chevy from Cooper for \$15 in 1932 before he left for college in Bowling Green. It lasted only two or three months. "When I see him on the street," Meece says, "I say 'my lawyer will see you about that.'"

Population 1,090: Somerset, 11,733; Pulaski County, 19,489.

Per capita income: Pulaski County, 1988, \$11,409—\$1,421 below the state average.

Source: U.S. Commerce Department's Bureau of Economic Analysis.

Media: Newspapers: Commonwealth Journal (daily except Saturday) and Pulaski Week (weekly). Radio: WJDJ (adult rock), WKEQ (country), WSCC (Somerset Community College), WSEK (country), WSFC (adult contemporary), WTLO (contemporary), WTHL (Christian). Out-of-town cable-TV offerings: Lexington, Danville, Ky.; Knoxville, Tenn.; Atlanta, Chicago, New York.

Big Employers: Three largest non-governmental employers (March 1991): Palm Beach Co. (men's coats), 989; Tecumseh Products (refrigerator compressors), 749; Cumberland Wood and Chair, 220.

Jobs: (Pulaski County 1989) Total employment, 17,571. Manufacturing, 4,460. Wholesale/retail, 5,132. Services, 2,890. Government, 2,715. Construction, 825. Mining/quarrying, 99.

Transportation: Air: Somerset-Pulaski County Airport, one 5,000-foot runway. Nearest scheduled commercial service is at Lexington's Bluegrass Airport, 80 miles north of Somerset. Rail: Norfolk Southern Railway. Truck: 19 lines serve Somerset. Water: No commercial river traffic.

Topography: Foothills of the Cumberland Mountains; red, clay-based soil.

Education: Public schools: Pulaski County School District (6,455 students); Somerset Independent School District (1,767 students). Colleges: Somerset Community College (2,270 students). Vocational school: Somerset State Vocational-Technical School (565 students, including secondary students).•

EMERGENCY MEDICAL SERVICES WEEK

• Mr. GORE. Mr. President, I would like to take this opportunity to express my gratitude to the hard-working men and women who staff our Nation's emergency rooms, drive our ambulances, and respond to medical emergencies; men and women whose efforts we recognize during Emergency Medical Services Week May 12-18. I am proud to cosponsor that measure.

Paramedics, physicians, nurses, surgeons, volunteers, and other emergency room personnel all have dedicated their lives to saving the lives of others. From the battle zones of our Nation's big cities to our rural communities, these individuals deal with trauma under extreme pressure and deserve our utmost recognition. Not only do they respond to the worst kind of trauma,

from car accidents to drug related injuries, but emergency personnel also tend to playground mishaps and even, occasionally, deliver babies. And, as our life expectancy rate increases, the percentage of older Americans who need care increases as well. Many senior citizens would be helpless from a fall or other accidental injuries if not for the prompt care given by emergency personnel.

I have witnessed first hand the miracles that these special people perform, and I am concerned that their ranks are being diminished by lack of funding. In my own State of Tennessee, only one-fourth of the counties can afford a paramedic-staffed ambulance, a crucial element to life support systems. It is a little known fact among the public that many ambulances are not staffed with paramedics. Often, calls are placed with the expectation that a paramedic will arrive with the vehicle and lives could be needlessly lost when advanced life support systems and techniques are unavailable. A major goal of Emergency Medical Services Week is to increase public awareness of the importance of a paramedic staffed ambulance service and to work with local communities to implement such advanced care.

The burden of trauma care must not rest solely on the shoulders of emergency care personnel. Though there has been a reduction in accidental deaths due to advancements in the treatment of patients during the golden hour, the crucial time following an accident that can mean life or death, much, much more public education is needed to improve the chances of patient survival. The American College of Emergency Physicians will be sponsoring events across the country with CPR demonstrations and seminars on accident prevention; in this case an ounce of prevention is truly worth more than a pound of cure. I urge my colleagues and constituents to recognize those who provide emergency care and to learn the correct procedures which may save a loved one's life.●

HONORING NICOLET HIGH SCHOOL

• Mr. KASTEN. Mr. President, I rise today to call to my colleagues' attention an example of educational excellence—Nicolet High School in Glendale, WI.

Nicolet High is one of 222 exemplary high schools honored by the U.S. Department of Education's 1990-91 Blue Ribbon Schools Program.

Mr. President, all the students, parents, faculty and administrators of Nicolet High School—and especially the principal, Dr. Elliott Moeser—deserve credit for making it a "Blue Ribbon School." I ask all my Senate colleagues to join me in congratulating them on their achievement.●

ADDITIONAL AGRICULTURAL
CREDIT GUARANTEES TO THE
SOVIET UNION

• Mr. KERRY. Mr. President, the issue of providing additional agricultural credit guarantees to the Soviet Union is a difficult one. We all want to see reform in the Soviet Union and the people given the right to decide how they will be governed. The question is whether extending additional credit guarantees subject to certain political and economic conditions, as the Dole resolution recommends, will serve these objectives. I believe it will and therefore support the new version of Senate Resolution 117.

One issue in considering the Soviets' request for credit guarantees is their repression in the Baltics and other republics. Last week I took the floor to condemn recent Soviet actions against the Armenian people in that country and call on President Gorbachev to withdraw Soviet troops from Armenian villages. I continue to be extremely concerned about the situation in the region and do not believe the President should extend agricultural credit guarantees to the Soviets if they do not cease their use of military and political intimidation there.

The Dole resolution reflects this line of thought by urging that the administration receive clear and binding assurances from the Soviets that the credits will not be used to pressure the Baltics or other independent-minded republics to support the "Union Treaty," or for any other coercive or political purposes. In addition, the resolution reaffirms this body's "very grave concerns" about Soviet policies toward these states and calls on the President to make it clear to the Soviets that such policies will affect United States-Soviet relations, including the decision of whether to extend credit guarantees. Finally, this legislation recommends that the administration provide the credit in three installments and condition the release of the second and third installments on the Soviet's satisfactory use of the preceding installments.

A second issue that must be considered before extending additional guarantees is Soviet creditworthiness, and Senate Resolution 117 suggests several criteria for assessing Soviet ability to repay the loans. Moreover, it expresses the Senate's assumption that agreement to provide the guarantees will be accompanied by binding Soviet assurances to meet certain economic conditions. The Dole resolution also urges the administration to explore barter, countertrade, collateralization, and other nontraditional means of financing Soviet purchase of United States agricultural and food products.

Mr. President, former Soviet Foreign Minister Shevardnadze—who resigned because he feared the growing power of conservative elements in the Soviet Union—has urged us to provide the

credit guarantees, warning that our decision "will to a large extent determine the fate of reform and democracy in the Soviet Union."

The fact is that right now there is no positive, viable alternative to Gorbachev, and he has recently moved back toward reform. In an April 23 joint statement issued by the Soviet Government and the leaders of nine Soviet republics, Gorbachev agreed to a rapid decentralization of economic and political power, the signing of a new union treaty among the individual republics, the drafting of a new Soviet constitution and the holding of direct elections for the legislature and the Presidency. He also agreed to recognize the right of the six other republics to decide for themselves "on the question of accession to the union treaty." As a result, Boris Yeltsin—who just a few months ago had said that Gorbachev had brought the country to "the brink of dictatorship" and called for Gorbachev's resignation—now says that Gorbachev is "clearly in favor of reforms" and should be considered an ally of the prodemocracy forces.

However, if Gorbachev is to survive, he must be able to maintain stability in the Soviet Union. The worsening of food shortages that will result if we do not provide further credit guarantees raises the specter of even greater economic hardship for the Soviet people and tremendous unrest overall. This would only strengthen the hard liners in the Government, a prospect which could jeopardize all the progress that has been made in East-West relations over the last 6 years. While there is undoubtedly some financial risk to the United States in granting the credit guarantees—a risk which I believe is minimized under the provisions of this legislation—the collapse of the Soviet Union could pose a major risk to international peace and stability and force this country to spend much more than \$1.5 billion to ensure our security under such circumstances.

Mr. President, in closing, let me reiterate that this is not a simple matter. However, the Dole resolution enables us to address the legitimate needs of the Soviet people while still promoting reform in the Soviet Government and minimizing the financial risk to the United States. As a result, it should be supported.♦

RICH CASTRO: SINGER OF PSALMS OF PEACE

• Mr. WIRTH. Mr. President, last month I paid tribute to Rich Castro, whose passing left a deep void in my heart and in the hearts of thousands of Coloradans.

Today, I would like to pay one final tribute to the memory of my friend, Rich Castro. I ask to insert Tomas Romero's very moving and eloquent piece

from the Denver Post dated April 17, 1991.

The article follows:

RICH CASTRO: SINGER OF PSALMS OF PEACE

(By Tomas Romero)

Only Richard Castro could have turned the practice of politics into an act of love. In the time that he lay stricken, unable to speak—but in my heart I know aware of events transpiring around him—Rich, as a final act in his lovely life play, had a gift for the people. He brought them together again.

The media said he was a Hispanic champion. To proclaim him as being only that is to dishonor the life and work of Richard Castro. He belonged to everyone. At Presbyterian Aurora Hospital they witnessed a special scene. For three days, crowded corridors and waiting rooms of the intensive care unit resembled a gathering of the United Nations. Native Americans, blacks, Jews, Greeks, Asians and other families that make up the American kaleidoscope came. Elders came, as did children and people in wheelchairs. Virginia Castro, with towering amazing grace, insisted that they be allowed to come. Men and women in fine woolen coats sat next to those wearing humble garments. They were there as one community to weep openly, hold each other, share stories and wondrously intermingle grief with laughter.

Yes, laughter. If there was a quality that separated Rich from those of us more ordinary, it was that he used laughter to provoke thoughtful reflection and entice us to become the better person he knew was in us. He knew laughter can hurt people. But he knew also that laughter is the doctor that lives within us, that it can heal and foster understanding. Almost always, because that was the strength and character of this man, his humor was directed inward, at himself.

It was as if he was telling us, "give yourself permission to admit fear, uncertainty, to being less than perfect. What is important is that we express our humanity—human folly—because if we do that then there is hope for us."

His life was about hope—about a dream that we, as a nation, could practice acceptance, not tolerance. He was mislabeled a liberal. To me he was a conservative and a great American patriot. Being a true conservative meant that reading the Constitution and our Bill of Rights should direct you into conserving those rights for everyone. Everyone. To him there were no distinctions between an affront caused to a minority, to a white male, or to people of the same gender who had chosen to live together in a manner that harmed no one and brought them personal happiness.

"There is a hole in Denver's heart," Bill Levine said to me as we walked away in sorrow from the hospital. There is a void in our community. But he left us with an awareness of opportunities, available to us all, to improve the human condition. I am numbed as I write these words. Yet, in my mind there is a clear chorus of memories of the many conversations my brother in spirit and I shared over the course of more than 20 years.

He had faith in us. No matter how weary, or how many defeats, he never stopped believing. He was, said Bernie Valdez, a valued mentor to both of us, "the possessor of great convictions and the courage to work and fight for them." Behind the genial exterior was a brilliant intellect, a curiosity and a desire to explore beyond the limits of conventional thought and nowness. Only God knows what masterpieces of work lay ahead.

Now Rich—when trials come and there is need for a compassionate champion, we will wish for you.

We will wish for you, my friend, when we are tempted to turn our faces away from the pain and plight of others.

We will wish for you Rich, on hard difficult days, when a load is heavy and laughter would lighten its weight.

We will wish for you, and we will find you. We will find you within us, when our own courage and good deeds surprise us. We will find you, when we honor your legacy by emulating your life. We will wish for you always and miss you. *amigo y hombre de gran valor*. Rest now, brave and gentle warrior, *estas con Dios, Rich.*•

POSITION ON VOTES

• Mr. LIEBERMAN. Mr. President, on Tuesday, May 14, I was in New York to attend my daughter's graduation from college. For the benefit of the RECORD, on the rollcall votes that occurred on that day, I would have voted as follows: "Nay" on the HELMS' amendment No. 241 to S. 100, the Central American Economic Assistance Act of 1991.

"Yea" on passage of S. 100, the Central American Economic Assistance Act of 1991.

"Yea" on passage of Ex. EE, 96-1. International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, with Annex, 1978;

"Yea" on passage of Treaty Doc. 101-7. Annex III to the 1973 Convention for the Prevention of Pollution From Ships;

"Yea" on passage of Treaty Doc. 102-2. 1988 Protocols Relating to the Safety of Life at Sea and Load Line Conventions; and

"Yea" on passage of Ex. K, 88-1. Convention Concerning the Abolition of Forced Labor.•

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

• Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35 for Geryld B. Christianson, a member of the staff of Senator PELL, to participate in a program in England, sponsored by the Ditchley Foundations, from May 31 to June 2, 1991.

The committee has determined that participation by Mr. Christianson in

the program in England, at the expense of the United States Government and the Ditchley Foundations, is in the interest of the Senate and the United States.•

GOSPEL MUSIC WORKSHOP OF AMERICA, INC.

• Mr. HATCH. Mr. President, I rise to recognize the Gospel Music Workshop of America, Inc., an organization founded to recognize the valuable contributions this African American art form has provided for our society. In August of this year, 20,000 delegates to the Gospel Music Workshop of America, Inc., also known as GMWA, will convene in Salt Lake City, UT, to encourage efforts to spread the message that gospel music undergirds most popular music in this country while serving as a vehicle for the expression of Christian faith. To support their efforts, the Honorable Norman Bangerter, Governor of Utah, has signed a proclamation declaring August "Gospel Music Month" in Utah.

GMWA is an interracial, interdenominational, nonprofit organization comprised of gospel musicians, singers, song writers, recording artists, producers, and others well-versed in the history of gospel music. It was founded in 1968 by the late Rev. James Cleveland, a Grammy Award winner, also known as the "King of Gospel." Since its beginnings, GMWA has strived for the perpetuation and advancement of gospel music. Its roots are traced to the rich heritage of the African traditions, as augmented and nurtured by the influences of modern society and its changes. Gospel music expresses deep emotion, driving rhythms, and a joyousness which can be found in the earliest historical recollections in America.

Each year, over 3,000 convention delegates participate in mass choir rehearsals culminating in a live recording featuring songs written by gospel artists throughout the United States. The Gospel Music Workshop provides scholarships in composition, instrumentation, directing, and voice.

The GMWA Convention in Salt Lake City marks a truly historic event in the annals of music history in that the famed Mormon Tabernacle Choir has extended an invitation to the GMWA to hold its first convention service—the GMWA Consecration Service—in the world-famous Mormon Tabernacle. During that service, the GMWA Mass Choir and the Mormon Tabernacle Choir will conduct a joint performance. This is expected to be one of the highlights of the week—a cultural learning experience and exchange by members of two diverse musical organizations.

The convention offers over 40 workshops to this delegate, including information or instruction in such areas as orchestration, piano, voice, liturgical

dance and ballet, public speaking, jazz keyboard improvisation, drama, ushering, acting, and percussions.

The long-range goal of the convention is to build an accredited college where every facet of gospel music could be taught and the art proclaimed by its originators.

In March 1968, Reverend Cleveland summoned gospel musicians throughout the United States for the purpose of forming the GMWA. The first convention was held in August of 1968 attracting over 3,000 gospel fans in the Detroit area. The second year, over 5,000 delegates and music lovers traveled to Philadelphia to participate in the convention services.

The Women's Council of the convention was founded by Reverend Cleveland and a small group of women in 1972 in Los Angeles. The council was formed to strengthen the convention with the character and voice of Christian women and to advance the purpose of the workshop.

In 1973, the convention formed a youth department to help youngsters cultivate a deeper appreciation for gospel music. The youth department was also formed to stimulate and enhance the interest of youth to seek careers and vocations in music through attendance at workshop classes. Missionaries, ministers, and evangelists also came together as the Evangelistic Board, whose purpose is to provide counseling to young people and to work closely with the founder and president in instituting innovative spiritual ideas for the convention.

Mr. President, the State of Utah is proud to welcome GMWA to Salt Lake City and appreciates this opportunity to recognize them for their efforts to promote music in our society.•

TRIBUTE TO A.J. FOYT IN HIS 34TH INDIANAPOLIS 500

• Mr. COATS. Mr. President, I rise today to pay tribute to a great friend of the State of Indiana. Anthony Joseph Foyt, Jr., better known as A.J., has made his home in our State during the month of May for the past 33 years. This year at the age of 56, A.J. has qualified for the last time at the Indianapolis 500.

For more than three decades A.J. Foyt has come to Indianapolis with an intensity and thirst for competition that has been unequalled. He has led the race at Indianapolis more years than any other competitor, and in 1961, 1964, 1967, and 1977, A.J. triumphed at the Indianapolis 500. His 1964 victory was the last victory that used a front-engine car. The 1967 win was with a car that both he and his father had built. In 1977 he won with a car and an engine that was a product of the father and son team. He is the only winner to have built his car, the engine, and driven that car in the race. In an age of

specialization, A.J. Foyt will probably be the last to have total control of all aspects of winning a race. The age of a driver knowing all facets of racing, top to bottom, is ending. This year will be the end of an era where heart and soul is superior to technology and science in winning a race. The drivers of the Foyt era had the skill to make a simple, powerful car do things that have been taken over by technology.

A.J.'s father built a race car for him when he was 3 years old and that was the beginning of what would be a lifetime of hugging the track and breathing exhaust. A.J. has raced all kinds of races with superior skill. LeMans, Daytona, dirt tracks in the South and just about anything else have been mastered by this great driver.

The wins and trophies, however, do not adequately exemplify this sportsman. The fierce level of competition that A.J. has set is an incredible standard not only in racing but in life. A.J. has seen human devastation on a race track that would make most of us shiver with terror. He has had kneecaps broken, shin bones pushed up into his thigh, pins used to hold together joints, and skin grafts due to burns. A.J. Foyt has felt this pain and fear since the age of 18. This year he is climbing into the cockpit of No. 14 for the last time at Indianapolis. Some 450,000 race fans will cheer A.J. this month as he starts his last race at Indianapolis.

A.J. Foyt is a survivor. He has gained the well-earned respect in auto racing that few, if any, have achieved.

We in Indiana salute a great hero of auto racing. The track at Indianapolis has not always been kind to drivers. Many have been crippled or have lost their lives. In his over 11,000 miles around the track at Indianapolis he has watched as friends and longtime competitors have crashed violently inches from his car. For a man to climb into a car and go back out on a track that has taken so many lives is the embodiment of courage. We will surely miss him pushing his foot down on the pedal as far as he can in a car that is capable of going 230 mph. Whether as a competitor or as a spectator, A.J. Foyt will always be warmly welcomed at the Indianapolis 500 by his Hoosier fans and worldwide supporters. We will miss him on the track but we look forward to him still being with us, enjoying the excitement of the race.●

TRIBUTE TO LEBANON, KY

● Mr. McCONNELL. Mr. President, I rise today to recognize and honor the historic city of Lebanon, KY, located in the State's heartland of Marion County. To be specific, Lebanon is 3½ miles due south of the State's geographic center.

In the fall of 1863, Confederate Gen. John Hunt Morgan ordered much of the

city burned. As a result of the ensuing fire, all the county clerk's records stored in the courthouse and several of the surrounding buildings were destroyed.

Additionally, local legend has it that Rutherford Harrison Rowntree, the second Marion County clerk, was robbed by Jesse James on the train from Greensburg to Lebanon. James allegedly took Rowntree's inscribed gold pocket watch that was later returned to him by a Californian, who had purchased it at a pawn shop.

Lebanon also has its share of famous folks. They include former Kentucky Gov. J. Proctor Knott, renowned poet Edwin Carlile Litsey, and Martin John Spaulding, Catholic archbishop of Baltimore and Louisville.

At present, the area's biggest employers are the Jane & Linda Sportswear Co., Independent Stave Co., and the Plastics Products Co., helping reduce the county's unemployment rate from 14.4 percent in 1985 to 8.2 percent in 1990. These figures are well within the State decline from 9.5 percent to 5.8 percent for the same time period.

Yes, Mr. President, the city of Lebanon certainly enjoys a rich heritage. With the community's efforts at both reveling in their past while at the same time securing their future, Lebanon will certainly have much to look back on with pride for many, many years to come.

Mr. President, at this time I would like to request that a Courier-Journal piece on the city be inserted into the RECORD.

The article follows:

[From the Louisville Courier-Journal, Apr. 8, 1991]

LEBANON

(By Beverly Bartlett)

Believe it or not, a few of them are left.

And one is in the very center of Kentucky, on the gently winding lanes of Marion County.

A place where schoolchildren still crawl up on soda-fountain stools and order cherry Cokes after school. A place where downtown still has the best shopping for miles around.

Where you can be loved just for living long and telling good stories. Where you can remain a sports legend for six decades because of a shot at the big leagues . . . that didn't work out.

The legends of Lebanon are not much bigger than the town itself, which has just under 6,000 people, according to the 1990 census. They include 96-year-old Sarah McKee Brewer Reyniersen—she's Aunt Keesie to those who sing "Happy Birthday" to her every Jan. 25 at the Country Kitchen restaurant.

"She's a living monument," says Margie Morgeson, who was hired to help care for her.

Aunt Keesie comes to this fame naturally—her mother was former Gov. J. Proctor Knott's wife's cousin. Her sisters were summoned to sing to him when he was dying in 1911. She grew up hearing of his powerful presence—and trying to avoid it.

"He had a white moustache and he chewed tobacco and I hated to kiss him but he always made me," she says.

Now downtown Lebanon has a street named Proctor Knot, but it's the woman who grew up not wanting to kiss him that residents love and revere. If she doesn't show up on time for her toast-and-cheese lunch at the Country Kitchen, employees check on her.

And there's 83-year-old Gray Caskey, who doesn't bat an eye when Cecil Gorley introduces him over coffee at Cedarwood Restaurant. "He's a legend in this country," Gorley says. "Everyone knew his athletic prowess."

More than 60 years ago, as Caskey tells it, the St. Louis Cardinals mailed him a contract and asked him to come show what he could do. He took two buddies with him. He suited up, but the team wouldn't give his buddies uniforms to try out in. His buddies decided to go on home. He decided to go with them.

Does he ever regret it?

There's a long pause. The background noise—clattering coffee cups, a waitress being teased, a chair being scooted across the floor—seems amplified as the farmers and politicians and rural electric workers in Caskey's audience turn toward him, awaiting his response.

"Sometimes," he says. "Yeah."

Everyone nods and looks at the table.

Lebanon itself seems to have no regrets. You won't hear much second-guessing of the night life that once gave the city a reputation of good times too easily had, of youth too quickly lost, of the peace too often disturbed.

And of course, the locals don't want to rehash any of those Corn Bread Mafia stories that made headlines awhile back either. The leaders of what authorities said was the largest marijuana organization in the country are in jail now. Residents are trying to put that episode behind them, along with enduring tales of moonshining, bootlegging and other forms of corruption in Marion County.

Meanwhile, rapid change seems ready to descend on Lebanon. Since 1985, six new industries have located in the town—a statistic that's especially significant because, in the previous 20 years, no new industries appeared.

But folks on the front lawns of the city's housing-authority projects aren't overly impressed by those numbers. Dorothy Calhoun, 26, says she's been looking for a decent job for years. "I think there ought to be more jobs for blacks around here," she said.

Joseph Moore, who's temporarily laid off from a job making whiskey barrels, says the new industries are passing over local unskilled laborers in favor of out-of-town college graduates.

State Sen. Dan Kelly agrees that Lebanon's "main negative is that it's a tough place to make a living." But the new industries, he says, have made a difference. And in fact, the county unemployment rate has dropped from 14.4 percent in 1985 to 8.2 percent in 1990, pretty well keeping up with the statewide decline from 9.5 percent to 5.8 percent.

Many Lebanon young people who fled to Louisville and Lexington for jobs are calling about opportunities at the new plants. And there's been enough competition for good labor to force Jimmy Higdon, co-owner of Higdon's Foodtown, to raise wages in order to keep employees. That's good, he said. "We'd like to see our residents have a little more money in their pockets."

The largest of the new industries was announced last year. Teledyne Portland Forge,

a leader in forging custom machine parts, is scheduled to open this spring with 179 employees, making it the area's third largest private-sector employer. And this year, inexorably, a Wal-Mart is coming. The walls are already built; downtown may not stay the best place to shop.

"I'd say the biggest change is happening now," said Baute Lanham, a county magistrate.

Rep. Dave Hourigan of nearby Gravel Switch says this may be Lebanon's golden age. "Certainly, during my lifetime it is," he said. "And from what the more elderly residents tell me, they've never experienced anything like what's happening over the past five or six years."

This seems to worry no one. They're confident they can keep all of the small-town ways they like, despite the changes. As Bobby Mattingly, a farmer and welder, puts it: "Lebanon could grow a whole lot and still be small."

Some believe the only businesses that need worry about Lebanon's new Wal-Mart are the Wal-Marts in neighboring towns. Local merchant Kenneth George believes his downtown clothing store may profit from Wal-Mart, if it draws Springfield residents who once went to Bardstown and encourages Lebanon residents to shop near home.

And what if the store does hurt the downtown? Gorley, speaking as a customer, thinks it might be worth it. As it is, he can't buy fishing tackle or a soft brush for car washing in Lebanon. In fact, he says, "You can't much more than buy a screw."

Besides, what possible threat could a Wal-Mart be to the Hagan-O'Daniel Pharmacy? Here is a soda fountain that does such a healthy cherry Coke business after school every day that the Adams Pharmacy next door is opening its own fountain to compete.

The Hagan-O'Daniel soda fountain has been in operation at least 38 years and 12-year-old Kelly Browning, who comes for a 65-cent cherry Coke every day after St. Augustine school lets out, says her mother stopped to buy the same thing from the same fountain when she walked home from the same school years ago.

All the new industry coming to Lebanon might have something to do with the chamber's hiring of an economic-development director, L.R. Senn, in early 1985. He credits hard work, community cooperation and several tiny bottles of Maker's Mark, distilled at nearby Loretto, for the turnaround. Senn discovered that if he hands a secretary an airline-size bottle of the Marion County bourbon whiskey, his next call goes through to the boss.

Hourigan, meanwhile, says thanks should go to Gov. Wallace Wilkinson and former Gov. Martha Layne Collins, both of whom seemed determined to do something about the county's high unemployment rate and took personal interests in working with new industry.

But many say Lebanon itself has made this full-fledged leap toward an industrial, diversified economy—propelled, not hindered, by its country roots. For example, they say, Marion County Country Ham Days, a two-day September festival, has fostered a cooperative, can-do spirit and has laid the foundation for an economic boom. The event started 22 years ago with six hams. Last year, 650 hams were served to almost 50,000 people.

During the festival, residents compete in calling husbands, smoking pipes, flying paper airplanes and eating hot peppers. There's also plenty of live music and a "PIG-asus Parade."

That doesn't sound much like the entertainment Lebanon's historically been known for. In the late '60s and early '70s, Lebanon was the drinking mecca for surrounding dry counties.

But the city's novelty eventually wore off, neighboring Springfield voted itself wet, and wild times left Lebanon. Now most of the notorious nightclubs have closed. The Golden Horseshoe is still open but, on a recent Saturday night, the young men and women playing pool were dressed well enough to go to church. And the music was softer than a Pizza Hut's.

Many residents view the former nightlife as something removed from them. It was a problem other people, out-of-towners, caused, they say. Just ask the coffee drinkers at Cedarwood.

"We're not as good as we ought to be, but we're not as bad as they make seem," said Lanham, a devout Methodist, as Mattingly and the others nod and smile in agreement. "I've never tasted liquor in my life."

Mattingly ponders that last line for a split second. "I can say I never saw him taste liquor," he adds, "and that's all I can say."

And the clubs had some advantages—at least in their earlier days. Mayor Katherine M. Blandford remembers seeing top acts like Ike and Tina Turner appear in Lebanon in the early '60s.

But that's all behind them, and what Blandford would like to see in Lebanon now is modern, chain motel. She's not the only one. A couple of older motels and a nice bed and breakfast aren't always adequate for large family reunions or visiting executives considering relocation.

And Blandford also says she expects to see some harder-to-swallow transitions in the city's future—higher taxes, for instance.

"If we're going to continue to grow," she said, "we're going to have to pay for that growth."

Population: Lebanon, 5,695. Marion County, 16,499.

Per capita income: Marion County, 1986, \$8,969—\$2,299 below the state average.

Media: The Lebanon Enterprise (weekly). Radio: WLBN-AM (information, contemporary adult music); WLSK-FM (sports, country). Out-of-town cable-television offerings: Campbellsville, Louisville, Lexington, Atlanta.

Education: Public schools: Marion County School System, 3,075 students. St. Augustine's Grade School, a Catholic school, 388 students. Colleges: St. Catherine College, a two-year institution, is 8 miles north of Lebanon. Campbellsville College, a four-year school, is 20 miles south of Lebanon. Vocational school: Marion County Vocational Education Center offers training in eight courses.

Jobs: (Marion County, 1987) Total employment: 3,052. Manufacturing, 689. Wholesale/retail, 871. Services, 576. Government, 563. Contract construction, 134.

Topography: The Outer Bluegrass Plateau takes in the northern part of the county, while the southern part is full of knobs.

Transportation: Air: Lebanon-Springfield Airport has charter service but no scheduled airline. Rail: CSX. Bus: none. Truck: Nine truck lines serve Lebanon. Water: none.●

ROCKY FLATS

● Mr. BROWN. Mr. President, recently concerns have been raised about the Department of Energy's funding requests for the Rocky Flats Nuclear

Weapons Plant in the fiscal year 1991 dire emergency supplementary appropriations bill. Specifically, the Energy Department has been accused either of: First, overreporting safety problems at the facility in order to inflate the amount of funding needed to upgrade these same systems; or second, planning to operate an unsafe plant when weapons production begins. Either condition should be of great concern. I have asked the Department of Energy to thoroughly investigate the matter, and wanted to alert my colleagues on their most recent report.

It is my understanding that in its current shutdown state, both the required safety levels and necessary safeguards at Rocky Flats have been maintained. With respect to the first charge—that safety problems have been exaggerated to get additional funding—the Assistant Secretary of Energy for Defense Programs reports that additional funding was requested to further improve these systems so that they meet even more stringent safety and security standards before operations resume at the plant. His written and verbal responses to the second accusation—that the Energy Department is planning to jump the gun and go into production before the plant meets the increased safety and security standards—were unequivocal: Before the plant is started up again, the Energy Department has assured me that all safety improvements must be in place.

Assistant Secretary Claytor's explanations have been very helpful in explaining the recent controversy, and I want to share with my colleagues his letter responding to my concerns about Rocky Flats safety problems. However, until the weapons production capabilities of Rocky Flats are moved to a new location, safe and secure operations must be our top priority. Our continued scrutiny is absolutely essential.

Mr. President, I ask that this letter be reprinted in full in the RECORD.

The letter follows:

DEPARTMENT OF ENERGY,
Washington, DC, May 3, 1991.

HON. HANK BROWN,
U.S. Senate, Washington, DC.

DEAR SENATOR BROWN: The purpose of this letter is to clarify some issues made in the press regarding safety matters at our Rocky Flats facilities and the manner in which the Department of Energy requests and justifies needed funding for these facilities.

The first issue relates to the safety of our facilities. In our Fiscal Year (FY) 1992 Congressional Budget Request, the Department requested funds for a variety of construction projects including some projects to upgrade or replace the safety systems. You will recall at the time that operations at Rocky Flats were suspended that a 10-point program was laid out to achieve considerable safety improvements. A copy of the Secretary of Energy directive related to this is enclosed. Since that time, the breadth and depth of some of these programs have expanded considerably indicating the need for substantial additional funding. One example of a signifi-

cant increase was related to security and safeguards upgrades that were subsequently found to be required to assure that an adequate level of security and safeguards is provided. These improvements are all needed prior to resumption of operation at Rocky Flats. It would be incorrect, however, to interpret that the lack of such improvements is a basis to conclude that the facility, in its current shutdown state, is unsafe. This is simply not true. Whenever necessary, compensatory measures were taken to assure that the safety envelope was maintained.

The second issue involves statements made by a Department of Energy employee which suggested that safety problems were exaggerated in budget documents in order to obtain funding. Ironically, the individual was attempting to make the point to the reporter that all of the safety improvements called for in the budget document are required and that funding needs to be provided by the Congress; her comments about exaggerating our justifications were taken out of context. I can assure you that the requested funding was needed and is not exaggerated. My Office of Defense Programs conducted a thorough analysis of both the FY 1992 proposed budget for Rocky Flats and the FY 1991 supplemental request. Prior to submitting these requests to the Office of Management and Budget and the Congress, I directed that an independent review be conducted of the amount of funds requested and the justification for these funds. As a result of these reviews, I am confident that we have not exaggerated our needs and that these funds are required to place the Rocky Flats Plant in a safe and secure condition to enable the Department to carry out its mission there.

I hope that this letter adequately clarifies these issues for you. I also want you to know that the Department greatly appreciates your support of our supplemental funding request which was approved earlier this year.

Sincerely,

RICHARD A. CLAYTOR,
Assistant Secretary for
Defense Programs.●

COSPONSORSHIP OF S. 512

● Mr. MCCAIN. Mr. President, it is with great pleasure that I join Senators ADAMS and MIKULSKI in sponsoring S. 512, legislation to add \$25 million to the National Cancer Institute budget for breast cancer research.

Mr. President, the incidence of breast cancer among American women has reached epidemic proportions. We are told that one out of every nine women in America will develop breast cancer during their lifetimes. It is shocking to contemplate the fact that every 4 minutes a woman in America will be diagnosed with breast cancer, and every 13 minutes this dreaded disease takes the life of an American woman.

During the effort to offer our Nation's seniors catastrophic illness protection, I strongly supported the addition of a mammography benefit to Medicare. And, during my effort to reform the Medicare Catastrophic Coverage Act, I fought hard to protect the mammography benefit. But, the House insisted on full repeal which eliminated this critical benefit.

According to the Department of Health and Human Services, the loss of that benefit for elderly women would result in the needless and preventable death of some 5,000 elderly women. This is but one of the reasons why I did not give up the fight, and went to the mat to try and restore this benefit last year. I am pleased that we were able to get the bulk of this benefit restored before the end of the last Congress.

But, Mr. President, as we know, mammograms are not totally foolproof. Mammograms will fail to detect the presence of breast cancer in 15 percent of women. We must, therefore, be constantly at work to develop more effective detection techniques. And, in the meantime, all women should conduct regular breast self-examinations.

More than that, though, Mr. President, we need to step up our efforts to find a cure to breast cancer. We cannot rest until we find a cure to this dreaded disease that is taking the lives of so many American women. It is for this reason that I join my colleagues, Senators ADAMS and MIKULSKI, in sponsoring this legislation to provide an additional \$25 million to the National Cancer Institute for breast cancer research. This much needed money is but a drop in the bucket, when one considers what biomedical research costs, but it is critical.

Before I close, Mr. President, I would like to recognize the tireless efforts of two particular Arizona women who have been battling breast cancer themselves to bring this issue to the attention of our state's policymakers. These two women, Dr. Donna Horne and Ms. Barbara Anselmo, are very dedicated to making sure that fellow Americans learn more about this disease, and the treatment and research funding needs associated with it. I am deeply grateful for their efforts, as I know others are in Arizona.

Mr. President, I hope that all of our colleagues will take a serious look at this important bill, and consider joining us in increasing the funding going to this critical effort.●

METRO NEW YORK'S FAVORITE PRE-TEEN

● Mr. D'AMATO. Mr. President, I rise today to recognize outstanding young woman, Miss Keri Kelly Krieger of Lawrence, NY. Last November Keri was crowned Miss Metro New York's Favorite Pre-Teen after setting a record and sweeping the pageant awards. Selection is based on participation in school and community activities as well as intelligence and charm.

Known to her friends and family as "Sunshine," Keri's list of accomplishments is certainly impressive. At Lawrence Middle School she is an A+ student with a 95 average and head editor of her school newspaper, the Trumpet. She is also a cheerleader, Math Olym-

piad, a member of the Computer Club and Drama Club. I am proud of her membership in the Nope to Dope Club, where she has worked successfully against the greatest threat to her generation.

Keri Kelly has a very demanding schedule for a 12 year old. In addition to her dancing lessons and participation in school sports, Keri manages to find time to volunteer. She focuses on helping children—whether it is visiting children in the hospital, lending a hand at an orphanage or working at the Jerry Lewis Telethon, Keri always has a smile and a kind word for everyone she meets.

This December, Keri will be competing for the national title of America's Favorite Pre-Teen at Disneyworld in Orlando, FL. I know that Keri will represent the State of New York with poise and intelligence.

I have met Keri and her parents, Rhonda and Andrew, and it is indeed fitting that her nickname is "Sunshine" because Keri Kelly Krieger is truly one America's brightest points of light. Her ambition and dedication to helping others serves as a shining example for others, young and old, to follow.●

TRIBUTE TO CARROLLTON

● Mr. MCCONNELL. Mr. President, I would like to recognize the city of Carrollton, deep in the heart of Carroll County, KY.

The Kentucky and Ohio Rivers meet here. As a result of this unusual topography, Carrollton is built right in the middle of what has historically been known as a flood plain with abundant water and fertile soil.

An example of just how fertile the soil is stands the Glauber Shoe Store, which is rumored to be the oldest purveyor of fine footwear in the State, and possibly the Nation. Glauber's opened in 1863, with five cobblers making shoes, and then when the Industrial Revolution came to Kentucky, the store turned to factory-made shoes. Owner John Glauber, Jr., says "The family business is the oldest continuous customer of the International Shoe Co."

When asked why he and his family business have stayed in Carrollton so long, Glauber, Jr., quickly, and unflinchingly, replies "I think liking Carrollton. I probably could have made a lot more money if I'd taken the investment to another town." He paused contemplatively for a moment, then smiles.

Mr. President, I certainly agree with Mr. Glauber. I like Carrollton. I like this quaint little river town nestled at the bend of the Ohio and Kentucky Rivers. And what is more, Mr. President, I do believe that anyone who visits Carrollton will like it too.

Mr. President, at this time I would like to request a copy of a Courier-Journal piece on the city of Carrollton be inserted into the RECORD.

The article follows:

[From the Louisville Courier-Journal, May 13, 1991]

CARROLLTON

(By Beverly Bartlett)

You can hear the rivers. They make a soothing music where they meet, the soft sound of something basic flowing along in the right direction.

It's a pretty good soundtrack for Carrollton, at the confluence of the Kentucky and Ohio rivers, because most people here seem to go with the flow.

Drive through the city on a warm spring day and it's easy to get swept up, lulled into believing that every house is a mansion, every yard is a park, every tree is in bloom.

"It's just a heady experience sometimes to drive down Highland Avenue," said Cindy Warrick, president of the Chamber of Commerce.

"It's just a beautiful setting," Rep. Clay Crupper, D-Dry Ridge, agreed. "You just drive down Main Street or U.S. 42 and the big oak trees and the dogwoods . . ."

Councilwoman Nancy Jo Grobmyer remembers one visitor's first drive into town.

"He said, 'I don't know why you want so much growth when you have so much beauty here,'" she recalled. "But we do."

But they really don't. Nearly every elected official—including Grobmyer—agrees that they've got enough industry. Don't need any more. They won't turn anyone away, but courting new factories is less important than planting trees, improving the park and getting a fine restaurant.

They are delighted that North American Stainless is building a \$272 million plant that promises to employ 250 workers on one of the last huge tracts of flat land in the county. But they probably don't have the room or the inclination to go looking for another one, said Mayor Charles Webster.

"That's not on my wish list," he said. "I don't think it's on the judge's wish list."

Instead, Webster is wishing for a convention center, a community center, and more than "one decent restaurant that's not fast food." He wants to fill in the gaps and make Carrollton a good place to live, work, and run a business.

And the city seems to flow into these projects as easily as the rivers flow by. Take, for example, the \$50,000 pavilion that was completed last year at the point where the two rivers meet.

It is the centerpiece of Point Park and the town's effort to revitalize the riverfront. There will be professional plays at the pavilion this summer. Folks from Indiana will be able to take a boat ride to the plays.

And how did the idea come about?

"We were talking about restrooms," Webster said, "and it got from restrooms to a pavilion. We are going to build the restrooms this year, by the way."

By turning toward the river, Carrollton is looking to its past to find its future. Even before the start of the Revolutionary War, at least four groups of explorers camped where the two rivers meet. And, though early settlers were turned back by Indians, the town of Port William was officially created in 1794. The community, which eventually changed its name to Carrollton, had all the potential of Louisville or Cincinnati.

But the river was eventually overshadowed by the railroad, which was more generous to

Louisville and Cincinnati than to Carrollton, locals say. So the community began moving east, away from the river. When Glauber's Shoe Store opened in 1863 a few blocks from the point, it was on the far eastern part of downtown. Now, sitting in the exact same building, it's on the far western part of downtown.

John Glauber Jr., the fourth John Glauber to own the store, said that for a while the river lost favor with business people. It flooded sometimes.

But starting in the '70s, one development study after another pointed toward the point—and now the community is heeding that advice.

"We're now beginning to look at the river as an asset instead of the liability we've always accused it of being," Glauber said.

One of the most talked about businesses in fact is west of Glauber's—back toward the point. The Carrollton Inn, remodeled in 1982, has a few motel rooms and the city's finest restaurant. The inn inherits the legacy of the Point House tavern, the business for which the building was originally constructed in 1884. The Point House had been closer to the river, where it entertained explorers like George Rogers Clark.

But though Carrollton Inn is universally praised among community leaders, they still long for a "fine" restaurant, something more elegant.

So far, Carrollton's population doesn't satisfy anything but the most general markets. Julie's Eat Shop, for example, was supposed to be a candy and cake store when it opened across from the courthouse nearly seven years ago. But Carrollton was "just too little to make it as a candy and cake shop," said Tina Ashcraft, the owner's daughter.

The shop still sells candy, made by owner Julia Ashcraft, but its main business is the daily lunch special. A stranger might wonder how dining can get any "finer" than this. Talk about service.

"Most of our customers we know," said Tina Ashcraft. "I know what they want to drink, so when they sit down I take the drink."

The customers call out to each other from table to table. They sit down with each other, uninvited, and start talking. They pick up advice along with their meal. One customer wondered aloud recently: Ever have so much to do that you don't know where to start?

"Throw your hands up," said Paul Ashcraft Sr., the owner's husband, who was filling in as cook that day and overheard the question. "Walk around the block. And come back and do what you can do."

Warrick, coordinator of the brand new Carrollton campus of Jefferson Community College, says that laid-back spirit makes Carrollton a great place to work. "There is no fast track. . . . It may have been a hectic day, but because it was Carrollton, it was less hectic," she said.

There certainly wasn't a fast track in bringing the college to town. Efforts to bring a community college a Carrollton started in the 1960s and the idea was even approved by the legislature, but the money never came. Efforts recently revived and the school opened this January. It already has 160 students and plans call for it to be an independent school—rather than a branch of Jefferson Community College—in less than 10 years, Warrick said.

Meanwhile, Warrick sees some drawbacks to the town's slow pace.

"One of the things I miss here is something as simple as going down the street to a print-

er and asking if I can pick it up tomorrow," she said.

And she believes the town is going through some growing pains as it tries to sort out those kinds of tradeoffs.

"The community wants a Wal-Mart, but they don't want one," she said. "They want the convenience, but they don't want it here."

County Judge-Executive Harold Tomlinson said a more physical growing pain is being felt along U.S. 42, which runs along the Ohio River and where most of the county's largest industries are being built. That road needs to be expanded to a four-lane highway, he said. Crupper hopes money will be allocated for that project during the next legislative session.

"It's probably one of the best towns for the industry I know of. . . . It's been unique and it's provided things for other counties," he said. (All those out-of-county workers now have to give something back. Faced with a shortfall in this year's budget, fiscal court approved an occupational tax.)

Local officials say the area is popular with industry because of its nearness to the river, easy access to I-71 and central location between two major metropolitan areas.

But to Dick Williams, personnel manager for Dow Corning, there's a more important commodity, "It's the people," he said. "They're rock solid down here."

Carrollton is, technically, down there. Tourists at General Butler State Park have to come down the hill to get to the city—and so far, few of them see much reason to. VF Outlet Mall, completed about two years ago, may have parking lots full of out-of-state plates during the summer, but just two miles away, in town, there are a lot of vacant storefronts.

And though the downtown is beginning to improve, it's a far cry from the days when it supported grocery stores and all the businesses stayed open until 10 or 11 p.m. on a Saturday night. U.S. 42 was the main route between Louisville and Cincinnati then, and on Derby Day, traffic would be backed up in Carrollton for miles.

Brad McNeal, co-owner of McNeal Furniture, says that a lot of downtown businesses have come and gone in recent years. Family-owned businesses have been the stabilizing force.

"I guess the people who have been here for this length of time—we're not here just for the quick dollar," he said. "This is where we grew up. During hard times we just don't eat as much. We don't just close our doors and go to another town."

Glauber seems to agree. The secret to staying in business for 127 years?

"I think liking Carrollton," he said. "I probably could have made a lot more money if I'd taken the investment to another town."

He smiles.

Search his face. You won't find a hint of regret.

Population: Carrollton, 3,715; Carroll County, 9,292.

Per capita income, 1987; Carroll County, \$11,066, or \$931 below the state average.

Media: The News-Democrat (weekly); WIKI-FM (100.1) (adult contemporary).

Education: Jefferson Community College has a new branch in Carrollton, Carroll County Schools (1,856 students).

Largest non-governmental employers, 1990; Dow Corning Corp. 460 Dayton Walther Corp. 432 Atochem, North America 320.

Jobs: (Carroll County, 1988) Total employment, 3,979 Manufacturing, 1,792 Wholesale/

retail, 614 Services, 387 Government, 678 Contract construction, 115.

Topography: The Kentucky and Ohio rivers meet here and the land that borders them is flat. Elsewhere the terrain is hilly.

Transportation: Air: The Madison Municipal Airport, 18 miles west of Carrollton in Indiana, has charter service, but no scheduled commercial flights. Rail: The Carrollton Railroad provides branch line service to the city and connects with CSX Transportation System nine miles southeast of town. Bus: Greyhound stops at the Carrollton exit of Interstate 71. Truck: Nineteen trucking firms serve Carrollton. Water: A 8-foot navigational channel is maintained on the Kentucky River, a 9-foot navigational channel is maintained on the Ohio River. •

ORDER OF BUSINESS

Mr. SIMPSON. I have nothing further. I thank the assistant majority leader.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276d-276g, as amended, appoints the following Senators as members of the Senate Delegation to the Canada-United States Interparliamentary Group during the 1st session of the 102d Congress, to be held in Kananaskis, Alberta, Canada, May 23-27, 1991:

The Senator from Iowa [Mr. GRASSLEY];

The Senator from Alaska [Mr. MURKOWSKI].

CONCLUSION OF MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that the morning business be closed.

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

SENATE ELECTION ETHICS ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Florida.

AMENDMENT NO. 245

(Purpose: To require that candidates for President and Vice President receiving public benefits participate in public debates or forums)

Mr. GRAHAM. Mr. President, I rise for the purposes of introducing an

amendment to the pending business, and I am sending the amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM] proposes an amendment numbered 245.

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

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

The amendment is as follows:

On page 97, between lines 16 and 17, insert the following:

SEC. 405. DEBATES BY GENERAL ELECTION CANDIDATES WHO RECEIVE AMOUNTS FROM THE PRESIDENTIAL ELECTION CAMPAIGN FUND.

Section 315(b) of FECA (2 U.S.C. 441a(b)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) The candidates of a political party for the offices of President and Vice President who are eligible under section 9003 of the Internal Revenue Code of 1986 to receive payments from the Secretary of the Treasury shall not receive such payments unless both of such candidates agree in writing—

"(i) that the candidates for the office of President will participate in at least 4 debates, sponsored by a nonpartisan or bipartisan organization, with all other candidates for that office who are eligible under that section; and

"(ii) that the candidate of the party for the office of Vice President will participate in at least 1 debate, sponsored by a nonpartisan or bipartisan organization, with all other candidates for that office who are eligible under that section.

"(B) If the Commission determines that either of the candidates of a political party failed to participate in a debate under subparagraph (A) and was responsible at least in part for such failure, the candidate of the party involved shall—

"(i) be ineligible to receive payments under section 9006 of the Internal Revenue Code of 1986; and

"(ii) pay to the Secretary of the Treasury an amount equal to the amount of the payments made to the candidate under that section."

Mr. GRAHAM. Mr. President, in summary the amendment which I have offered is an amendment which would require candidates for President and Vice President who are currently receiving public funds to agree as a condition of that receipt to participate in a number of public appearances and debates.

Mr. President, this amendment, as I will discuss in more detail tomorrow when we return, goes to the question of the quality of the political process, particularly the quality of the process that is now very significantly financed with public funds.

Each year, when Americans file their taxes, they have the opportunity to check off the Presidential election campaign fund box. For every box checked, \$1 is contributed to the Presidential campaign fund. In 1992, over \$150 million will be available to Presidential candidates. Americans deserve more return on their investment.

My amendment requires candidates for President and Vice President to debate.

To be eligible for public campaign financing during the general election, Presidential candidates must agree in writing to participate in at least four debates.

Vice-Presidential candidates must agree in writing to partake in at least one debate to be eligible for public funds.

Upon failure to participate in the debates, the candidate will become ineligible for public funds and will have to return the amount of funds already received to the Treasury.

Campaign reform thus far has focused on the financial aspects such as PAC contributions, limits on overall spending and on out-of-State contributions. There has been inadequate attention on the quality of campaigns.

I continue to push the concept of public debates because a campaign is supposed to be a dialog between candidate and voter, not a monolog given by the candidate.

A campaign is supposed to provide a two-way learning process for both voter and candidate.

It is not enough for the voters to hear negative comments about candidates in the form of 30-second bites.

It is not enough for voters to learn about candidates through the eyes and ears of the media.

It is not enough for candidates to learn about their constituencies through opinion polls or at harried fundraisers.

Both candidate and voter must learn from each other to ensure effective representation.

One of the central problems of contemporary Presidents is that their campaigns have not sufficiently developed the relationship between the candidate and the voter.

What results is a president being sworn into office without having a clear set of voter approved mandates.

If there is no opportunity for dialog, then the campaign will not have established the mutuality between the candidate and the electorate, or the office holder and the citizen, that is needed for democratic government to endure.

How many times have you heard people say they know little to nothing about the candidates?

How can voters be expected to make educated choices if all they are exposed to are 30-second negative blasts on television?

How can we expect elected officials to know their constituencies unless they have the opportunity to interact with them?

Institutionalized public debates can provide a dialog. Campaign finance reform which includes spending limits can provide candidates relief from the money chase so that they may better

prepare for public forums, dialogs, and in turn, public office.

Why institutionalize debates? History has shown us that uncertainty alone about whether debates will occur can destroy their effectiveness and purpose. Since 1960, Presidential candidates have met sporadically to debate, but when the debates did happen they were viewed by many.

However, voters still felt they did not have enough information about the candidates and consequently, did not vote. If both voter and candidate knew the debaters were going to happen, then more time could be spent on preparation than on campaign staffs negotiating their candidates out of having the debate. Voters could count on a forum to provide them with knowledge with which they could comfortably go to the polls.

Estimates show that nationwide voter turn out in 1990 was 36.4 percent of voting age population. Public debates should be pursued at all levels in the electoral process for it is a way of getting people involved and may bring Americans back to the polls.

This amendment can return to the voter and the candidate spontaneous and thoughtful exchanges of views and philosophies.

This amendment can return to voters and candidates dialogs which are necessary for educated voting and educated representation.

I look forward to continuing this debate when we reconvene tomorrow.

MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that we return to morning business and that Senators may speak therein.

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

ORDERS FOR FRIDAY, MAY 17, 1991

Mr. FORD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m. on Friday, May 17; that following the prayer, the Journal of the proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; and that there then be a period for morning business not to extend beyond 10:30 a.m. with Senators permitted to speak therein for up to 5 minutes each.

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

RECESS UNTIL 10 A.M. TOMORROW

Mr. FORD. Mr. President, if there is no further business to come before the Senate today, I ask unanimous consent that the Senate now stand in recess, as under the previous order, until 10 a.m., Friday, May 17.

There being no objection, the Senate, at 7 p.m., recessed until Friday, May 17, 1991, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate May 16, 1991:

THE JUDICIARY

JANE R. ROTH, OF DELAWARE, TO BE U.S. CIRCUIT JUDGE FOR THE THIRD CIRCUIT VICE COLLINS J. SEITZ, RETIRED.

DEE V. BENSON, OF UTAH, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF UTAH VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

FERNANDO J. GAITAN, JR., OF MISSOURI, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF MISSOURI VICE RUSSELL G. CLARK, RETIRED.

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. NORMAN H. SMITH, ~~xxx-xx-xx~~ USMC.