SENATE—*Tuesday, May 21, 1991*

(Legislative day of Thursday, April 25, 1991)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable JOHN B. BREAUX, a Senator from the State of Louisiana.

The PRESIDING OFFICER. Today's prayer will be offered by our guest chaplain, Dr. Harry Kilbride, of Capitol Hill Metropolitan Baptist Church in Washington.

PRAYER

The Reverend Dr. Harry Kilbride, Capitol Hill Metropolitan Baptist Church, Washington, DC, offered the following prayer:

Let us pray:

Almighty God, who spoke stars into space; who directs the course of history; and in whose hand is the heartbeat and destiny of every man;

I commit the Senators who will gather here today to Your guidance and care. Give to each one a humble soul, but pride in America; a wise mind, but the faith of a child; a tough skin, but a tender heart; and, above all, at all times and in all matters both public and private a desire to please God our Maker and Provider.

May Your grace rest upon their families, especially those separated by many miles, or any, sadly, separated by misunderstanding, breakdown, or failure. Help and heal, I pray, those who are sick, or sad, or lonely, disillusioned, or doubting.

May each Senator rise above personal problems to do good business for this beloved Nation. And I pray that on that great day of accounting none shall be ashamed of what they say and do here today.

I ask all these things in the name of Him who came not to condemn the world, but to save it; Jesus, my Saviour, Lord, and Friend. 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 21, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN B. BREAUX, a Senator from the State of Louisiana, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. BREAUX 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.

SENATE ELECTION ETHICS ACT

The ACTING PRESIDENT pro tempore. The Senate will now 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.

The Senate resumed consideration of the bill.

Pending:

(1) Boren amendment No. 242, in the nature of a substitute.

(2) Dodd amendment No. 246 (to amendment No. 242), to apply uniform honoraria and income limitations for Congress, and other officers and employees of the Government.

(3) McConnell amendment No. 247 (to amendment No. 242), to provide for direct appeal to the Supreme Court of rulings on the constitutionality of the bill and amendments made thereto.

Mr. MITCHELL addressed the Chair.

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

Mr. MITCHELL. Mr. President, I ask unanimous consent to use as much of my leader time as may be necessary.

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

SCHEDULE

Mr. MITCHELL. Mr. President, at this time, the Senate has resumed consideration of S. 3, the campaign finance reform bill. It is my understanding that Senator DODD'S amendment, No. 246, is the pending business. It is also my understanding that Senator STEVENS intends to offer a second-degree amendment to the Dodd amendment. I hope that we can proceed to dispose of that amendment as soon as possible.

I am also advised that Senator MOYNIHAN intends to proceed with an amendment regarding unearned income upon disposition of the Dodd amendment.

In our discussions prior to recess last week, the managers of the bill and myself and others talked about a tentative schedule under which the distinguished Senator from Kentucky would offer a major amendment to be debated this afternoon, and I hope that we can still reach that point. I understand there will be several other amendments to the bill.

I want to repeat today what I have now said publicly on several occasions; that we will begin the recess at such time as we complete action on the pending bill, the budget resolution conference report, and the fast-track legislation. I anticipate that the House will be acting on the budget conference report either later today or tomorrow and I have already discussed this with the distinguished Republican leader. It is my intention to bring that to the Senate floor as soon as possible, even if it requires temporarily laying aside the pending bill because I think it is important that the budget process go forward. That has a time limitation of 10 hours. I hope we can reduce that time and get it done promptly.

The fast-track legislation has a time limitation of 20 hours. I hope we can agree to reduce that time and dispose of that promptly.

I may be, as I often am, overly optimistic, but I retain the fond hope that we can complete action on all of these measures by some time late Thursday, so that the Memorial Day recess can begin at that time and Senators can return to their home States to participate in Memorial Day activities. If I am again proven to have been overly optimistic, as has occurred in the past, why, then, we will remain here on Friday for as long as is necessary to complete action on these measures. But I hope that will not be necessary and that we can proceed with dispatch on these measures.

Mr. President, I yield the floor.

SENATE ELECTION ETHICS ACT

The Senate continued with the consideration of the bill.

Mr. DECONCINI. Mr. President, parliamentary inquiry. I understand now pending before us is the Campaign Finance Reform Act and the amendment offered by the Senator from Connecticut.

The ACTING PRESIDENT pro tempore. The Senator is correct.

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Mr. DECONCINI. Mr. President, I rise in support of the amendment of the Senator from Connecticut to prohibit the receipt of honoraria by U.S. Senators. I am a consponsor of the Dodd bill and have introduced similar legislation, S. 56.

Senators are public servants and should be paid by the public, not by special interests. Speaking before groups should be considered part of our official duties, not a means of enhancing our income. While the cost of living in Washington, DC, is very high and many Senators incur the expense of maintaining residences both in their home State and here in the Capital, I believe it compromises the integrity of this institution to supplement our income through honoraria.

Under current Senate rules, as we all know, Senators may accept $23,568 in honoraria in addition to their $101,400 salary. The honoraria limit is not much higher than the national income median for an American family. In this time, when many Americans are finding it difficult to make ends meet, I believe the practice of Senators receiving honoraria reflects poorly on this institution.

When corporations and special interests are allowed to pay large amounts of money to hear Senators speak, a great potential for conflict of interest arises. Speaking to groups, whether to interest groups, to town halls, or to schoolchildren, is a part of our responsibility as Senators. The groups I address have already paid me because they pay my salary through their taxes; they should not have to pay me again.

For this reason, I have never accepted honoraria. I believe it is fundamentally in conflict with our public duty and service. So I urge my colleagues to adopt this amendment, which I think is the right and proper thing to do. I realize we have a problem in this body with many Members who must supplement income and that we have to address the problem of salary income.

I understand also there will be an amendment offered later, perhaps by the Senator from New York, banning unearned income, income from investments of Members of Congress, particularly of the Senate.

I have a personal interest in that, having that kind of income. I think there is a distinct difference, however, between honorarium that is paid by special interest groups to a Member of Congress, particularly a Senator, to go and speak and an investment made by a Senator and his wife which returns some interest or some income on that investment. To me, it is very clear that one depicts or leaves the strong image of seeking favors and seeking income from special interests, where another one derives from the fact that an investment has been made.

When an honorarium is paid to a Member of Congress, there is no risk involved. It is not, yes, you may get it or, no, you may not. When you are asked to speak, you ask for the honorarium or the honorarium is offered. There is no risk on your part whether or not you are going to get the honorarium based on the speech. But in the area of investment, some people make investments that do not pay any dividends or income and some do. To equate these two, to me, is fallacy and not good common sense. So I hope the Senate will adopt the Dodd amendment and reject the amendment dealing with unearned income. I thank the Chair.

AMENDMENT NO. 246

Mr. LIEBERMAN. Mr. President, I rise today in support of the amendment proposed by my senior colleague from Connecticut, Senator DODD, and to thank him for his continued leadership on the issue of honoraria. If we adopt the amendment he offers today—as we did when we considered campaign reform legislation last year—we will take a big step in the direction of removing a cloud over the Senate. I know that honoraria do not buy votes, but cash payments to a Member of the Senate create an aura in which mistrust and suspicion can grow—and we can do without more of that.

It may be useful here to consider how we would view a judicial nominee who, while a sitting judge, took honoraria from parties in cases before that judge and then continued to sit on those cases. I believe that there would be a severe outcry against that hypothetical judge. We would, quite properly, view that judge as having compromised both himself and his office by creating the appearance of impropriety, even if that judge did not let the honoraria affect his or her decisions.

Mr. President, I recognize that we are not judges. And I understand that as elected political officeholders, in the absence of full public financing, we must continue to solicit and collect funds in order to run for office. But unlike political campaign contributions, honoraria up to $27,337 go directly into a Member's pocket. It is a form of private financing of a Senator's personal expenses. We should not receive private remuneration while we are public officials.

Mr. President, much of the debate over campaign reform has centered on the relative merits of spending caps, public and private financing of elections. Regardless of how we feel on these issues, I believe we can all agree that Senators' salaries should not be paid by lobbyists and interest groups. The time has come to buttress public confidence in the integrity of this body by enacting a ban on Senate honoraria.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The Senator yields the floor.

The absence of a quorum is noted. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

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

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered. The Senator is recognized.

THE EDUCATION INITIATIVES

Mr. COCHRAN. Mr. President, a month ago I thought partisan politics would stand in the way of meaningful progress in education reform. It seemed that the President's education reform proposal was on a collision course with the Democrats' bill, S. 2.

Just 1 day before President Bush was to announce his education plan, the Senate Labor Committee approved a hastily written S. 2 which more than doubled the authorized spending amount and added several new legislative proposals which had not been reviewed by committee Republicans. Every Republican on the Labor and Human Resources Committee voted against S. 2 after an attempt failed to take out the provisions that were the most controversial.

When the President outlined his education proposal the following day Democrats greeted it with skepticism and even some very sharp criticism. But as word of America 2000 spread around the Nation, the plan was applauded by education and community leaders and many parents and teachers as well. The strategy was described by many of them as being far-reaching and innovative because it tackled school reform head on by providing a foundation for real improvement.

Today I am more optimistic about possible bipartisan cooperation. Skepticism and criticism about the President's education strategy have since given way to a willingness among many Democratic leaders to give it a chance.

The majority leader agreed to postpone consideration of S. 2 in order to give the President time to develop the legislative proposals to implement his program. S. 2 and the President's strategy have much in common. Both bills contain provisions that would call for a heightened Federal role in elementary and secondary education policy, favor Government-financed experiments in education reform, place an emphasis on innovation and technology in the classroom, make literacy and adult education a priority, make schools more

accountable for the results of their efforts and give them more flexibility to achieve these results, and involve the private sector in a more important role in improving education.

But there are differences. S. 2 seeks to set into law the national education goals established by the President and the Nation's Governors last year and expand those goals to include two additional goals. S. 2 would create a competing goals panel, with a different membership, to assess State educational practice, even though the Governors' panel is well into this important work.

President Bush has long believed parents should have more say about where their children attend school. America 2000 suggests several ways to encourage local communities to experiment with parental choice programs. S. 2 contains no similar provision.

The White House believes it can accomplish education reform without making new increases in overall Federal education spending. Many Senate Democrats apparently disagree. The President's strategy would call for $690 million in spending in fiscal year 1992, which will keep us within the limits we set last year in the Budget Act.

Mr. President, I close by simply challenging the Senate to make every effort to work in a bipartisan way to cooperate to resolve differences between the two legislative initiatives before us, the President's proposal and the Democratic leadership proposal, S. 2. I would like to think we can all be proud of the work product we will produce on the Senate floor, and I hope before the July 4 recess.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

SENATE ELECTION ETHICS ACT

The Senate continued with the consideration of the bill.

Mr. STEVENS. Mr. President, my apology for holding up the Senate. I was involved in a colloquy with the Secretary of Defense in the Defense Appropriations Subcommittee. It seemed to be very important, and I was not able to be here immediately to offer this amendment.

AMENDMENT NO. 248 TO AMENDMENT NO. 246

(Purpose: To make the amendment effective on the date on which the rate of pay of Members of the Senate becomes equal to the rate of pay of Members of the House of Representatives)

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

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 248 to amendment No. 246.

On page 2, line 23, strike "January 1, 1992." and insert "the date on which the rate of pay of Members of the Senate becomes equal to the rate of pay of Members of the House of Representatives."

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

Mr. STEVENS. Mr. President, this is a simple amendment. It changes the effective date of the Dodd amendment. I believe the time has passed when we should argue in favor of perpetuating far into the future the concept of honoraria. But Senator DODD'S amendment will effect an absolute reduction in income for Members of the Senate of over $23,000.

I have raised the subject of pay equalization with the private sector as far as the Senate and the Congress is concerned, and I have been criticized for that in all quarters. But I do believe that we have to keep in mind those who come after us. Because of the generosity of one of my relatives in supplementing my financial base, it is not quite the same for me now as it was when I was a young Senator here with five children. Eventually I put five children through college—God knows how, but it was achieved—on a Senate income.

Today the Senate pay is even further out of line with the private sector than it was because we have not adopted the pay schedule that was approved by the House. As I said, I do not believe that we should reject the concept of the Dodd amendment. The honoraria criticism increases each year, and I do believe that, as we get more and more involved in more and more complicated circumstances in our country, the time that a Senator spends in pursuing honoraria to supplement income does really detract from the time that we have to think out the courses that we would recommend to the Senate to deal with these various problems.

But it does seem to me that, under the existing law, honoraria will decline each year as the cost-of-living increases. We are tied to a COLA increase, so, in effect, we are saying we are phasing out our honoraria with inflation. But I do not think that phase-out should be linked to inflation. I think it should be linked to having an equal base with the House of Representatives.

Last year I decried the fact that the Senate was going to accept a policy which left us in the position of getting ever decreasing pay as compared to the House of Representatives. They did adopt a new pay schedule, and that pay schedule is tied to inflation. We have adopted a pay schedule, but it decelerates with inflation because it automatically phases out honoraria. So the difference between the total income of a Senator and the total income of a House Member is accentuated every year with the inflationary spiral.

I do not wish to raise the total subject of pay equalization now. My purpose is merely to say that the Dodd amendment, which I will support if this amendment is agreed to, should reflect a change and a commitment of the Senate to abandon honoraria at such time as we bring about equality of pay with the House of Representatives.

It is a controversial amendment, I understand. But I offer this amendment to give to the Senate an opportunity to express the sense of the Senate on this initiative of Senator DODD.

I was informed some time ago that my friend would offer this amendment to deal with honoraria, and I said at the time that, although in the past I have opposed it, I would not oppose this initiative. It will provide, incidentally, uniform honoraria and income limitations for the Congress as a whole, but it does not provide uniform salary and other benefits for the Congress as a whole. My amendment would do that by saying that his amendment would become effective when the Congress takes the other step of equalizing the pay and benefits of the Members of Congress. And I hope that there is an agreement here in the Senate on this concept.

Mr. President, I started off by talking about the new people who will come to the Senate in the years ahead. I do not believe that it is possible for the Senate to continue this concept of disparity between the income levels of the Senate and House without a serious detriment to the Senate in the future. We should not become a body of multimillionaires. We should not become a body of people who tell those who may be interested in coming to the Senate in the future that, when they do, they will have to accept a pay level less than that paid by the taxpayers to the Members of the House of Representatives.

As I said, I have stood on this floor and defended honoraria. I do believe there is a basic concept in our history, that of the Chatauqua circuit concept, under which those involved in the political sphere went from city to city and addressed the populace and answered their questions. In terms of commitment to receive pay for those appearances, that is represented by the honoraria concept.

I still believe there are others where honoraria makes eminent sense, where a Senator takes it upon himself on his own time to address national organizations, to go before groups that are not his constituents and answer questions concerning the trends of the Senate and of the Government as a whole. But the chorus of those who try to detract from the work of the Senate and seek constantly to deride the Senate have zeroed in on honoraria to the extent now that I do believe the time has come to put that subject behind us, but only, only if we reach the conclusion that it will come into effect when we equalize the pay of the Congress.

Mr. DODD. Mr. President, I have a great deal of sympathy for the statement just made by my colleague from Alaska, who I consider to be one of my close friends in this body. The points he makes are extremely worthwhile. It is an outrage in many ways that we have disparate salaries for these two bodies, the other body and the U.S. Senate. It defies logic in the sense, for that reason and no other, to have Members of the Congress serving in these two Chambers being paid salaries of some substantial difference.

On his point regarding the makeup of this body and those who are able to seek office and hold office, there is, in a sense—and I offered the amendment on this particular legislative proposal because there is—a correlation here, not only in terms of those who can serve but those who can actually seek this office considering the exorbitant amount of dollars that need to be raised in order to run a viable campaign for the U.S. Senate.

And then, if you are fortunate enough to have been able to do that, to be able to afford to stay here, I realize in the eyes of many people in this country, if not most, it is a difficult concept to understand, but the Senator from Alaska is entirely correct when you start to consider living in two places, maintaining two residences, whether it is rent or home ownership, and all of the costs associated with that, it becomes extremely difficult. And there is the danger on both counts, both in terms of what you have to raise and what you have to have personally in order to get this, and then, having arrived here, the ability to be able to stay here and be able to maintain a family.

So on his points on that, he has no argument whatsoever from the Senator from Connecticut. I totally agree with him. I think it is regrettable and unfortunate that over a year ago we had an opportunity to address this issue and failed to do so in this body. I think all of us, if not most of us, lament the fact we did not take advantage of that opportunity and deal with the issue at that particular time. For a variety of reasons, that did not occur, not the least of which was the fact that there were not the votes in the Senate at that time to support the proposition which was endorsed and supported by the other body.

Having said all of that, Mr. President, and having expressed my sympathy for the concept embodied in the proposal of the Senator from Alaska, there is a distinction here that has to be drawn and that is that even though one can make a very good case that the remuneration for Members of the U.S. Senate ought to be on a par with that of the House, the issue of honoraria is a separate matter, in the sense that it still perpetuates a system only allowed in this particular Chamber wherein Members are allowed to supplement their salaries by seeking outside sources, primarily through speaking fees.

The Senator from Alaska mentioned the rich tradition of the Chautauqua circuit. That certainly is a very viable and worthwhile way in which Members who serve in the public sector are able to express their views and engage in public debate of the weighty matters before the Federal Government. What I do not think was probably envisioned was that you might receive as much as $2,000 for appearing on that Chautauqua circuit.

Years ago, of course, Members of Congress were allowed to maintain their active private lives in addition to serving as Members of Congress. Over the years we have seen that change to a point in which today, as I mentioned a moment ago, U.S. Senators, to the best of my knowledge, are the only Federal officials who are allowed to supplement their salaries through the use of speaking fees to private organizations. That, in my view, while it has not been abused to the extent where there have been very few cases where people have actually in some way violated their public trust, it is the perception of that more than anything else, and regrettably, but it is certainly true and no one knows it better than people who serve in public life, perceptions can be more devastating than the reality and the perception is that Members of the Congress, Members of the U.S. Senate, are engaging in a practice which brings to their level of debate and to their public responsibilities a greater degree of access and influence as a result of accepting these fees than otherwise would be the case.

So while there is a nexus, a clear nexus in terms of compensation, there is a separate issue that needs to be addressed and that is whether or not, as a separate matter, Members of the U.S. Senate ought to be paid from sources other than the Public Treasury. It is this Senator's view that that ought not to be the case, except in some identifiable areas, which the Senator from Kentucky and I discussed yesterday, for instance, in literary publications, that in those areas I feel clearly that an exception ought to be drawn for the very reason the Senator identified the Chautauqua circuit.

Today that is not as possible to engage in the travels of a Chautauqua circuit, but certainly through the use of publications we are able to engage in that debate and for that reason I think an exception can be made there. At some point, I think even that exception may be carved out on that particular area.

Mr. STEVENS. If the Senator will yield for a question and a comment, I understand what the Senator is saying, but only this past week I agreed to take on an assignment for a Senator who had accepted an honorarium appearance and, because of an illness in the family, was called out of town. That was an appearance before a group from across the Nation that come to this town at a time when we were not in session. They had asked our colleague to appear and make a statement on a specific issue and answer questions from some 140 business people from throughout the country.

I agreed to do that. I found it to be a very stimulating event, as a matter of fact, because we did have some differences of opinion between the Members, and some of the Members and myself. But that certainly is like Chautauqua. Instead of having the Members go around the country, these people came here for a meeting and they were quite interested in at least two subjects. They were not specific in terms of legislation, but they were specific in terms of their interest. I spent some hour and a half engaging them in this colloquy.

I still see a role for that for Members of the Senate. I think if we totally do away with honoraria we may find out that there is a gap there and it is going to be filled by some of these people who think they know what is going on in the Senate, instead of by those who know what is going on in the Senate.

But in any event, my question to the Senator is that the Senator's amendment does have a provision for some continued outside earned income, 15 percent. I think it would be well to have a dialog as to, what does that mean? Does it continue the stipend? In other words, as I understand the stipend concept, if I made a contract with that association to appear before their meetings, whenever they come in to town, for an hour, and on a yearly contract, whatever it would be, 15 percent of my annual income, that that stipend is not within the honorarium concept. It is a contract for more than one appearance and therefore it would be legal under the Senator's amendment.

Is that the Senator's intention? Does he intend to mean that stipends for multiple appearances is legal, but honoraria for a single appearance is illegal as far as the Senator's conduct is concerned?

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Mr. DODD. I appreciate the Senator's question, Mr. President. Let me address both points that he has raised.

In the first instance, I still believe, as I said a moment ago, that the idea and concept of Members of Congress appearing before various groups and organizations to debate or to discuss or to inform and to educate is extremely worthwhile. I have not accepted honoraria for a couple of years. I did in the past. It is of public record.

I have found I still receive invitations to debate, to discuss, to appear, and I look forward to those opportunities and engage in them. I think it is very much a part of our responsibility. The distinction being, I suppose, I do not receive as many invitations where a mere appearance on my behalf would result in a $2,000 check to my personal bank account. I think there is that responsibility and I think most Members do engage in it. I would inform the Chair and my colleagues here that my good friend from Alaska, less than 24 hours ago, very graciously gave a substantial amount of his time to appear before a group of constituents from my State to discuss the industrial base questions. He very generously gave of his time.

Mr. STEVENS. Will the Senator yield there, Mr. President? I say to the Senator that that is money in the bank because you are going to pay me back one of these days, right?

Mr. DODD. Absolutely.

Mr. STEVENS. That is a quid pro quo also.

Mr. DODD. That is correct.

Mr. STEVENS. I did accept the kind invitation of my friend from Connecticut and we discussed something that I think is of extreme importance to the future of the country, the industrial base of the United States. The Senator from Connecticut asked me to appear and have this discussion with Members that come to this town annually for the Dodd forum, I think is what it is called.

Mr. DODD. Correct.

Mr. STEVENS. I have no problems about that at all. But I have to tell my colleagues that there are hundreds of these forums that come here. I do not think many Senators are going to take the time to see them in lieu of going to a daughter's ballet class, or to their son's baseball game, or to some event with their wife, a opera or symphony here in this town.

The incentive for going to those things is the capability of earning income. And at the present time that income is of substantial advantage to many of the Members of this body who do not have an adequate income base to maintain those two homes that my colleague talked about and be able to pay the costs of their families. Very few people understand the problem of Senators from the West.

I knew one Senator from the West who did not go home for more than 12 years because he would not leave his family here and there is no allowance for moving his family back home even once a year. When I take my family home to Alaska, that is not at Government expense. Yet we are Alaskans, and in order to maintain the roots for my children, I have tried to take them home from time to time.

That has been financed in large part through the honorarium process. I have been able to augment my income during the times I have been here and not being involved in Senate business—and I can never remember a time when I had a conflict between a honorarium and Senate business. Most of them are, in fact, out of town but some of them are here. I would say also, parenthetically, I have never accepted a honorarium in my own State. I do not believe that is proper.

In any event, the concept the Senator seeks to impose right now is a termination on January 1 of next year of the ability to earn that income, knowing of the differential with the pay of Members of the House. At the present time, as I said, Senators' pay is $23,000 less than that of Members of the House.

There are some Members here who privately told me—I do not know if they will come to the floor and say this—if the Senator's amendment passes they will have to retire. They could not meet their current obligations of maintaining homes in their home State, maintaining a place to live here, and maintaining the kind of conduct that is expected of them as Senators and their family obligations at the same time, without that $23,000.

There are people out there in the viewing public who are going to send me, again, thousands of letters saying if you cannot do it get out of there and I will show you how it can be done. I expect those kind of letters. But I again tell them now that is not the situation with me, thanks to a deceased relative. But I do tell my colleague there are people here who have come to me and told me that.

What is the Senator from Connecticut going to do about this amendment in terms of the timing of the impact of this pay reduction on those in this body who must have it, according to their present circumstances?

Mr. DODD. If the Senator will allow me to reclaim my time here, I was attempting to address both of his questions. The first is the notion somehow that Members of Congress will no longer engage in public debate, either in this city or elsewhere, because there is not an honorarium. I think that is wrong. I think Members will. I think they have in the past. I think they will continue to do so because I think there is a heightened degree of public responsibility here in terms of sharing our views with others, and the fact that there is not the carrot of $2,000 waiting at the end of that talk I do not think will minimize that. It may in some particular cases. That was point No. 1.

Point No. 2, we have left out some exceptions here that this Senator has made in the area of stipend. Generally stipends would be covered under the honoraria ban. However, we have allowed at least for some exceptions here. I mentioned one in the case of literary publications because I think there is a lot of value in that. It can be done on a Senator's own time.

Also the possibility of teaching, which is something that a number of our colleagues have done, at educational institutions.

It may be at some point even those exceptions will run into some difficulty. I do not think that ought to be the case. The Senator from Alaska knows what I am talking about here. We are not talking about the kind of behavior people normally engage in, in these activities. Frankly, it is this notion somehow that if you just show up someplace you can collect a couple of grand, and that frankly goes on. He knows it, I know it, everyone else knows it here.

I regret deeply we have not achieved parity with the House of Representatives in terms of salary. That is a matter this body will have to come to terms with. But it seems to me that is a separate issue. The issue here before us is whether or not we are going to perpetuate and continue a process which has created untold bad perceptions, in my view, for this institution. It is the only place left in the Federal Government where you can engage in that behavior.

I regret deeply others may find it necessary under these circumstances to retire and not seek reelection. I hope that would not be the case. But this has been an age-old problem. It goes back to the founding of the Republic. It certainly is not going to disappear, either. It is a constant issue that comes up over how Members of Congress are compensated. We are in the unfortunate position where we have to vote on that issue one way or the other. No one else can decide it for us. But that, it seems to me, is another matter that this body is going to have to come to terms with.

The issue now is whether or not we are going to perpetuate an honoraria system. What the Senator has offered with his amendment can be construed in a variety of different ways but certainly I suggest what we are voting on here would be a pay increase and that is what the vote would have to be read as. At this particular time, given the climate of the Nation and the recession, I do not know whether people are going to accept that. I think at some point we will achieve that parity. But we confuse the debate by confusing

that pay issue with another issue, which is whether or not we are going to allow and tolerate a system wherein now a good one-fifth of a Member's salary comes from special interest groups on the outside—those who can afford to pay the $2,000. Most of our constituents could not do that. We know where it comes from. It comes from those organizations, those associations, that have the financial wherewithal to be able to underwrite a speech or an appearance.

Unfortunately I think that detracts from our public responsibilities. Others can arrive at different conculsions. I certainly respect those who have drawn a different conclusion from all of this. They can certainly vote accordingly.

I offer the amendment because it is something most people today, I think, believe needs to be changed. I regretfully urge the rejection of the amendment of my friend from Alaska because I do not see how you can construe it in any other way than being a vote on a pay increase at this time, and urge the amendment I offered yesterday.

Mr. STEVENS. Mr. President, that was an expected comment from the Senator from Connecticut. I regret my friend's opposition to this amendment.

Let me point out what the Senator from Connecticut said yesterday when he offered his amendment. He said:

> This amendment is very straightforward. It would conform the Senate rules on honoraria and outside income to those approved by the House of Representatives in the Ethics Reform Act of 1989. There will be one exception, Mr. President, that I will offer momentarily. But, basically, it is the same proposition as included in that legislation. As such, Mr. President, first, the amendment would conform the Senate rules on honoraria and outside income to those that apply in the House of Representatives as well as to the executive and judicial branches of Government.

My amendment is not a pay raise. My amendment says if you want to conform with the House in terms of the House rules on honoraria and outside income, you must first comply with the confirmation to the total income package of Members of the House of Representatives.

I do not think the Senator from Connecticut can deny the fact that his amendment will reduce the income in 1992 for a substantial portion of this body that currently relies upon the $23,000-plus that his amendment will delete from their potential income to pay mortgages, to pay school payments for their children, whatever it is. It is in the base now. It is in their base now and the net effect of the Senator's amendment is to renege on the commitment that was made last year when the Senate did not take the pay raise. It decided to keep the honoraria.

It said to a Senator, if you need additional money to maintain yourself here, you may continue the practice of honoraria in the Senate and in an amount in excess of that which the House of Representatives has allowed to itself in view of the fact that the House has raised its pay. It did it in two increments, but it has now raised its pay considerably more than that of the Senate.

A commitment was made last year. It was an incentive, as a matter of fact, to get the Senate to pass that bill that the Senator from Connecticut now wants the Senate to conform with. It will renege on the decision that was made to those Members of the body who said, "Wait a minute. We cannot live here if you do that to us—either raise the pay or leave the honoraria." And the decision was made by the leadership, primarily by the majority, Mr. President, that we will keep the honoraria and deny ourselves the pay raise.

I say to the Senate that fair is fair. Again, I will state from a point of view of my situation, I do not need that money now, but there was the day when it would have made the difference to this Senator staying in Washington. I know a great many people here with young children, in particular, who are in that position who cannot stay here with that kind of an abrupt change in their income picture.

All I ask is that we keep the basis of our decision last year. If we do not want to state categorically that we will keep the honoraria until we equalize pay—and that is all this does; it does not raise pay. It just says this was the deal we made last year. We will keep honoraria until we raise our pay. I think that is fair, and I think it is unfortunate that my friend says this is a pay-raise amendment.

This Senator will raise that issue at another time in a proper way, I can assure the Senator from Connecticut, because I feel strongly that what we did last year was wrong. I said it was wrong then and I was a candidate for reelection last year when I said it was wrong. I think more people ought to stand up and say what is right.

What is right is a Member who comes to this body ought to be able to have sufficient income base that is not something that worries him or her in terms of meeting family obligations, taking into account that many people maintain two homes. Those of us from the West have to maintain two homes. I know there are some Members from the East who can actually go home and do not even have a home in Washington. That is their choice. Particularly those from the West have to have two homes. It is a burden, and it is a financial burden.

Some Members have far beyond the income that is necessary. I understand some Members even do not accept their income from the Government and serve in the Senate, which is their prerogative. I applaud that I think it is a decision that they are entitled to make. But Senator DODD's amendment would reduce the income of sitting Senators, income that they relied on in order to sign agreements to purchase condominiums or apartments or homes or sign long-term leases here. There is just no reason to have that kind of an abrupt change in the Senate's concept of how to deal fairly with itself and its own Members.

All I have said is this is not a pay-raise amendment. If the Senator wants to make it a pay-raise amendment, I will be glad to introduce that subject, too, before we are through. But I say to the Senator that I am merely doing what he said to the Senate yesterday he was doing.

My amendment, too, is a straightforward amendment. It would simply conform the Senate rules on honoraria and outside income and earned income with that of the House of Representatives.

The Senator from Connecticut covers two of them but not the third. My question to the Senator from Connecticut is why not? Why not be fair to these people who voted for that bill last year thinking that although the House is going to receive more salary from the Federal Government, they were not decreased in terms of their current income earning capability by the bill that they voted for last year? This, if we vote for the Dodd amendment this year, will reduce the potential income, the actual income, really, of Members who do accept honoraria by an excess of $23,000 a year.

Mr. President, neither the Senator from Connecticut nor I are talking about something the public does not know something about. We report fully our outside income, whether it is from honoraria or from earned income or from unearned income.

We fully disclose the basis of our income picture, and I support that disclosure. I think particularly in honoraria, we have a separate category for that. It is set forth in particular detail.

I think if anyone wants to have that printed in the RECORD, I will be glad to have one printed in the RECORD to show how it really does appear in detail in our disclosure statements. There are no estimates. It says who precisely paid the Senator for an appearance, precisely what the appearance was, when it was, how much was earned, and whether there was any transportation related to it.

There have been many political campaigns in which honoraria have been raised, but to my knowledge, I do not know of any Senator who has ever had his future political status in this body change because of whether he decided to accept honoraria or not to accept honoraria.

I do think, though, as I stated in the beginning, that many of the people who attack this body and the integrity of the body have seized upon honoraria—the Senator does to a certain extent in his own statement criticizes those of us

who may have taken honoraria in the past and continue to take honoraria now. I do not. I think it is entirely an ethical concept, fully disclosed, and something that ought to be realized.

The Senator's amendment continues the practice of prohibiting an attorney from practicing law. I accepted that. The day I came to Washington, I turned over everything I had in my law office, and I was the senior partner to my junior colleague and I have not practiced law since I became a Senator. That was just a matter of my own personal ethic. I have no problem with that.

I do sometimes raise the question about the rights of others to continue to earn their income. Farmers continue to earn their income. There are Members of this body who even receive payments for not growing crops. You do not pay us for not practicing law. So it is not really an equal body in many respects. But there is one thing about it, there ought to be some comity on the floor of the Senate.

We ought not to precipitously take action which will legally impair the financial position of Members of the Senate. I tell the Senator from Connecticut, Mr. President, I believe this will embarrass many of our colleagues who rely upon that honoraria income to meet their ongoing bills that they have already committed to for the term they are here now.

If this amendment is not adopted, I might say to the Senator, I will offer an amendment to make it effective on January 1, the first day that every Senator's term in this body will have expired. In other words, it would be January 1997, because I think those people who are here now who have made their agreements for 6 years or 4 or 2, whatever it is, ought to be able to live here in accordance with the rules they thought were in effect financially when they came.

(Mr. ROBB assumed the chair.)

Mr. DODD. Will my colleague yield for a moment?

Mr. STEVENS. I will be happy to yield.

Mr. DODD. As sometimes happens in debate, the seed of a brilliant idea emerges. The suggestion of paying lawyers without practicing law might actually carry far beyond this Chamber given the litigious nature of the United States. I commend him for that idea, but I can only imagine the outcry that would occur. I appreciate the notion, the idea we might compensate attorneys for practicing law.

Mr. STEVENS. I say to my friend, Mr. President, there are some who I think are compensated and still are not practicing law.

Mr. DODD. That is probably true. Let me say to my friend from Alaska, it is not this Member's intention—we know each other well—to embarrass my colleagues.

I said yesterday this is not an amendment I relish offering because it does go to the very nature of how we are compensated as Members. Frankly, I would prefer others might bring up this amendment or we might have dealt with it before. I agree with the Senator, I wish it had been dealt with last year. I think it is regrettable we did not deal with it at that particular time.

The Senator from Alaska is entirely correct. The problem was on this side of the aisle in terms of the absence of votes being here at least as we understood it at the time. So he will have no argument from this Senator on that account at all.

Nor is it my intention to want to deprive Members of this body the opportunity to be able to serve here. That is not the issue at all.

These are the most difficult issues to raise, issues that go to how we are compensated, how we live as Members, as individuals. But the fact remains, I say to my friend from Alaska, just as he understands today the rationale for saying to people who come here, you cannot continue to practice law and you cannot serve on boards of directors and be compensated for it because of the problems inherent with that particular practice—we understand that—the very same arguments we are raising today about the honoraria issue have been raised about those particular areas.

Certainly there were those who served in this body who practiced law independently in recess periods or times they were not in session who did represent clients with matters not before the Federal Government. They were honorable men and women who served in public life.

But I think we understood there was a larger issue with which we were dealing. So we understood the rationality for excluding or prohibiting those sorts of activities.

That is the same case here today. I am not going to suggest to my colleague from Alaska there are people engaged in some sort of dreadful behavior because they accept a $2,000 speaking fee and who will also do their work here and are exemplary Members of the Senate.

What we are talking about is the perception that one-fifth of your salary is coming from outside special interests.

I happen to believe Members of Congress, Members of the Senate ought to be paid by the public. That ought to be a basic tenet with which we deal as we come here or seek to come here. The idea of running for the Senate saying, "Well, I will take four-fifths of my salary from the public and one-fifth from outside special interest groups," I do not think that ought to be the motivation. So I hope that today we will deal with this as we did last year by a vote of some 77 to 23 and ban this practice, get about the business of achieving parity between the two bodies when it comes to salary, because I think the Senator from Alaska is absolutely correct, but we ought not to confuse the two issues today. That is the effect of the amendment of the Senator from Alaska.

Mr. President, I say to my friend from Alaska, I am prepared to vote on these amendments. I see no reason for us to perpetuate this debate. I think the issues are fairly clear.

Mr. STEVENS. Mr. President, I think I have the floor. I yielded for a question, but I did not hear it.

Mr. DODD. Is the Senator prepared to wrap up the debate?

Mr. STEVENS. If that is the question, the answer is no. I hope other Senators will be stimulated to come over and discuss this. I think it is time to come out of the closet as far as this issue is concerned. Last year, we voted on it 2 hours after it was brought to the floor. There were statements made that I regret. I think there are newspaper articles around the country talking about the Senate in terms of saying this is a disgrace; we have accepted this honoraria. I think the honoraria concept was put into effect to recognize what had been done before.

Mr. President, the Senator from Connecticut has raised that, so let me get specific. Let me ask the Senator from Connecticut if he remembers any of the Senators who practiced law while they were here, who had open practices. I remember one who was in New York, Chicago, and practicing here. He had his name on three law firm doors. He was one of the Senate's most distinguished Members. His photograph is all over this place.

It was because of the perception raised about lawyers practicing law by the same people who now attack honoraria that we did away with the concept that people could continue to practice law and, in their own mind, establish an ethical basis for their life. Those were honest, reputable lawyers and honest, reputable Senators at the time. But because of the fact that people kept raising this question about conflict of interest, conflict of interest, conflict of interest, we have done away with the concept that a member of the legal profession can practice law.

As I said, on the very moment I became a Senator, I stopped practicing law. That was because I knew at the time the concepts out there in the public mind, concepts that were wrong. They were wrong.

I would be happy to discuss some of the former Members of this body who were attorneys and practiced law while they were here. Many of them were here at the time when the Senate and the Congress were actually a "citizen legislature," as Senator Howard Baker used to say. They came in January and went home in June, and they lived in

their own communities and they had a life of their own away from the legislative process. They were constantly informed on issues with which they dealt because of that constant interaction with the public from where they came. The doctors and the lawyers and the veterinarians did the same thing.

Now, the amendment of the Senator, interestingly enough, perpetuates income for two special classes of people: people who write books and those who teach. An interesting thing, teachers can go right ahead and be professors, but lawyers could not appear in the Supreme Court. Which is more important to the future of the country, I do not know. But I tell you the former Members of the Senate who made their appearances before the Supreme Court assisted the Supreme Court in reaching decisions that were in the great interest of this country.

The amendment of my friend says it is all right, you can write books and take the income from that, you can make appearances as a professor and take the income from that, but if you go right across the street and talk to a chamber of commerce or labor group or group of teachers per se and accept an honorarium from their association, he says, no, no. All of these critics are right, if you do that, if you appear before a group and get paid by the single appearance—just think of this, Mr. President. One appearance gives you the appearance of being a crook. One appearance of bringing disgrace to the Senate. But a series of them under a stipend sgreement, there is no discredit; a professorial stipend, there is no discredit.

We have colleagues who appear every day, or every week I guess it is, on radio. They get paid a stipend. This does not change that at all. But if you go downtown and appear before a national association, give a speech on a subject and answer questions for an hour, aha, that is bringing disgrace on the Senate.

We have let ourselves be painted into the corner. Those people who are critics of the Senate ande not painting us into the corner. We are painting ourselves into the corner. We painted ourselves into the corner last year when we voted 77 to 23 on the Senator's amendment. It did not become law. When it got to conference someone kicked it out, I guess.

The procedure we are trying to pass now will make it more difficult for Members of the Senate to do what is right. Instead of giving a speech, I guess I could write a little book, although one of my colleagues found this is not true. He wrote a little book and distributed it. He said I will go down and answer questions. By the way, 1,000 of you pay me $2 for the book.

The line the Senator from Connecticut draws is not a line between black and white.

And there ought not to be so many lines drawn. As a matter of fact, we ought to go back to the concept of ethical conduct.

This Senator was chairman of the Ethics Committee for awhile. We did not have any of these notorious investigations and whatnot at the time. We had a system of preventive medicine. I encouraged the staff to call around and say to Members of the Senate and to their staffs, "If you are planning to do anything, anything you are doing, if you have any questions about it, call us and we will give you advice free, a hot line. Just call. The cochairman and I agree. We will answer questions."

We did not have any of these cases develop then, because we did not try to draw lines in the sand and say, "If you do this you are OK; if you do not, if you do that, you are wrong." The Senator's amendment perpetuates that to an extent, and the House did it to themselves, too.

The House has said: "You can take 15 percent income of your salary in outside earned income," and then it sort of says, "those of you who are lawyers, you cannot practice. You cannot have any outside income." But if you are a veterinarian, it is all right; if you write a book, it is all right. But if you make a public appearance before a book group, that is wrong.

I say the Senator's amendment needs some analysis. I wish other Members of the Senate would come over here and think a little about what we are doing. The basis of my amendment is if you want to say let us conform to the House and the decision the House made on two-thirds of the package, then simply say we will conform when we do the complete package that the House did.

And the complete package was, in fact, doing away with honoraria in exchange for a pay increase. I am not saying let us raise the pay right now. I am saying let us make up our minds we are going to make the commitment we made last year that we would not do away with honoraria until we did raise the pay. That is the understanding, I think, that this Senator had of what we did last year.

If anyone wants to come in and say that is not the case, indicate anywhere that was the decision, I will be glad to debate that, too.

Incidentally, Mr. President, the Senator from Connecticut said yesterday he had a series of cosponsors. I have examined the RECORD. There are two cosponsors of this amendment. I would be happy to know who they are, who has joined in this sponsoring of a ban on honoraria without keeping the commitment concerning income as far as the Members of the Senate are concerned.

I agree; I stated at the very beginning that the perception is there. The undercurrent, as the Senator from Connecticut calls it, is there that somehow or other, people who accept honoraria are doing something wrong. To a certain extent, with due respect to my friend from Connecticut, he almost breathes life into the undercurrent and makes it a roaring flood, and says that those people in the past who accepted honoraria were wrong.

I do not think they were wrong. They did what was in accordance with the rules of the Senate and of the Congress as a whole. As a matter of fact, it is entirely within the ethical conduct of the U.S. Senate to engage in the practice of accepting honoraria, provided it is duly reported, disclosed, and totally on the record, publicly reported, as to what the Senator has done in accepting the honoraria in terms of travel, et cetera.

Mr. President, I do not really want to, and I am not filibustering this. God forbid I do that. I do think it is time to call the Senator's attention to it, and in particular, I would not want to have a vote on this matter until we have a chance to discuss it at our noon lunches on Tuesday. Everyone knows we meet for lunch on Tuesday. I do not think some people recognize the opportunities that we have to get together in our own party conferences on Tuesday at lunch and to discuss issues like this.

I am perfectly willing to do away with honoraria. As a matter of fact, I would do away with it today if the Senate would have the courage to match the House's pay and just accept the decision. But for this Senator, I have had too many of the people I consider on both sides of the aisle my very good friends tell me that they cannot face this kind of a decision in the timeframe the Senator from Connecticut wishes to impose upon the Senate.

It is a change that is unfortunate. But there are still people who come to this Senate who do not have independent means and who do have a considerably different cost factor in dealing with serving the Senate than many who live so close to the Senate.

I note that the Senator from Virginia is in the Chair. I am not meaning any reference to my friend from Virginia, either. It must be convenient, in one sense, to be able to go across the river and be home, but I am sure it has other drawbacks as far as the number of people that can be in your office the next morning.

But it is still a fact that I think the cost factor of representing a State in the Senate increases as one goes West. I can tell you it increases as you go Northwest. I would like to make certain that those people who are thinking about attempting to run for office can look at the Senate and say there is no difference between the House and the Senate. A young person who is totally dependent upon earned income right now who looks at the House and

the Senate has one decision to make, and that is to run for the House.

Maybe that is what some Members of the Senate want by the disparity, to decrease the number of people that might take on those who are here now. I do not think that is going to be the determining factor. The bill that is before the Senate, as a matter of fact, deals with the problem of how much money to raise to run for office.

I wish that the Senate would also back off from the approach of both sides on that one, Mr. President.

Mr. DODD. Will my colleague yield?

Mr. STEVENS. I am on a subject right now. As long as I am trying to fill the gap of 20 minutes, I think I will fill it.

Mr. President, I wish we would talk about the length of campaigns. I wish we would talk about when we allow people to file for office. As I have traveled throughout the world, I see my friends, for instance, in the British Parliament literally representing interests before their Parliament. They are paid and disclose the salaries they are receiving in being a spokesman for a particular industry, and serving in the Parliament itself.

Did you know that, Mr. President? But beyond that, they have limitations on the campaign time. They literally do not allow campaigns, as we do, to go on for years. I have known Members of the Senate that were running for 3 years, and people are running who are not Senators against an incumbent running at least 3 years before the election.

If you talk about what causes the increase in costs of campaigning, it is the length of the campaign, as much as it is the intensity of the campaign, that determines the cost. I think there are many things we could do to reduce the costs of campaigns.

What the bills on both sides of the aisle address is how to limit the amount of money you can raise, or how you can use the taxpayers' funds to meet the costs. But no one really addresses reducing the costs themselves through the mechanisms that are available and are in use around the world.

There is no reason for a campaign for the U.S. Senate to take 2 years, and there is no reason for someone to file for office. Do you know Federal law now requires you to file at the time—for office, as a candidate—the first time you accept a contribution? You are a candidate from that day on. So once a candidate, you are then involved in the whole sphere. I do not think that should be the case, Mr. President.

We have not examined the bill that is before us right now to look into what causes some of the increases in costs in campaigns in this country. We have merely said, "Is it not terrible that they are going up? Let us either take money from the Treasury and pay it, or let us limit what people can charge to provide candidate services, like the television people."

Many people have suggested requiring them to give us time, or to provide time at even a lower rate. I have never thought that was right, and I think that we ought to explore some of those concepts.

Senator DODD said yesterday when he proposed this amendment that he thought this was a good vehicle for this discussion, for the discussion of honoraria.

I do not have any problem with that. I do have a problem with the concept, as the Senator said yesterday, that we can strike a new blow for our own self-respect and demonstrate to our severe critics that the U.S. Senate has the intestinal fortitude to reform its own house and show its reputation as the greatest deliberative body in the world. How? By sneaking off and saying we did not mean to take honoraria after all? I do not think that is right. I think we ought to face up to the question of what was the honoraria for. It was there primarily to allow those who needed additional income to supplement their income legally, taking into account that there are several areas of income that are perpetuated when you are in the Senate without regard to whether you earn it or not.

I mention farm income as one of those items. I do not have anything against farmers. I do not imply that, but it is just that we recognize the problems of some portions of the Senate. We want to strike a blow for freedom by denying those people who are not farmers, who do not write books, and are not involved in being professors, an opportunity to appear legitimately before groups that are willing to pay them for their appearance.

I say this to my friend from Connecticut, that I remember the time when I went before the American Bar Association as a Senator to discuss a particular issue. Members of the Bar Association called upon me as a lawyer to make the appearance free, without any costs, even transportation costs. They brought out that, as a Senator, I could make an appearance before a bar association as a legitimate public expense. I did that. When I got out there, I found that a friend of mine, who is a former member of the Government, was transported to that meeting in a private jet and was getting $20,000 for sitting right beside me and making the same statement. I do not know whether my constituents thought I went out in a private jet and got $20,000, but I tell you I appeared without compensation and traveled at Government expense.

If we are going to talk about reality, we ought to talk about that. That is the reality of public life out there. There are a considerable number of ex-Senators who are getting paid 10 times the amount to appear and talk about the Senate process, based upon what they knew when they were here, and they have not been here for 6 or 8 years.

Who is misleading the public? Are we by saying let us do away with the honoraria, because it is bad for us to do that? But as soon as you walk out the door, you can accept an unlimited amount from the same groups to talk about the Senate.

I think it is time to debate some of these things. I do not think we ought to succumb to those who rail against the Senate and say that there is something wrong because we are taking honoraria. We debated honoraria openly on this floor several times. I helped write some of the prescriptions that are in existing law as compromises to meet objections which were raised at the time.

I think there are still inequities in this basic law, and I think we ought to at least recognize that. If there is going to be total comparability with the House, that requires accepting the basis of the House's decision on limiting honoraria and outside income, and it was the pay raise. My amendment does not raise pay. It says we will do away with honoraria when we do as the House did.

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. DODD. 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. DODD. Mr. President, I ask unanimous consent that the list of cosponsors of the Dodd amendment be printed in the RECORD at this particular point.

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

COSPONSORS, HONORARIA BILL

Senators Byrd, Leahy, DeConcini, Wirth, Lieberman, Glenn, Rockefeller, Robb, Adams, Harkin, Bryan, Kerry, Levin, Lautenberg, Bingaman, Reid, Kassebaum, Sanford, Wellstone.

Mr. DODD. Mr. President, my colleague has raised the question of whether or not there were other cosponsors. There are 19 others in this particular list. Mr. President, I just say—and I will be glad to yield the floor before my colleague will ask to leave—if an amendment is offered that says that the salaries between the House and the Senate ought to be equal at this point and do away with honoraria, let that be offered, and the Members can vote on it. I would prefer the result that we tried to achieve a year ago. Unfortunately, as I mentioned at the outset of my remarks, that did not occur. I do not believe that necessarily

precluded amendments from being offered that would have decided to prohibit honoraria. Or I suppose an amendment might have been offered to increase salaries without banning honoraria. The fact that there was some agreement reached years ago and that is how honoraria—you know the history of honoraria. Honoraria began because Members here did not want to vote for pay increases. So the idea came up that we would allow Members to collect fees from the outside as a way of supplementing their incomes. People began to realize that that system was only working to the detriment of this body. That was the original idea.

I think we all recognized today, at least there seems to be some recognition of the idea that pay ought to be satisfactory to meet the obligations of Members here, whether they be from the West or East, wherever they are from, in order to make it possible for them to live here.

I say to my colleague and others, I think most of the American public will have a difficult time understanding why it is that $100,000 a year is not adequate compensation. I understand the point of the Senator from Alaska, but the difficult problem he has is that most Americans are not going to understand that. Unfortunately, that is the world in which we live. I think we all agree that it is a system that perpetuates a process whereby a substantial portion of the salary of a Member of this body comes from special interest groups. Practicing law and representing a client before the Supreme Court, and treating dogs as a veterinarian, are substantially different, I suggest.

Mr. STEVENS. Will the Senator yield for a minute?

Mr. DODD. If I may finish my point. There are distinctions which Members know, such as writing an article, or discussing campaign finance reform, and appearing before some organization that may have a particular interest in that matter. As the debate unfolds, it seems there is a distinction that can be drawn. I do not think it is necessarily that great. It is a fundamental difference on being paid for an article you write for the general public, as opposed to appearing before a group of people who have a direct and special interest. Let us not delude ourselves. You are not being invited and paid $2,000 because you are a great orator or because you are Cicero. You are being invited because they want to pay you two grand because maybe you will listen to them, and maybe you will vote with them. Let us not delude or kid anybody around here. That is what this is all about.

We still get invited when we do not get paid. That may be a different point of view. But the organizations will tell you they are tired of it, too. They are tired of dishing out two grand to show up because somebody calls up and says, "I would like to show up in Boca Raton next weekend, and I understand you are meeting down there, and can I get my flight paid for and pick up a couple of thousand bucks for being there?" What are they going to say. "Of course, Senator, come on down, show up. Come for breakfast, have a coffee and a doughnut, we will give you two grand, say a few words, and we will see you later." That is what happens. I regret that. My colleague from Alaska knows that. We can talk all we want about how it ought to be.

I remember a lawyer who served in Congress. He had one door and on it was "Congressman Jones"—that was not his name—on the other he had "Attorney Jones." You opened up both doors, and you ended up in the same room—the same room. That is why this practice had to be changed. Regretfully, there are those who abuse the process.

Today, if we want to kid ourselves and believe the public does not get it, we are fooling ourselves. They understand it. That is why this has to be changed. I regret deeply that we do not have adequate compensation, as the Senator talks about, but do not confuse the issue here today.

That is not the issue. And the Senator from Alaska knows as well as I do, if he brings up an amendment that says Senators ought to be paid $125,000 or equal to whatever the salary is of the U.S. House of Representatives, that amendment will fail here. Whether we like it or not that is the result.

To suggest simultaneously that we ought to perpetuate a system we all know that has grown all out of proportion I think will be a mistake.

I say to my colleague from Alaska, with all due respect, he makes many good points, and he is a dear and cherished friend of mine. To suggest however this will denigrate the Senate or not be sensitive to the needs of individual Members who face particular financial difficulties or Members will leave because this amendment is adopted because they cannot collect honoraria, I think that demeans not only this institution but the individual. To suggest somehow that they will not retain their membership of representing their constituents because they cannot collect $23,000 in honoraria from special interest groups, I know of no Member here who would suggest that was the case, as difficult as those financial hardships are.

So when we come back I presume, Mr. President, based on what my colleague from Alaska has said, we will come back after our respective caucuses here and vote on this matter. But let us keep the two issues separate. If someone wants to join them, let us join them. Instead of having this amendment which says at some future date, why not offer the amendment today that says Members of the Senate shall be paid an amount equal to the House of Representatives and ban honoraria simultaneously? That is at least an honest amendment that will give people a choice here.

Unfortunately, I say to my friend from Alaska, I do not think that amendment will carry but that at least would put us in a debate here that would decide whether or not we want to support or endorse the practice that is presently in place in the House of Representatives and put us on total parity.

Mr. President, when we come back here we will continue for a few more minutes. I hope we get a time limit on this. I see no reason for perpetuating this debate for the rest of this afternoon. I am not going to stand by and watch this amendment or the arguments around here be distorted to the point we are suggesting somehow this is denigration of the U.S. Senate to suggest we ought to stop a practice that almost 35 Members on their own already decided is no longer something they want to be associated with. It seems to me the Senate ought to go on record as every other branch; the judiciary, the executive branch, the House of Representatives, the Federal Government have said enough; enough is enough, and we put an end to it. That is all this Senator is trying to do.

I yield the floor.

Mr. STEVENS. Mr. President, the inference of the comment of the Senator from Connecticut is my amendment is a dishonest amendment. I take umbrage at that. Beyond that, Mr. President, let me straighten out history.

The Senate and the Congress put a limitation on honoraria in recent years. There was never any limitation before. I am going to look it up when I come back, but my memory is Hubert Humphrey was the honoraria king and he raised a considerable amount of money throughout the country. And the Senator implies that people did not pay him for his appearances because they wanted to listen to Hubert Humphrey, somehow they wanted buy him.

That is not true. Hubert was a great friend of mine, too, in spite of the fact he sat on that side of the aisle. I tell you he was in great demand, as are some people in this body right now who are in great demand as speakers. That would not be this Senator because I do most of my speaking on the floor right here when I do get aroused to do it, and I am aroused right now. Let us not distort history. Just as great Senators were great lawyers in the past and had an income being a lawyer, an incidental income; being in the Senate today we gyrate to the point where former great lawyers may become great Senators, but they do not earn any more money as lawyers.

In terms of speaking the Humphreys of the future will not get paid as Hubert Humphrey got paid. As a matter of fact, I think he got some of his great notoriety in terms of national notoriety because of the Chautauqua circuit he was on, earning money to finance his political ambition to become President.

I will get those records. I do not think the Senate ought to expect a vote on this quickly this afternoon, because I am disturbed by the Senator's comment that imply those of us in fact taking honoraria in the past have somehow or other been dishonest. That is simply not true.

The Senator's version of history in terms of how we got limitations is not true. We put a limitation on honoraria because the people, like the Senator from Connecticut, came out here and said, is it not too bad? The scribes of the country are telling us this is bad—that was after Hubert had left, by the way.

They would not have told Hubert that because he would have been standing right here beside me if that happened in those days. Everybody here who knew Hubert knows that is true. It is not a dishonest function of the Senate to make public appearances. And, incidentally, by the way, it was in Hubert Humphrey's day that we started disclosing such income. There probably were people before him that made even greater amounts of income from making speeches publicly but they were not disclosed. Disclosure was one of the great reforms of the later 1960's and 1970's, and I think, it was true reform that the public knows really what is going on.

With disclosure came the people saying, my gosh look at that. These guys are making money out on this speaking tour.

As I said, there is no disclosure for a former Member of Congress; there is no disclosure for a former member of the Supreme Court; there is no disclosure for a former member of the executive branch. There is disclosure for Members of Congress, complete disclosure on their income.

But somehow having gone the step of reform telling everybody exactly what they are doing, suddenly the scribes of the country say, oh, my gosh, look at that; they are making that kind of money. The limitations went on at a time when the salaries were quite low, people thought. But I want to tell you, Mr. President, the salary of a Senator in 1970 in terms of actual income vis-a-vis the economy was greater than it is now in 1991. The Senator from Connecticut wants to take away the honoraria which were there in 1970, because of the pressure from some pressure groups.

Maybe we ought to name them. I will bring in some of those in writing, some of that diatribe we see about Members of Congress who accept honraria. I think we ought to air it out, and I do not believe that the Senator ought to come in here and say oh, look, we made a big mistake last year. We allowed honoraria to continue until we changed our pay and the Senator from Alaska suggests that we ought to keep the agreement we made last year—there is nothing dishonest in that—that maybe we ought to put in an amendment to raise the pay instead.

I am just saying let us keep the agreement we made last year not to raise the pay and to keep the honoraria until we do raise the pay. That is all my amendment does. We will have time this afternoon to discuss it at length.

The PRESIDING OFFICER. Who seeks recognition?

The Chair recognizes the Senator from Illinois [Mr. DIXON].

Mr. DIXON. Mr. President, I wanted to speak on a matter pertaining to the bill and not on the amendment at hand. I ask unanimous consent to do that.

The PRESIDING OFFICER. Without objection, the Senator is recognized to speak on the bill.

THE ROLE OF PAC'S

Mr. DIXON. Mr. President, I am a strong believer in campaign finance reform. There is nothing more important to our democratic system than the integrity of our election process. And since campaign contributions play such an important role in elections, that means that elected officials have a responsibility to ensure that American voters have confidence in the integrity of our campaign finance system.

Unfortunately, that confidence has been eroded in recent years. The public is rightfully discouraged about the ever-increasing costs of campaigns, and the public knows very well that candidates for public office now have to spend all too much of their time raising money. American voters, therefore, want real campaign finance reform. They expect real campaign finance reform, and they deserve real campaign finance reform.

The key to real reform begins with spending limits. Without spending limits, there can be no meaningful reform. S. 3 has meaningful spending limits, which is why I support this bill so enthusiastically. The legislation, of course, also contains many other significant reforms which I support. It is sound, thoughtful, workable legislation and I hope we will pass it overwhelmingly and send it to the House of Representatives.

There is one area, however, where I am much less enthusiastic, the area dealing with political action committees, commonly known as PAC's. The bill prohibits PAC's from making campaign contributions. For a number of compelling reasons, I think a flat ban is a mistake.

First, I think a flat ban is unconstitutional. The first amendment to our Constitution says, in applicable part, that:

> Congress shall make no law * * * abridging the freedom of speech * * * [or] to petition the Government for a redress of grievances.

Yet that is just what a flat ban does. I could go on at some length as to why that is so, but I think all my colleagues already know this ban is of extremely dubious constitutionality. That is why both S. 3, and the Republican approach have a standby provision that limits PAC contributions if the ban is found unconstitutional.

Perhaps even more important than the constitutional issue, however, is the fact that such a ban has no place in a democracy like ours. PAC's are simple organizations. Whether connected to a union, a corporation, a trade association, or an interest group, a PAC does nothing more than allow individuals who share common goals, values, and interests to pool their resources so that they can more fully participate in our political system.

PAC's have greatly increased the number of individuals participating in the political process because many people like the fact that they can participate through a PAC rather than making direct contributions. Frankly, I can understand why some people with an interest in our political system are reluctant to contribute directly. Anyone who has ever answered a direct-mail solicitation knows that responding to one triggers a blizzard of follow-on mail, both from the organization they contributed to, and from other organizations that borrow or purchase the first organization's contributor lists. Is it any wonder, then, that some people want to participate in the political process more indirectly?

Further, it is worth keeping in mind that the contributions to PAC's by their members are mostly small ones, the kind we say we want the most. PAC's boomed after the 1974 and 1976 campaign finance reform bills—bills that were designed to reduce the influence of wealthy individuals able to make large contributions to a candidate, or even to finance an entire campaign.

Current law has a $5,000 limit on the amount an individual can contribute to a particular PAC. Given that the amount an individual can give to a candidate directly is limited to $1,000 for general elections, that sounds like a lot. However, the average contribution to a PAC by its members is nowhere near $5,000. In fact, it is not even anywhere near $1,000.

A couple of examples illustrate this point. The Teamsters Union, a union, by the way, that endorsed President Ronald Reagan in 1980 and President George Bush in 1988, has roughly 1.6 million members. Roughly 10 percent of Teamsters members contribute to

the Union PAC, and their average annual contribution is less than $34.

Business PAC's are basically similar. According to the National Association of Business Political Action Committees, the average business PAC receives roughly $61 per year from 741 members.

Opponents of PAC's argue that they play too great a role in our election process, that they, too, often have narrow agendas, that they are trying to trade influence for votes on particular issues, and that they contribute overwhelmingly to incumbents. The combination of these things, it is argued, makes PAC's a negative influence on our political process.

It is true that the number of PAC's and total PAC contributions to elections have both increased enormously over the last two decades. However, as I have already indicated, the average contribution an individual makes to a PAC is small. Further, given the influence the trillion dollar-plus Federal budget has on American life, and given the critical role Federal regulatory and legislative decisions can have on American citizens, should they not have a right to get together to push their political agendas, and should they not have a right to put their money where their interests are?

As to the influence of PAC contributions to candidates on the legislative and electoral processes, I want to remind my colleagues that PAC's have significantly tighter regulation and stricter disclosure requirements than have been required of individual contributors. These provisions ensure that American voters know exactly what interests a PAC represents, who the PAC is contributing to, and how much it is contributing.

There may be someone around here that really believes that only PAC's have political agendas and that individual contributors are all motivated to give to a candidate solely because of their interest in good government, but reality is not that simple. That is why current law regarding individual contributors requires disclosure of their employers. However, it is much easier for a candidate to review the list of PAC contributions to his or her opponent, to compare that list to the positions the opponent takes or votes the opponent has cast, and to try to persuade voters that the opponent is acting in response to the contributors' interests rather than their interests, than to do the same thing based on lists of individual contributors. Yet, individual contributors may have given for exactly the same reasons the PAC's did, and the possibility that a candidate is perhaps too responsive to contributors and not responsive enough to constituents is no less when the contributors are individuals.

Disclosure is what is now required, and disclosure ensures that voters have the information they need to help them make an intelligent decision as to whether a candidate will really put their interests first.

The final concern some have is that PAC's contribute overwhelmingly to incumbents. All I can say to that is that it demonstrates that PAC managers may have some of the same flaws as some S&L managers, because, in the Senate, at least, incumbents are not overwhelmingly likely to be reelected. As I have stated here many times before, the theory of incumbent advantage is not supported by the evidence. Only 55 Senators that were in the Senate in 1978 were still in the Senate in 1988. Over that same period, 39 incumbent Senators were defeated. In two of those election cycles, newcomers won over 50 percent of the seats at stake.

Even outspending their challengers did not help a number of incumbents. In the three elections between 1984 and 1988, for example, 14 incumbent Senators were defeated; 11 of them outspent their challengers. To the extent that PAC's overinvest in incumbents, therefore, they simply hurt themselves and the political agendas they pursue. And frankly, since PAC contributions are not protected by the deposit insurance safety net, I do not think that this Senate ought to be in the business of trying to protect PAC's from their own mistakes.

Mr. President, for all the reasons I have set out, I think the case against a flat ban on PAC contributions is a very strong one. It seems to me that any perceived problems PAC's may create are more appropriately dealt with by limiting the percentage of PAC contributions a campaign can seek. S. 3 is about limits; its heart is a system of limits on campaign spending. In this context of limits, it makes sense to limit the amount of PAC contributions a candidate can accept.

Further, I am well aware that our election system must not only be above reproach, it must also appear to be above reproach. While I do not think PAC's represent a detriment to our electoral process, I am sensitive to the fact that many people see an appearance of a problem, and that means that some PAC reform is called for.

I had, therefore, considered offering an amendment restricting the amount of PAC contributions a candidate can accept to 25 percent of the spending limit in the candidate's State. This limit would, it seems to me, help guarantee that the goal of ensuring that candidates have broad-based financial support is met, and it would address the perceived problem that PAC's are increasingly dominating election financing.

Mr. President, this change would accomplish what needs to be accomplished, without denying Americans their constitutional rights to join together to participate in the election process. It is sensitive to what must be our top priority—protecting the integrity of our election process—without undermining important principles that are at the foundation of our democracy. Because of the deep divisions over the S. 3 spending limits, however, I think it would be impossible to get a vote on this issue that would be untainted by the overall controversies surrounding the basic bill. I am therefore not going to offer the amendment. I do hope, however, that the managers of the bill will consider what I have said here today, and keep in mind when the bill is eventually conferenced with the House of Representatives that a good case can be made for continuing PAC's with reasonable limitations.

I yield the floor.

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

The PRESIDING OFFICER (Mr. KERRY). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRESSLER. 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. PRESSLER. Mr. President, I ask unanimous consent to speak as in morning business.

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

TROOP LEVELS IN EUROPE

Mr. PRESSLER. Mr. President, I have just come from a meeting with German Chancellor Helmut Kohl and his sons Walter, a Harvard University graduate, and Peter, a student at MIT. We discussed a number of substantive issues, including the issue of our troop levels in Europe. It has been my strongest feeling for a long time that we should further reduce our troop levels in Europe, perhaps on a gradual basis, and develop a plan that would accelerate the reduction of our troops in Europe.

I certainly am not an isolationist. But American taxpayers have been bearing the heaviest burden of defending Europe. I know the NATO alliance has worked, and I have been a strong supporter of the NATO alliance. The NATO military alliance is perhaps the most successful military alliance in world history in the sense of having achieved its objectives without firing a shot.

If it were not for the strong military buildup and the strong military stance the United States took in Europe over the years, we probably would not have seen the changes now occurring in Eastern Europe. We probably would not have seen enormous changes in the Soviet Union. Indeed, I believe that the military efforts of Ronald Reagan, perhaps more than anything else, resulted in what has happened in Eastern Europe. I know that is open to debate.

There are many Democrats and Republicans who supported that buildup, including myself.

But now the time has come to reassess our bases and our troops in Europe. It certainly seems to me, as we look at Europe, we see some countries that are richer on a per capita basis than the United States. We see a Europe that does not spend nearly as much on defense as the United States. We see a Europe that benefits just as much as we do from our military operations, be they Desert Shield or anywhere in the world. We see a Europe completely capable of defending itself from any credible threat today.

We also see a Europe in which the threat of a ground invasion is certainly much less than before. That is not necessarily true on the nuclear side, because the Russians have not dismantled their nuclear capabilities. But they are dismantling their ground forces at an accelerated rate.

At the same time this is occurring, we are experiencing base closures in the United States. Indeed, I supported the base closure law, and I supported the decisions of the Base Closure Commission. There are many bases in Europe that we could relocate to the United States. We have a mobile capability with our forces, as demonstrated by Operation Desert Storm/Desert Shield. We can move troops anywhere in the world in a matter of hours.

Congress recently has taken steps to reduce our troops stationed in Europe. For example, the fiscal year 1991 Defense authorization bill included a reduction of 50,000 U.S. troops stationed in Europe from 311,000 to 261,000. I voted for this bill. Although I feel we should have made a greater reduction than 50,000, it was a step in the right direction. I also voted for amendments to the Defense authorization bill and the Defense appropriations bill that would have reduced our troop levels in Europe by an additional 30,000.

Mr. President, I am not alone in my concern regarding a reduction in the number of our troops stationed in Europe. According to the House of Representatives Armed Services Committee report on the fiscal year 1992 and 1993 Defense authorization bill:

> The administration has provided few concrete details about the specific force levels and basing plans envisioned for Europe by 1995.

Although the administration apparently is aiming toward a two-division Army corps and a three-air wing force in Europe, the House report further stated that—

> This force structure does not make clear the number of troops and location of bases needed.

The reasons and the arguments for these bases have come to an end. Yet, the American taxpayer continues to pay for them and our deficit gets larger and larger. Later this year, I shall join in offering amendments to further reduce these troop levels.

A TRIBUTE TO MOTHER

Mr. PRESSLER. Mr. President, each year I have been in office I have done something special for the mothers of my staff members. I send each staff member's mother a letter telling her of some special thing her son or daughter has done in the past year, along with a staff picture. I do this sincerely, with a deep belief that paying respect to mothers reflects a basic value in our society.

Also, I include a quotation about motherhood. This year I used a quote from President Teddy Roosevelt:

> When all is said, it is the mother, who is a better citizen. The successful mother is of greater use to the community, and occupies a more honorable as well as a more important position than any man in it.
>
> The mother is the one supreme asset of the national life. She is more important, by far, than the successful statesman, or businessman, or artist or scientist.

Mr. President, I ask unanimous consent to print additional material in the RECORD.

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

MOTHER'S DAY

The days started early. Her voice would call me out of a sound slumber. Chores needed to be done on the farm before school. My mother's gentle presence was always there—encouraging, nurturing, providing our meals and a hug.

My mom raised five children on a 160 acre South Dakota farm. That wasn't easy. It was the toughest job on the farm. In those days there weren't too many modern conveniences. But she raised us with patience and love, and we are all so grateful to her. She represents the typical South Dakota mother—she doesn't expect any thanks. She doesn't think what she did was unusual. She's just a good person.

Her quiet faith was our inspiration. She was the rock on which we hung in a storm. My mother's inner strength is something I still marvel. She faced the trials of rural life in the same way she celebrated the triumphs. She provided the drive and courage to help me achieve my dreams. My mother made sure we knew we would always be winners in her eyes.

As we near Mother's Day, please excuse me as I brag about my mother. I want to salute her and all the mothers who have made our state and nation what it is today.

In Washington, D.C., many people have high titles—Chairman, Ambassador, Archbishop, Senator, President. But on Mother's Day, we pause to salute our dear Mothers who, without special titles or recognition, did the most valuable, difficult and rewarding job—they raised us.

I will close with selected portions of a statement from Theodore Roosevelt:

"When all is said, it is the mother, who is a better citizen. The successful mother is of greater use to the community, and occupies a more honorable as well as a more important position than any man in it. The mother is the one supreme asset of the national life. She is more important, by far, than the successful statesman, or businessman, or artist or scientist."

Happy Mother's Day!

Mr. PRESSLER. Mr. President, I yield the floor, and 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.

RECESS UNTIL 2:30 P.M.

Mr. BOREN. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 2:30 p.m.

There being no objection, at 12:25 p.m., the Senate recessed until 2:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. BRYAN].

SENATE ELECTION ETHICS ACT

The Senate continued with the consideration of the bill.

Mr. FOWLER. Mr. President, because of some important business being conducted off the floor of the Senate, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WIRTH. 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. WIRTH. Mr. President, I ask unanimous consent to speak for 3 minutes as if in morning business.

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

The Senator from Colorado is recognized.

Mr. WIRTH. I thank the Chair.

(The remarks of Mr. WIRTH pertaining to the introduction of S. 1108 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. WIRTH. Mr. President, I yield the floor.

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. WIRTH. 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.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. STEVENS. Will the Senator yield for one moment without losing his right to the floor?

Mr. WIRTH. I am happy to yield to the Senator from Alaska.

Mr. STEVENS. Mr. President, I have been called to a conference. I have an amendment pending to the Dodd amendment. Under the circumstances, I have been requested to withdraw that amendment at this time and raise it at a later date so it will not confuse the issue on the Dodd amendment. At this time, I withdraw my amendment.

The PRESIDING OFFICER. The Senator has that right. The amendment is withdrawn.

The amendment (No. 248) was withdrawn.

Mr. STEVENS. I thank the Senator from Colorado.

Mr. WIRTH. I thank the Senator from Alaska. I know the managers of the bill will be pleased that we can now move ahead.

Mr. President, no single step is going to restore public confidence in the Congress and in our elected institutions of government. But our efforts here this week to reform campaign finance laws are going to make a major move in the right direction. The amendment of the Senator from Connecticut [Mr. DODD] certainly puts us even further on the right track.

Much of the debate this week surrounds the issue of money, money, money everywhere, its source, the amount of it, and its perceived, and I will say very real, influence in the U.S. Congress.

Mr. President, that is not a new phenomenon, as you know. We have been exposed to it for a long, long time. I suppose the histories of government and representative democracies are ones of being surrounded by money in various forms, and it is a continuing battle to try to keep that under control.

Whether that money comes to elected officials in the form of campaign dollars, or honoraria, its nature, I believe, is always suspect in the eyes of the public, for good reason. The vast amount of campaign money, I think, is clean, but as the old saying goes, one bad apple spoils the whole bunch. The same is probable true of honoraria. Just the perception of taint is as good as the real thing, and it is up to us to repair the bonds of trust that have been broken by this money between elected officials and the voting public. For that reason I support the Dodd amendment.

If you recall, this body had the chance to take care of this problem in November 1989 but failed to do so. At that time, in a significant number of discussions on the floor and debate, a lot of us remarked that this issue was going to be back, and so it is, and unless we take care of the problem now, it is going to continue to haunt us until we do. The time is right. The opportunity is upon us. Let us settle the honoraria issue once and for all and move on to other issues and get on with the very important issue of campaign finance reform.

Mr. President, I would like to spend a few minutes, if I may, as well addressing the broader issue of campaign finance reform. I think we have a very real cancer facing this Congress and facing our representative government if we do not fix it.

It is eating away at us. It is much more serious, much more severe, and much more of a problem than most people understand. I think the problematic nature of this and the cancerous nature of campaign finances, the way they are run today, seeps in in a variety of different ways. There are a number of different concerns, Mr. President. Let me list some of those.

First of all is gridlock. None of us who have been in this institution can be proud, at times, about the way in which the institution operates. Veto power is everywhere in the institution, and as we know it is always easier to stop something than it is to get something going and get something to occur. That is increasingly the case as every small interest group, no matter what interest group it is, now has developed a large capability to come in and attempt to influence what goes on in here because of the amount of money that it spends on candidates or, maybe even more importantly, on what people perceive to be that if that funding does not come to their campaigns it will go to the opponents, and even worse than that if it goes to the opponents maybe the worst thing of all it goes into independent expenditures and very heavy negative advertising.

The fear of funding is paralyzing much of our capacity to go ahead and operate. And that is a very real phenomenon here Mr. President. It is very deadly for this institution.

It is extremely difficult in any case to get agreement among 235 million Americans, 100 Members of the U.S. Senate, or 435 Members of the other body. That is hard enough as it is. But when there is this kind of veto power effectively here for the purposes in many cases of purchasing political outcomes, that makes it even more important and even more deadly.

We are at a time of real deadlock. The system is not working very well any more, Mr. President. It is time for us to make the kind of changes that can slow this down.

No single change is more important than limiting the amount of money that has to be spent. There is almost no Member of this institution, with very, very safe seats, either because of the political makeup of their State or their own political genius has made their seats safe. Most of us do not have that situation.

Most seats, are one way or another, relatively competitive. In that situation, we have to raise these huge amounts of money, spend a vast amount of time going out hither and yon with a cup out, sort of tapping the pavement and saying, "Please support my reelection," talking to a whole variety of people, many of whom do not know anything about it, are concerned perhaps only with a negative issue of their own and make contributions in that way.

All too often that happens, and as we are obsessed with and in need of raising so much money, what happens is that we are reaching out to all of these institutions and we have become a shadow of the self that ought to be here. We are so concerned about raising that money, or so concerned about where else it is that money might go if we displease a particular interest group, or worse still if we really do a job of displeasing that interest group they come out and run a rampant number of independent expenditure negative advertising.

Some of us had that experience of vast amounts of great expenditure ads being run. I would cite a number of those. I have done that before. I will leave that to another time. Gridlock is one of the results of this chase that we are on.

Another result I believe is that the level of debate in the U.S. Senate had declined significantly. One of our senior Members has talked about this as the loss of the soul of the Senate. We are supposed to be here to be the greatest debating society in the world. We are supposed to be here to be the most important deliberative body in the world, a model that other countries have said that they want to follow. We are in this institution presumably to try to take a long view of the society, a long view of our Nation's interest, and a long view of the interest of the country as a whole and try to put to rest many of the factional and geographical pressure that tend to pull this society apart if we are not there. That is the role of the U.S. Senate, again the soul of the Senate, to be debating what is good long-term for us, where are we going as a country and why.

That happens almost never. We in the institution now are so obsessed with the immediacy of each tiny interest, perhaps over legislating on that front. The level of debate and the level of care about that long-term direction has declined. It has declined in the short time that I have been here, and it has certainly declined from everything that I have read over a lot of history

about this institution and what it represents in this society.

Where are we headed and why? Very, very little of that, Mr. President.

And related to that this business of pursing money has a third phenomenon which is the capacity for us as Members of this institution to sit down and formulate a long and careful presentation about what we ought to do and where we ought to go, much less the one party or the other to do a coherent and careful job, disappears.

Mr. President, I will bet you anything that the occupant of the White House both during the last 8 years and now is delighted to help see us on this chase for money; that we spend so much time out now, Friday, Saturday, Sunday, Monday, raising an average of $4.5, $5 million per Senate race, spending an enormous amount of time doing it, I will bet you anything they are delighted to see this happen because that limits our ability to present a coherent vision of the country that may be different from theirs. From the perspective of a Democratic position, that is increasingly difficult for us to do so because we are spending so much time looking at the business of raising money and so little time focused on the public policy question.

A fourth area, Mr. President, is clearly the perception of this being a corrupting influence, the scandal, or potential for scandal is out there. I cannot believe, again from my reading of history, that any time you have this much money floating around, any time you have this kind of millions and millions of dollars at stake over a short period of time being raised and being spent, that any time that happens you are not going to eventually have some kind of corrosive and corrupting influence.

I think we have seen edges of that, we have seen pieces of that over the last 3 or 4 years. And I am here to tell you if we do not make the changes now I believe that we are going to have a major scandal blowing up some time down the line that is going to come back and harm this institution and harm the notion of representative government even more thoroughly than it has already.

A final note, Mr. President. The argument has been made that we should delete all provisions in this related to public financing. I would just ask anybody who has a sense of history to look at that question.

We changed the rules very significantly for the Presidency following the Watergate scandal. We changed the way in which Presidential campaigns, which prior to 1974 had been funded by a handful of very important and very large interests, we changed that function and the Presidential campaigns are now working very well, Mr. President. We have gotten rid of the taint of a few interest groups being able to have enormous influence over the highest office in the land and in the world. That worked because of the checkoff fund and because of public financing. That worked because we were able to limit the amounts of money that major pieces of influence could bring to bear on that office.

It has been good for the Presidential campaign. It has been accepted, I believe, by all of the candidates for President, with the exception, I believe, of one, former Governor Connally; and it is a process we ought to be adopting here as well.

It is that piece of public financing, very inexpensive compared to the costs. Senator KERRY will be talking at great length and very eloquently about this matter. It is very important: minor investment, major return to this society.

This bill in front of us, in summary, is extraordinarily important for our institutions of government. We have reached a point of deadlock. The level of debate in this institution has declined significantly. The ability to articulate an alternative voice has also declined and we are seeing the potential of very, very significant scandal within our government institutions of democracy.

We must change this, Mr. President. We all know this is the case. We must change it, and I hope the legislation offered by the distinguished majority leader and the distinguished Senator from Oklahoma, amended by the legislation offered by the Senator from Massachusetts [Mr. KERRY] will be accepted. It is what this country needs. It is the right thing to do. And it certainly will make the job, our job, in a representative government, a much, much better one.

I think we can do a better job than we are doing now and this is the best route to doing it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, may I inquire of the Chair the parliamentary situation? As I understand it, the Senator from Alaska has withdrawn his amendment to the Dodd amendment; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. DODD. Mr. President, I briefly want to say to the Senator from Alaska, I did not have a chance to respond at the conclusion of his remarks prior to the break for lunch that I, in no way, intended to characterize his amendment as less than an honest amendment. I was merely suggesting there may be another amendment that might more directly reach the issue of whether or not we deal with pay at this particular point.

But my regard and respect for my friend from Alaska is as high at this hour as it was before. I have a great deal of affection for him and understand the arguments he was making. I hope my colleague, on this particular proposal, will accept what may have drawn as a conclusion anyway, that honoraria are an element we no longer need as a part of public life here. We have to move on and deal with these other means of compensation.

At any rate, I deeply appreciate the friendship of my friend from Alaska and his withdrawal of that amendment.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE Mr. President, the amendment offered by my distinguished colleague from Connecticut, Senator DODD, is nothing more than a sideshow to the debate today on campaign finance reform.

This amendment may pass the Senate, but it will never be signed into law.

President Bush intends to veto S. 3, and this veto will be sustained.

Everyone in this Chamber knows that.

In fact, many of my colleagues are counting on the President's veto as a way to vote "yes" on an honoraria ban today, while taking honoraria tomorrow.

But, Mr. President, I do not want my position to be misunderstood.

I have absolutely no problems with the concept of banning honoraria.

In fact, Congress banned honoraria in 1989 when we passed the Ethics Reform Act.

Under the Ethics Reform Act, the aggregate amount of honoraria that a Senator may receive declines each year in direct proportion to the cost-of-living adjustment to which each Senator is entitled.

In 1990, for example, Senators were able to receive a total of $27,337 in honoraria, or approximately 27 percent of their annual salary.

In 1991, the aggregate cap on honoraria declined to $23,068, or 22.63 percent of a Senator's annual salary.

And in 1992, the Senate Disbursing Office has estimated that the aggregate cap on honoraria will be even lower—$19,464 or 18.45 percent of the annual Senate salary.

Soon enough, honoraria will be completely phased out, as the Senate uses up all of its cost-of-living adjustments.

So Mr. President, not only will this amendment never become the law of the land.

It is also too much, too late.

This amendment should have been offered in 1989 when the Senate was debating the issues of pay and honoraria, not in 1991 during a debate on campaign finance reform.

Finally, Mr. President, I want to commend my distinguished colleague

from Alaska, Senator STEVENS, for suggesting that the Dodd amendment become effective if, and only if, Senate and House pay rates are equalized.

The annual salary for those Senators, who are not in the leadership, is currently $101,900.

The annual salary for House Members is $125,100, or $23,200 more than their Senate counterparts.

As far as this Senator is concerned, there is no reason why Senators should receive a lower annual salary than Members of the House.

We work as hard and we do as much.

The Dodd amendment, however, only serves to exacerbate the widening gap in pay between the two Houses.

I urge my colleagues to vote "no" on the amendment.

The PRESIDING OFFICER (Mr. KERREY). Is there further debate?

There being no objection, the question is on agreeing to the amendment of the Senator from Connecticut.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Delaware [Mr. BIDEN], is 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 Idaho [Mr. SYMMS], is necessarily absent.

I also announce that the Senator from North Carolina [Mr. HELMS], is absent due to a death in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire a vote?

The result was announced—yeas 72, nays 24, as follows:

[Rollcall Vote No. 65 Leg.]

YEAS—72

Adams	Fowler	Moynihan
Akaka	Glenn	Murkowski
Baucus	Gore	Nickles
Bentsen	Graham	Nunn
Bingaman	Grassley	Packwood
Bond	Harkin	Pell
Boren	Hatfield	Pressler
Bradley	Heflin	Reid
Breaux	Hollings	Riegle
Brown	Johnston	Robb
Bryan	Kassebaum	Rockefeller
Bumpers	Kasten	Sanford
Burdick	Kennedy	Sarbanes
Byrd	Kerrey	Sasser
Conrad	Kerry	Seymour
Cranston	Kohl	Shelby
D'Amato	Lautenberg	Simon
Daschle	Leahy	Simpson
DeConcini	Levin	Specter
Dixon	Lieberman	Thurmond
Dodd	McCain	Warner
Durenberger	Metzenbaum	Wellstone
Exon	Mikulski	Wirth
Ford	Mitchell	Wofford

NAYS—24

Burns	Domenici	Lugar
Chafee	Garn	Mack
Coats	Gorton	McConnell
Cochran	Gramm	Roth
Cohen	Hatch	Rudman
Craig	Inouye	Smith
Danforth	Jeffords	Stevens
Dole	Lott	Wallop

NOT VOTING—4

Biden	Pryor
Helms	Symms

So, the amendment (No. 246) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 247 TO AMENDMENT NO. 242

The PRESIDING OFFICER. The question is on agreeing to the McConnell amendment No. 247.

Mr. MCCONNELL. Mr. President, this amendment, which I understand will be agreed to by the other side, simply provides for expedited Supreme Court review of any legislation that we pass in this area. It is something that obviously needs to be done. That was done with the previous legislation, the legislation under which we currently live and work, which led to the decision of Buckley versus Valeo.

Mr. BOREN. Mr. President, this amendment is certainly acceptable on this side of the aisle. I think all of us have an interest in having a determination on any constitutional questions that might be raised by this legislation when it becomes law, and therefore there is no objection to this amendment on this side of the aisle. In fact, there is support for it.

Mr. President, I am pleased to say that my colleagues on this side of the aisle are willing to accept the amendment by the Senator from Kentucky [Mr. MCCONNELL]. His amendment sets a fast-track consideration by the Supreme Court of the pending legislation, similar to the language incorporated in the antiflag desecration legislation enacted during the 101st Congress.

As with all major campaign finance legislation passed by this body, in the past, now and even in the future, the Federal courts and ultimately the Supreme Court are bound to consider constitutional issues arising from various aspects of the law. This amendment which allows expedited review by the Supreme Court will ensure the highest court of the land will hear a case arising in the Federal courts as rapidly as possible.

We have been very careful in writing S. 3 to ensure we do meet constitutional muster as laid down in the landmark Buckley versus Valeo Supreme Court case as well as other cases decided since 1976. In fact, we have allowed for fall-back provisions on aspects of the bill that we felt may receive the closest court scrutiny. We have structured severability to ensure that aspects of the bill will stand even if the Court rules that a provision of the law does not meet a constitutional test, as well as to guarantee that the remaining amendments fit together in a consistent manner, allowing Congress to revisit any provisions following a Court review.

As I said Mr. President, I welcome the Senator from Kentucky's amendment, and I welcome a court review of this legislation, because I am firmly convinced the Court will uphold the careful balance we have structured in the pending Senate Elections Ethics Act of 1991.

VOLUNTARY LIMITS AND LIMITED PUBLIC BENEFITS

The fundamental aspect of the bill is to clean up elections by placing strictly voluntary spending limits on overall expenditures in return for numerous public benefits. Title I of the bill is based on the Presidential public financing system, which the Supreme Court upheld in the Buckley case. In that case, the Court found that a system of voluntary campaign limits tied to inducements such as public financing are unquestionably within the bounds of the Constitution.

Like the Presidential funding provisions, title I is designed "to reduce the deleterious influence of large contributors on our electoral process, to facilitate communication by candidates with the electorate, and to free candidates from the rigors of fundraising." (*Buckley*, 424 U.S. 1, 91). The major modification is that title I, in contrast to the Presidential system's full public financing, provides a package of partial public benefits and requires candidates to meet the remainder of their financial requirement with private moneys.

Similarly, title I complies with the spirit of Buckley in that it is "a congressional effort, not to abridge, restrict, or censure speech, but rather to use public money to facilitate and enlarge public discussion and participation in the electoral process, goals vital to a self-governing people." (Id. at 92.)

Like its Presidential funding provision counterpart, title I of S. 3 "condition(s) acceptance of public funds on an agreement by the candidate to abide by specified expenditure limitations" on the theory that "(j)ust as a candidate may voluntarily limit the size of the contributions he chooses to accept, he may decide to forgo private fundraising and accept public funding." (Id. at 57.)

Political contests are competitions. Politicians know that a candidate who has an excellent chance of prevailing at the ballot box in an equally financed contest will see their chances diminish significantly in a contest in which his opponent overwhelmingly outspends him. That being so, a candidate should not be asked to opt into a system which, as a matter of law, denies him the opportunity to match his privately financed opponents.

However, neither title I, nor S. 3 as a whole, restricts the current right of individuals to run a privately financed Senate campaign free of expenditure

limit. Title I's purpose is to provide for diversity and competition in Senate elections by providing such candidates with a second financing option to the only current option—pure private financing of senatorial campaigns.

The goal of title I is to open up the campaign system by making it possible for individuals who wish to seek public office and who do not wish to be subject to the deleterious influences of large contributions. Candidates who do not wish to spend a disproportionate percentage of their campaign time on the rigors of fundraising, but rather on the rigors of full free political debate will be encouraged under title I.

Title I is plainly legislation for the general welfare that is entirely consistent with the first and fifth amendments to the Constitution, and indeed it is legislation that furthers the first amendment's most basic purposes.

BROADCAST PROVISIONS

As part of the public benefits contained in the bill are proposals affecting broadcasters in this country. Here, too, some may say, are serious constitutional issues the Court may need to review. Again, I welcome review because we have crafted this legislation to meet tests laid down by the Supreme Court.

In *Red Lion Broadcasting Co.* v. *FCC* (395 U.S. 367, 1967), the Supreme Court found that regulations implementing the fairness doctrine enhance rather than infringe upon first amendment aspects of speech and press. The Court emphasized both the public aspects of the airways and the scarcity of broadcast frequencies to declare that it "is the right of viewers and listeners, not the right of broadcasters, which is paramount." (Id. at 390.)

It is from this advice that S. 3 provides to candidates publicly funded vouchers to purchase television time and a 50-percent discount from the lowest unit rate charged to other advertisers. S. 3 also mandates disclosures and accountability requirements for independent spending and other political advertising.

The Court has upheld the requirement that broadcasters give "reasonable access" for political advertising by Federal candidates during an election. The High Court determined that the "reasonable access" regulation is an effort "to assure that an important resource—the airways—will be used in the public interest." (*CBS, Inc.* v. *FCC*, 453 U.S. 367, 397, 1981.)

Last year the Court restated the public interest in the broadcast area in finding that the FCC's minority ownership policies promote broadcast diversity: "the diversity of views and information on the airwaves serves important first amendment values." (*Metro Broadcasting Inc.* v. *FCC*, 110 S.Ct. 2997, 3010, 1990.)

In all of the provisions affecting broadcasting, we carefully struck a balance between the public interest and the need to ensure undue burdens were not placed on candidates, independent groups, or broadcasters themselves.

In fact, on this last point there are others who would go much further in this Chamber. A bipartisan group of Senators, including the distinguished minority leader, the Senator from Rhode Island [Mr. PELL] and the Senator from Delaware [Mr. ROTH] all believe it is fair and reasonable to expect broadcasters to provide free time to Federal candidates. While this is certainly in the public interest, we believe this would place an undue financial burden on broadcasters, and instead included the reduced lowest unit rate provision only for candidates who agreed to voluntary spending limits.

The requirement of a personal appearance and disclosure requirements for candidates and independently sponsored advertisements do not seek to regulate the content of political advertisements. The provisions require only that a candidate making a political advertisement be accountable for the ad's content and message. As part of the electoral process, the restoration of "the rights of viewers and listeners" in campaign advertising is of paramount importance.

PAC BAN, SOFT MONEY AND OTHER ISSUES

There are various other issues, including the ban on PAC contributions, the ban on soft money, and others that may come before the courts for review. In some areas, we specifically state provisions such as the ban on PAC's will not put into question earlier law such as the ban on outright contributions from corporations, national banks, and unions. For other provisions, we rest on the committee's deliberations and report as a history for their support. I believe all will pass constitutional muster, and I look forward to any Court review.

As I said, I am glad the Senator from Kentucky offered his amendment, and I welcome its inclusion in the pending legislation.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 247) was agreed to.

Mr. MCCONNELL. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator MOYNIHAN be recognized to offer his amendment regarding unearned income; that there be 40 minutes of debate on the amendment, with the time to be equally divided and controlled between Senators MOYNIHAN and MCCONNELL; that no amendment be in order to the Moynihan amendment; that when all time is used or yielded back, the Senate, without intervening action or debate, proceed to vote on or in relation to the Moynihan amendment.

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

DEATH OF RAJIV GANDHI

Mr. MOYNIHAN. Mr. President, if I may speak for just a moment on another matter and one much graver. I hope the Senate might be in order.

The PRESIDING OFFICER. The Senate will come to order.

Mr. MOYNIHAN. I rise to inform the Senate that which many individual members will know, which is that the former Prime Minister of India, Rajiv Gandhi, in the midst of an election that takes place over several days, in which he had every prospect of becoming once again Prime Minister, has been assassinated. He falls as his mother fell, as, indeed, Mahatma Gandhi fell, we do not know but cannot doubt, at the hands of persons of fierce and demented sectarian belief. The world has lost a great democratic leader.

The loss to India is difficult to contemplate at this moment. We can only offer our condolences to her 680 million people. I am sure there will be a proper resolution offered later. The world's largest democracy has been shaken in the midst of the most important of all democratic processes, the choice of a leader. they have now been deprived of the leader whose party was most likely to have prevailed. It is an experience this body has known on more than one occasion.

I would put it this way, sir. You can blow up a leader, but you cannot blow up a democracy. We send our condolences at this moment for the people of India.

Mr. CRANSTON. Mr. President, I rise to join the distinguished Senator from New York in mourning the death by assassination of the former Prime Minister, and quite possibly a man who was destined to be a future Prime Minister of India. It is tragic that of all places this occurred in India, the country inspired to nonviolence by the leader Mahatma Gandhi, whose teachings were a guide to Martin Luther King in our country.

I hope we will not see a disintegration of democracy in India into chaos and violence in the wake of this act, and we should be prepared to do what we can to help them in their moment of travail.

It has been my privilege now to know three generations of this family. I knew Jawaharlal Nehru, the Prime Minister, the grandfather of Rajiv, and I knew Indira Gandhi, and I knew quite well the son who has just fallen.

It is a tragic moment not only for India but for the world. We all mourn not just for Rajiv Gandhi, but for

India, because this happened in that country.

Mr. DURENBERGER. Mr. President, I, too, want to express my profound sorrow at the news of the assassination of Rajiv Gandhi. His murder is a horrible and a vile act and it saddens all of us deeply.

I, too, knew Rajiv Gandhi. I was in Delhi one day and did not expect to be able to see the then Prime Minister, and I expressed the desire. And he said well, I will be pleased to see you and Congressman TONY HALL for 5 minutes. And about 1 hour later in our conversation we excused ourselves so that he could go to a Cabinet meeting. We spent much of the time talking about the importance of personal relationship between human beings, and how important it was to extend not only the hand but the heart of love as well as fellowship across borders and within a country like India.

So when I heard that his life had been taken tragically I felt that not only was a friend lost, but a person who has and would have contributed so much to the understanding that men and women look for in their political leaders not only in this country but in this world.

So I join, as many of you have already, in our condolences to his family, to pray for his assassin as well, and to pray for the people of India—that this kind of an act which has plagued this family, plagued that country, might end at some point in time; that the lessons he had learned in his life and that his family learned through so many tragic ways might become the gospel, if you will, for everybody throughout the world.

I yield the floor.

Mr. PRESSLER. Mr. President, I, too, join in the remarks concerning the very tragic news about Rajiv Gandhi. I felt he would have become the Prime Minister again.

I was the first American elected official to meet with him following his January 1985 inauguration as Prime Minister of India. I think he was a great world leader. I know we have had our controversies with India and with that part of the world. We have been heavily involved in urging that nuclear weapons not proliferate in India and Pakistan. But I think Rajiv Gandhi's untimely passing meant that a chance for real stability in that part of the world may have been delayed.

During my January 1985 meetings with then Prime Minister Gandhi, we discussed the future of U.S. agricultural sales to India, India's food needs, and other topics. Of particular interest to him was my suggestion that his government discuss with our Government the possibility of sharing U.S. pollution control technology to assist in the cleanup of the Ganges River. Controlling and reversing pollution of the Ganges was one of his most important goals. At the time, I thought it would be helpful if his engineers would talk with officials of the U.S. Army Corps of Engineers about our latest pollution control methods.

We also discussed his plans to rely on greater private sector activity as the principal engine of Indian economic growth. That was an important turning point for Indian economic progress.

Mr. WOFFORD. Mr. President, as another veteran of India in this body, I join in the wave of sympathy that will go from here and from the United States to India.

The high point of the year in which my wife and I spent as students in India in 1949 was a long interview with Prime Minister Jawaharlal Nehru, and in later years with his daughter, the Prime Minister, Indira Gandhi.

I have admired Rajiv Gandhi.

But I want to, in the midst of the tragedy, also point to the success of India in the great enterprise of self-government. I was in India on the eve of the first free election, the largest that ever took place in the world, which was held peacefully. I was in India again the week after Mrs. Gandhi fell in another great election, one of the first times a leader of a major nation in the Third World was replaced in a free peaceful democratic election. I was not there, but I felt equally heartened when she came back and won in another great free election.

I have confidence that despite the tragedy, in fact learning from the tragedy, the people of India will continue the extraordinary record that they have been making in democracy on this planet.

Mr. SIMON. Mr. President, I think Senator WOFFORD has aptly described the feeling here as a wave of sympathy that goes to the Gandhi family, and to the people of India. We mourn not simply for the tragic loss of this leader, but for the processes of democracy that is harmed in all of this.

Back in 1959, as a young journalist, I had an opportunity to have dinner one evening with Prime Minister Nehru in the Prime Minister's residence, and about halfway through the evening Mrs. Gandhi, then head of the Congress Party, came in. She was telling about visiting a small village, and explaining to them that they belonged to a country called India.

I will never forget going back to the old Imperial Hotel—struck me as a terrible name for a hotel in an independent India—thinking that if the President of the United States thinks he has problems he ought to be Prime Minister of India for a while. Then I had the opportunity to get to know slightly—not as well as my colleague from New York, who is a former Ambassador and some others here probably—Mr. Gandhi. He was an exceptionally fine man. India has lost a great leader. The processes of democracy, wherever it is in the world, have lost through this tragedy.

Mr. MOYNIHAN. Mr. President, I simply wish to echo and reaffirm the remarks of so many colleagues. How remarkable an event that among the Senators just randomly on the floor we could find so many who have had a personal encounter with the Prime Ministers of India; going back to Jawaharlal Nehru.

The Senator from Minnesota reflects very much the importance that those leaders have in our country; that a 5 minute meeting for Senator DURENBERGER would turn into an hour of discussion; if I may say with my last remark—as in the conversation with the Senator from South Dakota and California—many of these discussions concerned nuclear proliferation. This may be one event that might bring about some sense of how manifest that problem has become in the rest of the world, outside the confines of the cold war, and how truly depressing it is.

And in that context, sir, if I could take the occasion, not regretfully, to take note of and to congratulate the Senator from Pennsylvania, our new colleague and our old friend, for bearing witness here to day in his first speech in the Senate to his lifelong concern with democracy, and not just democracy, but what is so often the precondition of successful democratic government, which is nonviolence.

There are not many individual acts that will be recorded in the history of the 20th century, two or three centuries from now. One of them will be the telephone call made by the then candidate for the U.S. President, a U.S. Senator from Massachusetts, to the wife of Martin Luther King, being then imprisoned. As the world knows, this was suggested by HARRIS WOFFORD. It is a moment of moral significance in our history, and even if the outcome of both of those lives, John F. Kennedy and Martin Luther King, and now this life, Rajiv Gandhi have been bitter, their truth lives on, and does their sweetness. I congratulate the Senator.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, I have been thinking about our friend, Rajiv Gandhi, as I have been sitting here listening to our colleagues. I add that the thing I remember most about him, other than his devotion to democracy and to nonviolent solutions to problems, as his beautiful smile. I do not think of anyone that I know that had a more beautiful smile than this young man.

Senator MOYNIHAN spoke of HARRIS WOFFORD and a notable suggestion he made back during the 1960 Presidential campaign. Earlier than that, he did something else with great note, and that was to suggest to Martin Luther King, and to urge him and to cause him

to go to India to study the nonviolent movement that had been left by Mahatma Gandhi there. And that had a lot to do with shaping the thinking of Martin Luther King as he undertook his noviolent approach of the problems of the lack of civil rights in our country.

It is an odd coincidence that HARRIS WOFFORD arrived in the Senate, from Pennsylvania, just in time to make his first remarks in the Senate, as Senator MOYNIHAN noted, about India and about the remarkable family that has provided the leadership to that country. That is another reason for our being thankful that HARRIS WOFFORD is now with us in the Senate.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that any Senator who wishes to submit or to extend remarks on this subject in the RECORD be allowed to do so for the remainder of the day.

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

SENATE ELECTION ETHICS ACT

The Senate continued with the consideration of the bill.

Mr. MOYNIHAN. Mr. President, to resume our debate on an issue of the nature of democratic government and democratic representation, I believe some time will have expired on that side, not of the aisle, but of the amendment I am about to offer. Can I ask what time remains?

The PRESIDING OFFICER. The time will not run until the Senator sends his amendment to the desk. The time will not run on the Senator's side until he sends his amendment to the desk.

AMENDMENT NO. 249 TO AMENDMENT NO. 242

(Purpose: To amend the Ethics in Government Act of 1978 to apply the limitations on outside earned income to unearned income)

Mr. MOYNIHAN. Mr. President, I send an amendment forward for myself and Mr. GARN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. MOYNIHAN], for himself and Mr. GARN, proposes an amendment numbered 249 to the amendment No. 242.

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

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

The amendment is as follows:

On page 101, between lines 4 and 5, insert the following:

SEC. 405. UNIFORM LIMITATIONS FOR EARNED AND UNEARNED INCOME.

(a) SUBSTANTIVE AMENDMENTS.—Section 501 of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended—

(1) in section 501(a)(1) by inserting "or unearned" after "earned"; and

(2) in section 501(a)(2) by inserting "or unearned" after "earned".

(b) TECHNICAL AMENDMENTS.—(1) The heading for title V of the Government Ethics Act of 1978 (5 U.S.C. App.) is amended by striking "EARNED".

(2) The heading for section 501 of the Government Ethics Act of 1978 (5 U.S.C. App.) is amended by striking "EARNED".

(3) The heading for section 501(a) of the Government Ethics Act of 1978 (5 U.S.C. App.) is amended by striking "EARNED".

Mr. MOYNIHAN. Mr. President, this is a simple amendment, identical in nature and in purpose to that which was offered a year ago in exactly this setting. The Senate just accepted an amendment which would ban the acceptance of all honoraria for Senators, beginning January 1, 1992, and limit outside earned income to 15 percent of a Senator's salary.

I voted for that. But this year, as last year, Mr. President, that term "earned income" leapt out. There are, in the Tax Code, two forms of income, arbitrarily designated, but roughly accurate. There is earned income, and there is unearned. And in the general understanding of the public, an accurate general understanding, earned income derives from labor, and unearned income from capital, and that ancient division of circumstances comes to us here today as it had done from the beginning of the Republic.

Now it is the view of myself, Mr. GARN, and last year, a majority of the body, that if you are going to limit income, limit all forms of income, earned and unearned. The logic is really powerful, as is the clarity of the proposal.

I make the point, sir, that this is not a partisan matter, as is evidenced from the sponsorship. Indeed, I have to make the point that in the last occasion, far more Democratic Senators voted against a limitation of unearned income than voted for it; and correspondingly, far more Republicans voted for a limit on unearned income, as voted against it. They were almost exactly symmetrical votes: 35 Democrats voted against it, as against only 14 Republicans, where correspondingly, only 20 Democrats voted for it, while 31 Republicans voted against it.

I wonder if I might at this point ask unanimous consent to have printed the last vote in the RECORD so Senators might conveniently recall how they voted, if they have any difficulty doing so.

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

VOTE ON THE MOYNIHAN AMENDMENT TO THE BOREN SUBSTITUTE AMENDMENT, AUGUST 1, 1990

FOR (51)

Akaka, Baucus, Biden, Bond, Boren, Boschwitz, Breaux, Burns, Chafee, Coats, Cochran, Cohen, Conrad, D'Amato, Daschle, Domenici, Durenberger, Exon, Fowler, Garn, Gorton, Grassley, Harkin, Hatch, Hatfield, Helms, Jeffords, Johnston, Kassebaum, Kasten, Kerrey, Kerry, Leahy, Lott, Lugar, McCain, McClure, McConnell, Mikulski, Mitchell, Moynihan, Murkowski, Nickles, Packwood, Pressler, Riegle, Sarbanes, Sasser, Simpson, Specter, Thurmond.

AGAINST (49)

Adams, Armstrong, Bentsen, Bingaman, Bradley, Bryan, Bumpers, Burdick, Byrd, Cranston, Danforth, DeConcini, Dixon, Dodd, Dole, Ford, Glenn, Gore, Graham, Gramm, Heflin, Heinz, Hollings, Humphrey, Inouye, Kennedy, Kohl, Lautenberg, Levin, Lieberman, Mack, Metzenbaum, Nunn, Pell, Pryor, Reid, Robb, Rockefeller, Roth, Rudman, Sanford, Shelby, Simon, Stevens, Symms, Wallop, Warner, Wilson, Wirth.

Mr. MOYNIHAN. I say, Mr. President, to anyone that supposes we are introducing an extraneous matter, no. This issue was present on the floor of the Constitutional Convention in Philadelphia, 204 years ago.

The decision by the Framers of the Constitution to provide for an income to the President, to the Members of the House and Members of the Senate and to the judiciary, was a matter of large constitutional moment. This was no small routine of government. In defense of the decision to pay the President of the United States, it was said he is not a king; you did not pay a king, Mr. President. The kings had their income. It would be called unearned income.

The judiciary was by now I believe paid in Britain but it was certainly going to be paid here and their pay was not to be touched during their lifetimes—their lifetimes, not just their time on the bench. And then came the question of paying the Congress. This was not then an issue in Britain. The idea had never occurred to anybody. Half a century later it would.

In 1832, Lord Blandford as part of the reforms of that year proposed paying members of the House of Commons, not the Lords, of course, and that was defeated. Then it became a great issue of British politics, one of the six demands of the so-called on the Chartists which had Britain in turmoil for half a century.

The Chartists demanded that members of the House of Commons be paid so that working men could serve there, and the No. 1 objection was: That is exactly the point. Working men will serve here, then what kind of a body will this be? The neighborhood would go to hell.

And it was not until 1910 and the Liberal Government of that year that the British finally paid MP's. We went through the same discussion on Tuesday, June 26, 1787. I am reading from James Madison's notes of the Constitutional Convention. General Pinkney of South Carolina brought the issue up. I will read Madison's notes.

General Pinkney proposed "that no Salary should be allowed."

They are now talking about the Senate.

As this (the Senatorial) branch was meant to represent the wealth of the Country.

Let me say that again. The proposal before the Convention was that no salary be paid to Senators as the Senate was meant to represent the wealth of the country. It ought to be composed of persons of wealth.

* * * if no allowance was to be made the wealthy alone would undertake the service.

Then "(he moved to strike the clause)" which would have provided for salaries.

Next paragraph: "Doctor Franklin seconded the motion," that is to say, of General Pinkney of South Carolina not to pay this body.

He wished the Convention to stand fair with the people. There were in it a number of young men who would probably be of the Senate. If lucrative appointments should be recommended we might be chargeable with having carved out places for ourselves.

So, Mr. President, in a manner that we shall do shortly here, the proposal was put to a vote—and I grant that it was a close vote—204 years ago; it was a close vote last year. But the proposal was defeated by a vote of 6 to 5. New York voted against it.

So I stand in that succession and, indeed, Rufus King was present and he was our first Senator, although he was then representing Massachusetts. I stand in succession to Rufus King which is an intimidating thought but also one that suggests one ought to do duty as seen.

I say again, Mr. President, the vote as proposed in Philadelphia was that this body—and I quote—"ought to be composed of persons of wealth." And I quote again "That this body was meant to represent the wealth of the Country." That was a clear enough proposition. But we took a vote and we decided otherwise.

If we are going to be in a position where earned income is limited but unearned income is unlimited, then inexorably this body will become that which the Constitutional Convention voted it ought not to be. It will become a body "composed of persons of wealth" and inexorably, no matter what the best intentions of the world, it will end by representing the wealth of the country.

Which of us does not know the passage from the Federalist No. 10 in which Madison laid out so clearly that nothing is so pervasive among those matters which divide men as the unequal division of property.

He had no illusions about it. He had no expectations that it would be different. He devised a Constitution that through checks and balances would put a check on wealth, and equally on the absence of wealth.

These are not matters of virtue. They are matters of reality. As he said in No. 10:

* * * the most common and durable source of factions has been the various and unequal distribution of property. Those who hold and those who are without property have ever formed distinct interests in society. Those who are creditors, and those who are debtors, fall under a like discrimination. A landed interest, a manufacturing interest, a mercantile interest, a moneyed interest, with many lesser interests, grow up of necessity in civilized nations, and divide them into different classes, actuated by different sentiments and views. The regulation of these various and interfering interests forms the principal task of modern legislation and involves the spirit of party and faction in the necessary and ordinary operations of government.

Those different groups, the different interests formed the principal task of modern legislation.

Are we to be a body in which the principal class is the majority, the principal task of legislation is given to a body dominated by one of those interests, the interest dependent upon enjoying unearned income?

(Ms. MIKULSKI assumed the chair.)

Mr. MOYNIHAN. Madam President, we are on the verge of becoming such an institution. It is almost certain if we had disclosure forms that disclosed things other than X's and Y's, the majority of the Members of this body are of persons of large wealth, wealth which generates income and not wealth that generates taxation like having a house you lived in for 30 years.

Madam President, we show this in our actions. We show this in our inability simply to keep a level of salary equal to that of the House. The House is the popular body. We have always had the same level of salary—salary, the word used in the Constitutional Convention. There is nothing wrong with salary. It is what we are taught in high school which comes from the Roman word "salarium." The Romans paid their soldiers their salt money. And what is earned by the "sweat of our brow." It is no accident, Madam President, that we will not have salaries equal to the House, and at the same time will not limit unearned income. If we limited unearned income as well as earned income you may be sure, Madam President, that the salaries would soon be equal. But they need not be equal if the majority or significant portion of this body represents an interest that does not need earned income, having ample unearned resources.

I put it to you, Madam President, that we make a larger decision than we think at this point. We are reversing a decision made in Philadelphia. If we do not, as we did last year, vote to limit earned and unearned income alike; fine. But if not, as in a dozen ways, we are drifting to the position as a body of the branch meant to represent the wealth of the country and not the people.

Madam President, I see the distinguished manager on the Republican side has risen. I yield the floor, reserving myself such time as may be permitted.

The PRESIDING OFFICER. The Senator from Kentucky, the manager on the minority side.

Mr. McCONNELL. Madam President, I simply wanted to commend my friend from New York and tell him that he has raised once again a most important point, which is that what is happening here clearly is that we are, over a period of time, gradually eliminating any way for those of modest means to supplement their incomes outside of this body.

The Senator's history lesson, I think, adds a great deal to this whole discussion of pay and outside income. Senator Howard Baker, as you may recall, thought we all ought to leave in June anyway and have other jobs so we could identify with the people we represent and have some of the same concerns, live in the same town at least a greater percentage of the year. In other words, some would argue, have a more normal existence than simply being cocooned up here inside the Beltway.

I supported the amendment of the Senator from New York last year. I intend to support it again. I voted against the Dodd amendment because I think it is an inappropriate trend to gradually eliminate any acceptable way to supplement the income.

But the Dodd amendment having been approved, it seems to this Senator what is good for the goose is good for the gander; and that is, if we are going to have a limit on outside income for those who can go out and earn it, then it seems to me we should have a limit on outside income for those who are fortunate enough to have inherited it or to have earned it before they came here, and that we ought to treat all Senators the same.

So I commend the Senator from New York. I hope his amendment is adopted once again, as it was last year. I think it has added a great deal to the debate.

Mr. MOYNIHAN. Madam President, I do not see any Senator seeking recognition. I would suggest the absence of a quorum, asking if I might retain 1 minute of my time.

The PRESIDING OFFICER. The Senator from New York has approximately 2 minutes and 54 seconds remaining. The Senator from Kentucky has approximately 17½ minutes.

Mr. McCONNELL. Madam President, I am willing to yield back the time that I control.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. McCONNELL. Madam President, I ask unanimous consent that the Senator from New York be recognized for 5

minutes, at the end of which time we will proceed with the rollcall vote on the Moynihan amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from New York.

Mr. MOYNIHAN. Madam President, this year, as last year, a number of us have sought to make the argument in favor of this amendment. This amendment limits equally earned and unearned income; both forms of income are treated equally.

This year, as last year, Madam President, no one has appeared to argue against the amendment. And this year, as last year, Madam President, I offer to make the arguments against it.

And the arguments against it, Madam President, are those which General Pinkney made, but which I believe are the normal teachings of American public schools that we are familiar with, that persons of wealth are disinterested. They will not be moved to vote their particular interest since their own persons, their own families are secure. And that way they can think of the Nation, and not of themselves.

Dr. Franklin, if you notice, made a slightly different proposal. Benjamin Franklin arrived in Philadelphia penniless. He became one of the great men of the century, as the Senator from Pennsylvania knows.

He did not argue the superior virtue of wealth or its superior quality for the purpose of making virtuous decisions. He simply said that, since among the persons assembled there were, as he said, a number of young men who would probably be of the Senate—and he was right—he said it would not be good for them to have voted themselves, seemingly, as emolument, and therefore he was willing to live with the proposal that there be none.

That did not speak to the virtues of the limitations of persons of wealth but just giving opportunity to those young people who were sweating out the Philadelphia summer.

So we have that case. It used to be called, I think, "Men With a Stake in the Country." There were such things as men with a stake in this country. Where would we be if we did not have the great family foundations left by persons who made money and gave it? I do not dispute that at all. Madison would assume people of wealth would be in this body. But he would also assume people not of wealth would be, too. That there would be a fair mix.

Madam President, the hour works on. I have made the best argument I can make.

Does the Senator from Pennsylvania wish me to yield the floor?

Mr. WOFFORD. Madam President, will the Senator from New York yield the floor for a moment?

Mr. MOYNIHAN. I will be happy to for 1 minute, if I may.

Mr. WOFFORD. Madam President, in Pennsylvania there is a man who makes a lot of earned income dressing as Benjamin Franklin and acting as Benjamin Franklin and coming into a chamber suddenly and interrupting and speaking as Benjamin Franklin. I will not try to do that today. But if that man came in, or the true Dr. Franklin, does the Senator from New York not think he would say today, listening to the Senator's case, that this makes democratic common sense? Speaking, from Pennsylvania, so close to Benjamin Franklin, I think he would say the Senator from New York is on the democratic target today—spelled with a small "d."

Mr. MOYNIHAN. Small "d." There will be more votes in favor on that side of the aisle than our side of the aisle. Dr. Franklin would say "yes." The Rufus Kings have been in the Senate. That objection no longer obtains. And Franklin would say, oh, yes, let every young person speak to this place and let him not leave his aspirations aside if he chooses a profession that does not ordinarily bring large wealth. There are satisfactions other than that. He would want doctors here, who do not make large amounts of money. He would want scientists here, he would want printers here, he would want farmers, he would want bankers and merchants. He would want them all. He knew them all, embraced them all.

Madam President, I have not run out of time but I have run out of argument against the measure.

The PRESIDING OFFICER. The Senator has run out of time.

Mr. MOYNIHAN. Madam President, saved.

Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time having expired, the question now is agreeing to the amendment offered by the Senator from New York. 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] is necessarily absent.

I further announce that the Senator from Hawaii [Mr. INOUYE] is absent on official business.

I also announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Idaho [Mr. SYMMS] is necessarily absent.

I also announce that the Senator from North Carolina [Mr. HELMS] is absent due to a death in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 49, nays 46, as follows:

[Rollcall Vote No. 66 Leg.]

YEAS—49

Akaka	Gorton	Moynihan
Baucus	Grassley	Murkowski
Bond	Harkin	Packwood
Bradley	Hatch	Pressler
Burns	Hatfield	Riegle
Chafee	Jeffords	Sarbanes
Coats	Johnston	Sasser
Cochran	Kasten	Seymour
Cohen	Kerrey	Simon
Conrad	Kerry	Simpson
Craig	Leahy	Specter
D'Amato	Lieberman	Thurmond
Daschle	Lott	Warner
Domenici	McCain	Wellstone
Durenberger	McConnell	Wofford
Fowler	Mikulski	
Garn	Mitchell	

NAYS—46

Adams	Exon	Nickles
Bentsen	Ford	Nunn
Bingaman	Glenn	Pell
Boren	Gore	Reid
Breaux	Graham	Robb
Brown	Gramm	Rockefeller
Bryan	Heflin	Roth
Bumpers	Hollings	Rudman
Burdick	Kassebaum	Sanford
Byrd	Kennedy	Shelby
Cranston	Kohl	Smith
Danforth	Lautenberg	Stevens
DeConcini	Levin	Wallop
Dixon	Lugar	Wirth
Dodd	Mack	
Dole	Metzenbaum	

NOT VOTING—5

Biden	Inouye	Symms
Helms	Pryor	

So the amendment (No. 249) was agreed to.

Mr. MOYNIHAN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Madam President, in 1 minute I would like to thank the Senators who were able to support this measure. I say to my friends on both sides of the aisle that we understand why there are those who could not, but I would like to proclaim a thumping victory. Our margin of victory is up 50 percent this year over last year and the day cannot come far when equal pay will return to the Congress and some sensibility about matters such as this to the Senate.

I thank the Chair.

Mr. MITCHELL. Madam President, I ask unanimous consent that Senator MCCONNELL be recognized to offer his amendment striking the spending limit and public financing provisions in the Boren substitute amendment; that there be 3 hours of debate equally divided on the amendment; that no other amendments be in order to the amendment, or to any language that may be stricken by the amendment; that when all time is yielded back, the amendment be laid aside until 10 a.m. tomor-

row morning, at which time there will occur, without any intervening action or debate, a vote on the McConnell amendment.

Mr. DOLE. Madam President, I wonder if the majority leader might withhold while I can propound a question to the majority leader.

Mr. MITCHELL. Certainly.

Mr. DOLE. I am just advised by staff that if, in fact, there is an intention to have additional votes after the debate on this vote, there would be an objection to the agreement on the theory that this would not be completed until about 8 or 8:15, and two of our colleagues have engagements out of town, one involving an important matter where his wife is involved and another function in New York. I guess the point would be that they would rather not consent to missing votes after 8 o'clock tonight.

So if the majority leader will let me check with those two Senators, I was not aware of that until I was just notified.

Mr. MITCHELL. In response, Madam President, in my discussions with the distinguished Republican manager of the bill, we talked about the importance of his amendment, and that there be Senators in attendance—present during that time. And to accommodate that concern and to permit continued action on the bill, it was understood and included in the agreement that there would be amendments and votes offered later.

I am trying to accommodate everyone's concern here. As so often happens, of course, there are so many conflicting concerns that is not possible. It had been my hope that we could continue action on this bill. We have been on it up to the fifth day now, none of them a complete day, and we have not really advanced too far into the real substance of it, which is what we are getting into with Senator MCCONNELL's next amendment.

Obviously, any Senator can prevent the Senate from voting either directly or through someone else who is willing to do so. I will only say that if we do not have votes after 5 o'clock on a Tuesday evening, then that means we will be here later on, later evenings or on Friday. In fairness, I should say that the reason for this vote tomorrow was to accommodate two of our colleagues who are not present. But we are prepared to go forward with other votes. We do not want to hold up all votes. This appeared to be agreeable.

So, obviously, the distinguished Republican leader has it within his power in behalf of his colleagues to prevent any votes from occurring this evening. I hope that is not the case. I would like to move forward. I tried to fashion this in a way that accommodated the concerns of all Senators, including the distinguished Senator from Kentucky, who will be offering the amendment.

Mr. DOLE. If the majority leader will yield, let me pursue that. Again, I know one reason for wanting votes after the debate on this amendment was to make certain that some people would stay for the debate. I do not know what would happen if we had vote at, say, 6 o'clock on one other amendment than did the 3 hours debate. If I could check with Mr. Greene and see who the Senators are, then I can report back.

Mr. MITCHELL. Might I suggest an alternative in an effort to accommodate all concerned, including Senator MCCONNELL. I would like to have his amendment come up and voted on. I would like to bring it up and vote on it. I wish we could vote on it today.

Would it be accommodating to the Senator from Kansas and as many colleagues as possible if we agreed to take up the McConnell amendment first thing in the morning, spend 3 hours on it tomorrow morning, and then vote on it? In the meantime, this evening, that would permit us to proceed with other amendments, with votes on those, for some period of time this evening. That would not accommodate everyone but it would accommodate as many people as possible, and still permit us to proceed with the bill.

Mr. DOLE. That could be done without anybody's consent, obviously. But I wonder if I might just check to see if the first request might be satisfactory, and I will report right back to the majority leader.

Mr. MITCHELL. Would the Senator wish us to withhold any further action?

Mr. DOLE. If he might withhold, say, for 2 or 3 minutes.

Mr. MITCHELL. Certainly.

Madam 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. BAUCUS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. BAUCUS. Madam President, I ask unanimous consent that I be able to address the Senate as if in morning business.

The PRESIDING OFFICER. The Senator may address as if in morning business but the Presiding Officer hears three separate conversations going on, in addition to the Senator from Montana. The Presiding Officer observes a conversation here, the Presiding Officer observes a conversation there, and the Presiding Officer observes a conversation to her left.

There is, in the back of the room, a conversation going on. Can the Chair have the cooperation of the Senators in the back of the room?

The Senator from Montana is recognized.

MFN FOR CHINA

Mr. BAUCUS. Mr. President, I rise today to address the complex issue of extending most-favored-nation trading status to China.

Like my colleagues, I have a broad range of concerns about China—from its failure to protect human rights to its failure to protect intellectual property.

In my mind, the question Congress faces is not "Do we approve of China's actions?" Clearly, we do not. The question we face is "How best do we influence Chinese behavior?"

I am worried that in our rush to address our grievances with China, we are failing to consider the range of available tools. I am particularly concerned that we will express our outrage at China by revoking MFN, and shoot ourselves in the foot.

The United States must adopt an active policy to promote change in China. But this is work for a scalpel, not a meat ax.

UNITED STATES CONCERNS WITH CHINA

Let me be clear: China's behavior is reprehensible.

In the area of trade, for example, China engages in a wide range of unfair practices. Last year, China ran a $10.4 billion trade surplus with the United States. It is estimated that by next year, China will have a trade surplus with the United States second only to Japan.

This year's national trade estimate devotes 10 pages to listing unfair Chinese barriers. For example, China maintains a licensing system covering nearly half of all imports. This system acts as a barrier to imports. To obtain a license, a U.S. exporter must gain approval from several different ministries. Often, the ministry with licensing authority also produces a competing domestic product.

In addition to the licensing system, China maintains outright import bans on some 80 categories of products, including many consumer goods.

When United States products are allowed into China, they often face discriminatory testing and certification procedures. Such procedures are in effect for products ranging from automobiles to agricultural chemicals.

My colleagues have spoken in detail about numerous concerns with China. The list is long, including:

Human rights: China's treatment of its own citizens is inexcusable. As we approach the second anniversary of Tiananmen, there are no signs of democratic reform. The Chinese Government remains intransigent and unapologetic.

Nuclear and missile transfers: In recent weeks, we have learned that China has transferred advanced missiles to Pakistan and Syria, and is helping Algeria manufacture a nuclear facility with a weapons production capability.

Intellectual property protection: China is one of the worst violators of

the intellectual property rights of United States producers of books, films, and pharmaceuticals.

In short, there is no debate over whether the United States has important grievances with China. There is a critical debate, however, over the most effective and responsible way to address our concerns.

MFN—THE WRONG TOOL FOR THE JOB

MFN is the wrong tool for the job. Denying MFN would not remedy our concerns with China. But such action would harm innocent Chinese, innocent Americans, and innocent residents of Hong Kong.

How would revoking MFN affect China? An important article from last week's New York Times discusses the grave concerns of many Chinese students and intellectuals over revoking MFN. Revoking MFN would harm the most progressive region in China—its industrial south. Many Chinese believe that the contacts between Americans and Chinese in this region are one of the most effective engines for reform.

Hong Kong, too, is a model for Chinese reform. Yet revoking MFN would cost Hong Kong the jobs of 1.5 percent of its work force.

Revoking MFN also would hurt Americans.

The United States has experimented with the unilateral mixing of foreign policy and trade policy. In response to the Soviet invasion of Afghanistan, President Carter imposed an embargo on United States grain sales to the U.S.S.R.

The results: Soviet policy did not change. Other countries stepped in to sell grain. And American farmers suffered a severe blow. The embargo contributed to a 5-percent recession in the farm belt.

No other country is contemplating removing MFN from China. If the United States acted alone—and we would be—the only result would be the loss of United States markets in China.

Revoking China's MFN would be a repeat of the grain embargo fiasco. China would respond to MFN revocation by placing further restrictions on United States exports. American exporters rely upon trade with China. From grain to airplanes, China is an important market for United States goods. For example, China is one of the top three markets for United States wheat.

The hard truth is that United States exporters will suffer if China's MFN is revoked. America's international competitors will quickly fill the void. The Australians will not be shy about selling wheat to China. The European Community will be happy to replace sales of United States aircraft with their Airbus. Japan will be quick to fill any vacuum left by United States products.

American consumers also would pay a heavy price. For example, one of China's biggest exports is low-cost clothing. Low-income Americans depend upon these products. Revoking MFN effectively places a new tax on those least able to pay.

If MFN were the only tool at our disposal, we might consider the harm I have outlined to be a necessary evil. But MFN is not our only tool.

THE BEST TOOLS FOR PROMOTING CHANGE

Don't get me wrong. I favor strong action against China. Just last month, I led the fight to respond to China's piracy of intellectual property.

But the war with Iraq taught us the advantages of smart weapons. When we attacked the city of Baghdad, we didn't use carpet bombing. We used smart weapons that pinpointed their target, and minimized casualties among innocent civilians.

Revoking MFN is the trade equivalent of carpet bombing. Smart weapons will serve our interests far better, with far less harm to innocent bystanders.

What types of smart weapons could we use?

In reaction to Chinese trade barriers, the Office of the United States Trade Representative [USTR] should immediately initiate section 301 petitions addressing China's licensing system, its import bans, and its discriminatory testing and certification practices.

In the area of intellectual property protection, USTR must follow up vigorously on the proceedings initiated under section 301. If progress is not forthcoming, the United States should retaliate.

In the area of human rights, the United States should strictly condition support for international loans upon China's protection of basic freedoms. This policy has slipped in the past year.

In the area of weapons proliferation, we should work through international organizations such as the G-7 and Cocom. Technology transfers to China should be multilaterally conditioned upon Chinese adherence to accepted international standards.

CONCLUSION

Mr. President, I believe our policy toward China must change. But complex problems require carefully crafted prescriptions.

We must act responsibly, aware of the implications of our actions for China, for the United States, and for Hong Kong. As we formulate our China policy in the upcoming weeks, it is important that we carefully match our concerns and our remedies.

MFN is not our only tool. I believe that other tools will prove far more effective in achieving the goals we all support.

I ask unanimous consent that an article from the New York Times and a copy of a letter urging the USTR to take action against China and other countries for failing to protect intellectual property appear in the RECORD following my remarks.

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

[From the New York Times, May 15, 1991]

DESPITE RIGHTS ISSUE, CHINESE HOPE U.S. TRADE STATUS STAYS

(By Nicholas D. Kristof)

BEIJING.—As a battle looms in Washington over whether to end normal trade relations with China, many Chinese are finding themselves reluctantly siding with their hard-line rulers in hoping that the status is maintained.

While they appreciate the concern for human rights in their country and hope that the debate will force the Government to become less repressive, some worry that a cutoff of so-called most-favored-nation status would hurt their standard of living, harm the most reformist segments of the economy and prompt the hard-liners to restrict contacts with the United States.

It is impossible to be sure of public opinion in so vast and tightly controlled a country as China. But in informal conversations with dozens of Chinese in several parts of the country over recent months, most of those who were aware of the issue did not favor American economic sanctions and hoped that most-favored-nation benefits would be extended.

President Bush's annual recommendation on whether to renew the preferential trade status for China is required by June 3. He is expected to favor renewal, and opponents in Congress are expected to introduce legislation to overturn the decision.

In their first breath, urban Chinese intellectuals typically tell their trusted American friends how much they detest their leadership. In their second breath, they express affection for the United States and inquire about getting visas. And in their third breath, they worry that harsh American sanctions would hurt the Chinese people rather than their leaders.

"If I were President Bush, I would extend most-favored-nation status to China," said Zhang Weiguo, a Shanghai dissident who was unusual only in that he was willing to have his name published. "The U.S. should support China's economic development and social exchanges."

Mr. Zhang's anti-Government credentials are not in doubt. He was arrested after the 1989 Tiananmen crackdown and spent 20 months in prison before being released earlier this year, still unrepentant and fuming at the Government.

Mr. Zhang said the best result would be for a tough battle over Chinese trade in Washington, ending in an extension for another year. Such a close call would encourage China to make concessions on human rights and would leave the issue open for another fight next year, he said.

"Every year it's discussed, and that's very good," Mr. Zhang said. "It puts new pressure on China each year."

A downgrading of American trade links with China would mean a large rise in the tariffs imposed on Chinese goods shipped to the United States, and would hurt its thriving export sector. The south of China, which has the most developed private economy in the country, would be particulary affected, as would Hong Kong, through which Chinese goods usually pass for packaging or transshipment.

Many dissidents say that they would like the United States and other countries to be even more outspoken in supporting Chinese human rights. Above all, they would like

Prime Minister Li Peng and other hard-liners to lose "face." But they worry that economic sanctions are the wrong method.

"People are very torn inside," said a university student in Beijing. "They want pressure on the Government to change its policies, and they want the leadership to eat bitterness. But on the other hand, they're afraid that if sanctions are imposed, it's the ordinary people who would suffer. So we want America to threaten sanctions to pressure China, but we don't want sanctions themselves."

PEASANTS SEEM LESS AWARE

Among Chinese peasants and workers, especially outside the capital there seems to be much less awareness of the issue of sanctions, as well as less anger at the Government. Consequently, many people do not have clearly formed ideas on the subject, but frequently seem vaguely opposed to any sanctions that might compound the economic difficulties of the last couple of years. And some wealthier people fear that sanctions would make it more difficult to buy foreign products.

"The fear is that if M.F.N. were cut off, the price of a pack of Marlboros would go up," said an entrepreneur.

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC, April 17, 1991.

Hon. CARLA HILLS,
U.S. Trade Representative, Washington, DC.

DEAR AMBASSADOR HILLS: We are writing to urge you to implement aggressively the Special 301 provisions of the 1988 Trade Act.

We are concerned about the continued foreign piracy of, and denial of market access to, U.S. intellectual properties such as movies, books, recordings, computer software, and pharmaceuticals. The continued illegal acquisition and use of the fruits of our creative industries has a pernicious effect on these industries. The International Trade Commission has estimated that foreign piracy of intellectual properties costs the U.S. $60 billion in lost exports each year, an amount that could have reduced our 1990 trade deficit by over half. Similarly, trade barriers denying market access to U.S. intellectual properties are responsible for billions in lost revenues which could also significantly reduce our trade deficit.

The means to address and counter these problems are embodied in the Special 301 section of the 1988 Trade Act. By April 30th of each year, Special 301 requires that you identify those countries that tolerate the most egregious piracy of intellectual property or close their markets to creative exports as "priority foreign countries." Section 301 cases are then to be initiated against those countries to increase the protection of intellectual property within the priority countries.

To date, the Administration has chosen a less strict interpretation of Special 301. Instead of identifying "priority foreign countries" the Administration has placed a number of countries on watch lists. While the watch lists have been useful in convincing some nations to mend their ways, they have accomplished very little with certain countries, specifically India, Indonesia, People's Republic of China, and Thailand.

It is our good fortune that this country has reached a level of development where our creative and intellectual resources can be fully realized for domestic consumption as well as for consumers around the world. To ensure that this capability is sustained, we urge you to identify the following four nations, India, Indonesia, PRC, and Thailand, as "priority foreign countries" by the statutory deadline. By taking this action you will clearly indicate that the U.S. will enforce its trade laws and deal with nations that do not respect U.S. intellectual property rights.

Further, you should seriously consider action against Mexico, unless it carries out its commitments to pass new intellectual property protection.

Finally, a strong case can also be made for taking action against the European Community's quotas on imports of U.S. created television programs. Indeed, United States Trade Representative action against the EC's broadcast quota will send an important signal of U.S. resolve to those who seek to exempt "cultural" or creative industries from GATT, NAFTA or other trade agreements.

As always, thank you for your attention to this matter, which is a critical component in our continuous efforts to secure a promising future for U.S. intellectual property rights and expanding U.S. export trade.

Sincerely,

Max Baucus, John Breaux, Brock Adams, Howell Heflin, John Seymour, Jeff Bingaman, Alan Cranston, Daniel K. Inouye, Tom Daschle, Jim Jeffords, Al Gore, J. Bennett Johnston,

David Pryor, Patrick Leahy, Jim Exon, Paul Simon, David L. Boren, Barbara A. Mikulski, Chuck Robb, Herb Kohl, Nancy Landon Kassebaum, Chuck Grassley, John F. Kerry, Al Simpson, Tim Wirth, Richard Shelby.

DERAILING THE FAST TRACK

Mr. BAUCUS. Mr. President, in recent weeks, the opponents of international trade negotiations have shifted their strategy. Through the early spring, their strategy was to attempt to deny the administration's request to extend fast-track negotiating authority. Denying the extension request would effectively terminate both the Uruguay round of multilateral trade negotiations and a second negotiation aimed at concluding a North American Free-Trade Agreement or NAFTA.

Now that it appears both Houses will reject this effort, fast-track opponents have proposed changing the fast-track rules instead of terminating the fast track outright. Although this approach might seem a compromise, it is really a wolf in sheep's clothing. The proposed changes would effectively terminate the fast track and halt the NAFTA negotiations.

THE RIEGLE RESOLUTION

The proposal—which was introduced by Senator RIEGLE—makes two highly objectionable changes in the fast track. First, the Riegle proposal would allow unlimited amendments to be offered to a NAFTA in five broad areas. Second, the proposal would cut the fast-track extension from 2 years to 1 year. The President could request an additional 1 year, but the request could be disapproved by either House of Congress. Both of these steps would do severe damage to the fast track process and undermine international trade negotiations.

AMENDMENTS TO NAFTA

Allowing unlimited amendments to a NAFTA would gut the most critical feature of the fast track: Congress' promise to vote on the agreement without offering amendments. Proponents of the Riegle proposal contend that amendments to protect particular special interests would not be allowed. But this is simply untrue. There is no provision in resolution introduced by Senator RIEGLE that would prohibit sector specific amendments. The Riegle proposal would allow any amendments that relate to environmental protection, labor standards, rules of origin, dispute resolution, or adjustment assistance.

Those broad exceptions would allow any number of amendments—sector-specific as well as generic. Protectors of the steel industry or the textile industry could draft an amendment to eliminate concessions effecting those industries under the guise of protecting the environment, promoting labor standards, or improving dispute settlement. For example, the textile industry could seek to amend the agreement to exempt textile products from all decisions of any dispute settlement body established by the NAFTA. Similarly, a generic amendment could be drafted to exempt all import sensitive products from dispute settlement decisions. Such amendments would clearly relate to dispute settlement.

In fact, the supporters of this proposal have publicly stated that one of their aims is ensuring that rule of origin for autos is increased above the level provided in the United States-Canada FTA. Perhaps such a rule of origin is a good idea. But if such a sector specific amendment could be considered for one industry other special interest amendments could be considered for others.

With a little imagination every industry will easily be able to draft their own amendment—generic or sector specific—to protect their own special interests. And when the United States protects its special interests, Mexico and Canada will doubtlessly follow suit. After all, they can hardly be expected to surrender politically sensitive trade barriers if the United States will not do likewise. Soon the entire agreement will be pulled apart and the special interest will be allowed to override the national interest.

The fast-track process was developed to protect the national interest by preventing just the type of amendments that the Riegle proposal seeks to allow. Make no mistake about it, the Riegle proposal would end the fast track for the NAFTA negotiations.

THE 1-YEAR LIMIT

The Riegle proposal would also limit fast-track extension to 1 year. One year would not allow our trade negotiators to conclude sound trade agreements. Under the fast track, the Presi-

dent is required to submit trade agreements he wishes approved under the fast track 90 days before fast-track authority expires. In this case, the President would be required to submit both the Uruguay round trade agreement and the North American Free-Trade Agreement by March 1, 1992—a little more than 9 months from now.

This time limit is too short. The negotiations for the North American Free-Trade Agreement have not even begun. Could those negotiations be completed in 9 months? Probably not. And it certainly is not in the Nation's interest to force our negotiators to conclude a complex agreement within 9 months.

Ironically, supporters of the Riegle resolution were arguing only a few weeks ago that the NAFTA should not be negotiated under the fast track because 2 years was not sufficient time to negotiate and approve such a historic agreement. Yet, now those same voices support a proposal which would shorten the fast track to 1 year.

Obviously, the 1-year limit is nothing but a thinly veiled attempt to terminate the NAFTA negotiations.

True, an additional year could be requested by the President. But this would mean that the Congress would likely repeat the fast-track debate next year. Once again, armies of lobbyists would trek to Capitol Hill to plead their case on fast track. And once again, all trade negotiations would grind to a halt as our trade negotiators attempt to win an extension from Congress. If the opponents of international trade negotiations lose the battle over the fast track, why should we allow them to force the Congress to go through the same debate next year? Let us resolve the issue this year and let our trade negotiators do their job.

THE GEPHARDT AMENDMENT

I must confess to great sympathy for some of the objectives of the sponsors of the proposed changes in the fast track. I, too, have serious concerns about the direction of the current international trade negotiations—particularly the free-trade talks with Mexico. Congress should express its concerns about the negotiations and give the administration direction. But we can do that without destroying the fast track.

Our House colleagues, under the leadership of Congressmen GEPHARDT and ROSTENKOWSKI, have developed a resolution to give the administration specific direction for the NAFTA negotiations. The Gephardt resolution restates the commitments that the administration has made to address environmental protection, worker's rights, worker adjustment, rules of origin, and several other issues in the NAFTA negotiations. The resolution also notes that the House and the Senate can at any time alter or terminate the fast track if the administration is not addressing those concerns.

This is a far superior alternative to the Riegle proposal. It allows the Congress to go forcefully on record on the same issues outlined in the Riegle proposal. But it does so without destroying the fast track. If the Senate could consider such a resolution under restrictive rules similar to those applied to the Gephardt resolution in the House, I would press for consideration of a Senate companion measure. If we are serious about having a meaningful impact on the free-trade negotiations with Mexico, the Senate should draft a resolution similar to the Gephardt resolution, instead of considering the Riegle proposal.

CONCLUSION

Mr. President, as we approach the conclusion of our debate on extension of the fast track, it is important that we all understand what the fast track does do and what it does not do. The fast track is really nothing more than a promise that Congress will vote up or down on an agreement negotiated by the President without offering amendments. It does not commit the Congress to support the trade agreements that are negotiated. If we find that any of those agreements is not in the national interest we can simply vote it down.

And if the administration sends back an agreement that is not in the national interest—I will work to defeat it. I have no intention of supporting a NAFTA or a Uruguay round agreement that is not good for America.

But the fast track only gives the green light to begin negotiations. It is not a blank check. The fast track is the basis of a partnership between the President and the Congress that allows trade negotiations to succeed. And if we in Congress are serious about pursuing those negotiations and strengthening the American economy, we should be working to foster that partnership, not destroy it.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KOHL). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. 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. DOLE. Mr. President, I ask unanimous consent to proceed as if in morning business.

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

GANDHI ASSASSINATION

Mr. DOLE. Mr. President, all of us are shocked and saddened by the assassination today of former Indian Prime Minister Rajiv Gandhi.

His death is a terrible reminder that even as we strive to create a new world order, the scourge of terrorism—often inspired by ethnic, religious, and political divisions—still stalks the Earth.

Let us be clear: No grievance is an excuse for this kind of senseless act. But let us also realize that we can never put a final end to these awful tragedies until we can find some way to mend these wrenching divisions among men.

Rajiv Gandhi's nation and his family have suffered far more then their share of this kind of tragedy. Today, they mourn once again. Our thoughts and our prayers are with the Gandhi family, and with the nation of India, in this awful hour.

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. MACK. 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. MACK. Mr. President, I further ask unanimous consent to address the Senate as if in morning business.

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

The Senator from Florida is recognized.

Mr. MACK. I thank the Chair.

(The remarks of Mr. MACK pertaining to the introduction of S. 1121 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. MITCHELL. 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. MITCHELL. 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. MITCHELL. Mr. President, I ask unanimous consent that Senator BENTSEN be recognized to offer an amendment relating to the formation of political action committees by foreign nationals on which there be 30 minutes of debate equally divided between Senators BENTSEN and MCCONNELL with no amendments to the amendment in order other than one to be offered by Senator BREAUX, on which there be 30 minutes of debate equally divided between Senators BREAUX and BENTSEN; that upon the disposition of these two amendments this evening, Senator MCCONNELL be recognized to offer an

amendment to strike the provisions relating to spending limits and public financing, on which no amendments be in order and on which there would be 3 hours of debate equally divided in the usual form, of which 2 hours and 45 minutes will be used this evening; at the conclusion or yielding back of time on the McConnell amendment, the amendment be laid aside; that a vote on the McConnell amendment occur at 10 a.m. tomorrow, Wednesday, May 22; that at the conclusion of the debate on the McConnell amendment this evening, Senator WELLSTONE be recognized to offer an amendment relating to a candidate's personal contributions or loans to his campaign, on which there be 10 minutes of debate this evening, equally divided in the usual form, with no amendments to the amendment in order; that when the Senate resumes consideration of the bill at 9:45 a.m. tomorrow, there be 15 minutes of debate equally divided on the McConnell amendment prior to the vote on that amendment; and that upon disposition of that amendment there be 10 minutes equally divided for debate on the Wellstone amendment, at which time there be a vote on the Wellstone amendment without any intervening action or debate.

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

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, and I say to Members of the Senate, I thank my colleagues for their patience in working out this agreement.

So that Senators might understand what will occur, there will be two votes this evening on the Breaux second-degree amendment to the Bentsen amendment and on the Bentsen amendment. That will occur in approximately 1 hour, or less if the 30 minutes for each of those two amendments is not fully used and yielded back.

Upon the disposition of those two amendments, Senator MCCONNELL will be recognized to offer his amendment, on which there will be 2 hours and 45 minutes of debate this evening and then 15 minutes of debate tomorrow morning between 9:45 and 10 a.m., with a vote occurring on the McConnell amendment at 10 a.m. tomorrow morning.

Upon the completion of the debate on the McConnell amendment this evening, Senator WELLSTONE will be recognized to offer an amendment, on which there will be 10 minutes of debate equally divided this evening and then an additional 10 minutes of debate tomorrow morning immediately following the vote on the McConnell amendment, and following which 10 minutes of debate on the Wellstone amendment, there will be a vote on the Wellstone amendment.

So there will be two votes tomorrow morning on the McConnell amendment at 10 and then 10 minutes after the completion of that vote, or approximately 10:30, there will be a vote on the Wellstone amendment.

Mr. BREAUX. Will the majority leader yield for a question?

Mr. MITCHELL. Might I add one more comment? Mr. President, I merely wish to make clear in behalf of the Senator from Kentucky that there will be no amendments in order to the McConnell amendment or to any language that he may be striking. That protects from any amendments being offered both to his amendment or to any language that he may be striking.

The PRESIDING OFFICER. The agreement is so modified.

Mr. BREAUX. I ask the majority leader, if the Breaux amendment were to be adopted, which is essentially a substitute for the Bentsen amendment, perhaps there will be one vote, if the Breaux amendment were agreed to.

Mr. MITCHELL. That is possible.

Mr. President, I thank my colleagues and I especially thank the distinguished Senator from Texas, who has been very cooperative in the scheduling of his amendment.

AMENDMENT NO. 250

(Purpose: To amend the Federal Election Campaign Act of 1971 to tighten provisons relating to contributions by foreign nationals)

Mr. BENTSEN. I thank the majority leader for his comments. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. BENTSEN], for himself, Mr. BOREN, Mr. SHELBY, Mr. LEAHY, and Mr. WIRTH, proposes an amendment numbered 250.

Mr. BENTSEN. 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:

At the appropriate place in the amendment, insert the following:

SEC. . CONTRIBUTIONS BY FOREIGN NATIONALS.

Section 319 of FECA (2 U.S.C. 441e) is amended—

(1) in subsection (a) by inserting after "foreign national" the first place it appears the following: ", including any separate segregated fund or nonparty multicandidate political committee of a foreign national,";

(2) in subsection (b)(1) by inserting before the semicolon at the end the following: ", but shall include any partnership, association, corporation, or subsidiary corporation organized under or created by the laws of the United States, a State, or any other place subject to the jurisdiction of the United States if more than 50 percent of the entity is owned or controlled by a foreign principal".

Mr. BENTSEN. Mr. President, last July the Senate approved my amendment prohibiting companies that are more than 50 percent foreign owned from forming political action committees. That vote was 73 to 27. I have now reoffered the amendment. The cosponsors are Senators BOREN, SHELBY, WIRTH, and LEAHY.

I want to be sure that this amendment is part of whatever campaign reform legislation goes to the conference, and I hope we can agree to it quickly and amicably.

We need this amendment to protect us against unwarranted foreign influence in our electoral processes. We need it to keep American elections American. In the past decade, foreign direct investment in the United States has increased fourfold. I really have no objection to that, but while we were running up huge budget and trade deficits, more and more U.S. companies were acquired by foreign corporations. Many of these foreign-owned companies already had political action committees and were active in the political process. In fact, according to a study originally done for me by the Congressional Research Service, there were 120 PAC's of companies with signficant foreign investment in the 1987–88 election cycle, and those PAC's gave candidates $2.8 million. According to existing regulations, those PAC's were not supposed to let foreigners contribute to their funds or participate in spending decisions. That is the rule. But there is no monitoring or enforcement procedure. Instead, I think an insidious process is at work. The PAC committee probably looks over its shoulder to be sure it does nothing that would anger corporate headquarters. They are not dumb. They understand that those who go along get along in that type of situation. But employees face a potential conflict of interest between their judgments as American citizens and their jobs in a foreign-owned company.

What do they do, for example, if they want to support a candidate who supports domestic policies which they favor but who is known as a strong critic, for example, of Soviet policies? What if their headquarters in France or Germany has just cut a big deal with the Kremlin? By banning foreign company PAC's, my amendment would also put a stop to any effort by foreigners to buy into our political process by acquiring companies with established and effective PAC's.

My amendment would put those PAC's out of business. The employees could still make political contributions as individuals. This does not deny them that. If they want to support this candidate for the Senate, Governor, whatever, they can do that and make their individual contributions. But that would not be reported back to Frankfurt or to Tokyo. Is that unfair? Is it unfair discrimination against foreign companies? I sure do not think so.

Just look at what other countries do. Japan forbids political contributions by foreigners, foreign corporations or groups or organizations in which foreigners or foreign corporations are a major component. They are not alone. Germany largely prohibits foreign political contributions, except it does permit nonresident business entities to make political contributions if they are owned 50 percent by German citizens. Just last year, France tightened its laws to forbid direct or indirect contributions or material support from foreign states or entities. On reciprocity grounds alone, therefore, we need this amendment.

The Department of Justice strongly supports this restriction against foreign PAC's. In a formal submission to the Federal Election Commission last year, the Department argued that the 50 percent foreign ownership test is a reasonable, objective and easily quantifiable standard, which is a vast improvement over the case-by-case control of FEC opinions.

Mr. President, I ask unanimous consent to print in the RECORD the statement by the Justice Department.

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

DEPARTMENT OF JUSTICE,
CRIMINAL DIVISION,
Washington, DC, November 15, 1991.

Re Notice of Proposed Rulemaking, Number 1990-11, 11 C.F.R. Part 110.

Hon. LEE ANN ELLIOTT,
Chairman, Federal Election Commission, Washington, DC.

DEAR MADAM CHAIRMAN: This letter presents the views of the Department of Justice on the captioned Notice of Proposed Rulemaking, in which the Federal Election Commission proposes a new regulation which would define the definition of "foreign national" for the purpose of 2 U.S.C. §441e to include any corporation whose equity ownership by non United States nationals exceeds 50%.

The Department of Justice strongly supports this proposed regulation.

Section 441e is an internal security statute. It was originally enacted as part of the 1966 amendments to the Foreign Agents Registration Act of 1938, as amended (FARA). Its purpose from the start was to minimize foreign financial intervention in the domestic United States election process.

Until 1976 this statute was codified at 18 U.S.C. §613, and it covered only political contributions made by "agents of foreign principals," either for or on behalf of the "foreign principal," or otherwise in his capacity as an "agent," as those terms were defined in FARA and Section 613. The scope of former Section 613 was broad enough to prohibit all such contributions by multi-national corporations that fell within the broad definitions of "foreign principal" or "agent" thereof, even those exempt from registration under FARA. The purpose of FARA, and thus of former Section 613, was to protect the integrity of domestic political institutions against foreign intervention and influence. Former Section 613 was enforced exclusively by this Department through criminal prosecutions.

In 1974 Section 613 was expanded to forbid all political contributions to domestic United States elections by any person who was not either a United States citizen, or a person admitted for permanent residence pursuant to 8 U.S.C. §1101(a)(20). The result of this amendment was to significantly expand upon the internal security objectives which this statute serves.

In 1976 this law was incorporated into the Federal Election Campaign Act (FECA) as part of the recodification of FECA which took place that year. In the process, it was made subject to the FEC's rulemaking, advisory opinion, and administrative enforcement procedures (see 2 U.S.C. §§437f and 437g). "Knowing and willful" violations of this statute which involve illegal contributions of more than $2,000 remained federal criminal offenses subject to prosecution by this Department under 2 U.S.C. §437g(d).

Section 441e represents one of the main federal statutory defenses against efforts by foreign nationals and foreign interests to influence the domestic election processes of the United States through campaign contributions. The function of this statute is to safeguard a vital feature of the Nation's sovereignty. In our opinion, it deserves a broad construction in keeping with the vital national security interests which it was enacted to protect.

In the years since 1976, when the Federal Election Commission (FEC) was given authority to interpret this statute's scope, the Commission has issued several advisory opinions on Section 441e's application to multi-national business organizations. However, the line between permissible and impermissible conduct that has emerged from this case-by-case interpretive process has not been a precise one. As a result, there is, in our opinion, an area of ambiguity insofar as Section 441e's application to political contribution activity by many types of business organizations that have substantial foreign capitalization and/or control. This state of uncertainty is not consistent with this statute's purpose.

One example of this ambiguity is the extent to which Section 441e reaches contributions by domestic United States subsidiaries of foreign multi-national enterprises. Within this grey area, a permissive latitude unfortunately exists for foreign interests to influence the domestic election processes of the Nation, the provisions of Section 441e notwithstanding.

The 50% foreign ownership test advanced by the proposed FEC regulation is a reasonable, objective, and easily quantifiable standard, which is a vast improvement over the case-by-case "control" analysis that is necessary under the line of FEC Advisory Opinions on this subject. This proposed regulation therefore succeeds quite well in achieving its objective of clarifying the standard of coverage.

One result of this clarification of coverage will be to enable the FEC to better protect the domestic integrity of United States elections through enforcement actions brought under 2 U.S.C. §437g(a). Another result will be to aid this Department in pursuing criminal charges against those who intentionally violate Section 441e by reducing the magnitude of present ambiguities concerning the statute's reach, by providing clearer notice of coverage to those subject to its terms, and by facilitating proof of the elevated scienter element necessary to support criminal convictions under the FECA. See e.g. *AFL-CIO* v. *FEC*, 628 F.2d 97 (D.C. Cir. 1980); *National Right to Work Committee* v. *FEC*, 716 F.2d 1401 (D.C. Cir. 1983).

The 50% ownership test which the Commission has proposed is fully consistent with the internal security objectives of the statute. In fact, the majority ownership approach which the FEC is proposing for access to domestic political activity is in fact more lenient than is the Federal Communication Commission's (FCC's) standard for foreign access to the domestic airwave.[1] Accordingly, arguments that the test selected by the FEC is unfair to foreign nationals fall way short of the mark.[2]

In the opinion of the Department of Justice, this is a good regulation which is badly needed, and which will advance the important national security goals that underlie 2 U.S.C. §441e. The FEC should adopt this regulation without delay.

I appreciate the opportunity which the FEC has given us to have input into this issue, and I trust that the views expressed in this letter will assist the Commission in its rulemaking decision.

Sincerely,

ROBERT S. MUELLER III,
Assistant Attorney General.

Mr. BENTSEN. Mr. President, the Department added that the change proposed here would enable the FEC to better protect the domestic integrity of U.S. elections and would aid the Justice Department in pursuing criminal charges against intentional violators. The Department also dismisses the argument that speech or associational rights of American citizens would be unfairly impeded. Instead, it argues that this foreign PAC restriction is "badly needed" and ought to be adopted "without delay."

Mr. President, we discriminate against foreign influence and control in many areas—radio and television station ownership, airlines, corporate takeovers with national security implications. I think we should do no less when it comes to our electoral sovereignty.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

If neither side yields time, time will run equally against each side on the amendment.

Mr. BENTSEN. Mr. President, if there is no demand for time, I would be prepared to yield back my time and go to a vote.

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[1] The Communications Act, and in particular 47 U.S.C. §310(b)(3) thereof, prohibits the issuance of broadcast licenses to, or the holding of such licenses by, any entity whose capital stock is more than 20% owned by foreign nationals or foreign interests. Like Section 441e, the purpose of this FCC provision is to prevent foreign domination of the Nation's airwaves.

[2] Nor will the proposed 50% ownership test unfairly impede the associational or speech rights of United States nationals who may be employed by foreign dominated businesses entities. Such United States citizens will remain free to form, to be solicited by, and to contribute to non-connected political committees. The only associational or speech limitation imposed by this proposed regulation will be on the capacity of foreign citizens and foreign capital to be used to stimulate and coordinate contribution activity from American employees. Such a narrow limitation on domestic political intervention by non-American individuals and interests is clearly justified from a First Amendment perspective as a legitimate measure to safeguard the Nation's sovereignty.

Mr. McCONNELL. Mr. President, I want to make sure I understand the Bentsen amendment. I would ask my friend from Texas, am I correct that employees who are U.S. citizens who work for companies in this country of which the majority of stock is owned by a foreign entity would no longer be allowed to establish and fund a political action committee and participate in American politics?

Mr. BENTSEN. They can participate in American politics.

Mr. McCONNELL. Not through a PAC.

Mr. BENTSEN. Not through a company PAC. Now, they could make individual contributions as long and as much as they want under the Federal laws.

Mr. McCONNELL. It is the understanding of the Senator from Kentucky that there are roughly 30,000 employees in Kentucky who work for companies that are majority owned by foreign corporations. My concern, I say to my friend from Texas, is that we have established maybe inadvertently—I understand his concern about foreign influence. Foreigners cannot contribute to our elections now, and I think that is a good rule. I worry about diminishing this aspect of citizenship for those employees. It is a matter of great concern.

Last year, I opposed the Senator's amendment and am inclined to do it again for that very reason, because to this Senator, to put those employees in sort of a diminished role in terms of the full array of opportunities to participate in the political process is somewhat troubling.

Mr. BENTSEN. I understand the comments of the Senator from Kentucky, but it was my understanding that the Senator from Kentucky supports doing away with all PAC's.

Mr. McCONNELL. Yes, but in the absence of a decision to do that—and I assume that the amendment of the Senator from Texas is designed to deal with that environment in which PAC's continue to exist—it seems to this Senator that all Americans ought to be treated the same in terms of their ability to participate the same through a political action committee if they should continue to exist.

Should the proposition of the Senator from Kentucky prevail, which is, by the way, also in the bill my friend from Texas supports, there would not be any connected PAC's but that would discriminate against all Americans equally if they are concerned about their inability to form a PAC. But if PAC's are going to continue to exist, it seems to this Senator just because a Kentuckian happens to work for a company that is now majority owned by a foreign entity, it is not a great idea to diminish his citizenship to that extent.

Mr. BENTSEN. Let me, if I might reply, give the Senator the argument that is given by the Justice Department. They flatly dismissed that argument. They said, "The only association or speech limitation imposed by this proposed regulation will be on the capacity of foreign citizens and foreign capital to be used to stimulate and coordinate contribution activity from American employees, and such a narrow limitation on domestic political intervention by un-American individuals and interests is clearly justified from a first amendment perspective as a legitimate measure to safeguard the Nation's sovereignty." That is the Justice Department's opinion.

Mr. McCONNELL. As I understand what the Senator has just read, in effect the affected employees would still have the option of forming what is called a nonconnected PAC.

Mr. BENSTEN. That is true.

Mr. McCONNELL. The employee down the street who works for a company that is majority owned domestically would still have the option of forming a connected PAC. So in that sense it still seems to this Senator that we have arbitrarily put the employee who works for a foreign-owned company in a different position.

I appreciate the explanation of the Senator from Texas, and that really is all of my observations on the subject.

Mr. BREAUX. Mr. President, I was wondering if it is appropriate at this time to go ahead and offer my amendment. The Senators still have time. It may be a way of moving things along.

The PRESIDING OFFICER. If the Senators will yield back their time on the amendment, it would be appropriate.

Mr. BREAUX. Parliamentary inquiry. How much time is remaining?

Mr. McCONNELL. How much do I have?

The PRESIDING OFFICER. The Senator from Kentucky has 9 minutes.

Mr. McCONNELL. I yield back my time.

Mr. BENTSEN. I yield back my time.

The PRESIDING OFFICER. All time is yielded back.

AMENDMENT NO. 251

(Purpose: To prohibit certain election-related activities of foreign nationals)

Mr. BREAUX. Mr. President, I send an amendment to the desk to the Bentsen amendment.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Louisiana [Mr. BREAUX], for himself and Mr. DOLE, proposes an amendment numbered 251 to the amendment numbered 250.

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

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

The amendment is as follows:

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

SEC. . PROHIBITION OF CERTAIN ELECTION-RELATED ACTIVITIES OF FOREIGN NATIONALS.

(a) FINDINGS AND DECLARATIONS.—The Congress finds and declares that—

(1) the electoral process of the United States should be open to all American citizens;

(2) foreign nationals should have no role in the American electoral process;

(3) Congress does not intend and has never intended to permit foreign nationals to participate, directly or indirectly, in the decisionmaking of political committees established pursuant to the Federal Election Campaign Act of 1971;

(4) it is the intent of Congress to prohibit any participation whatsoever by any foreign national in the activities of any political committee; and

(5) while it is necessary to safeguard the political process from foreign influence, it is critical that any protections not discriminate against American citizens employed by foreign-owned companies and that Americans' constitutional rights of free association and speech be protected.

(b) PROHIBITION OF CERTAIN ELECTION-RELATED ACTIVITIES OF FOREIGN NATIONALS.—Section 319 of the Federal Election Campaign Act of 1971 is amended by—

(1) redesignating subsection (b) as subsection (e); and

(2) inserting after subsection (a) the following new subsections:

"(b) A foreign national shall not direct, dictate, control, or directly or indirectly participate in any person's decisionmaking concerning the making of contributions or expenditures in connection with elections for any Federal, State, or local office or decisionmaking concerning the administration of a political committee.

"(c) A nonconnected political committee or the separate segregated fund established in accordance with section 316(b)(2)(C) or any other organization or committee involved in the making of contributions or expenditures in connection with elections for any Federal, State, or local office shall include the following statement on all printed materials produced for the purpose of soliciting contributions:

"It is unlawful for a foreign national to make any contribution of money or other thing of value to a political committee."

"(d) A nonconnected political committee or a separate segregated fund established in accordance with section 316(b)(2)(C) or any other organization or committee involved in the making of contributions or expenditures in connection with elections for any Federal, State, or local office shall certify in regular reports to the Commission, or in a manner prescribed by the Commission, that no foreign national has participated either directly or indirectly in the decisionmaking of the political committee or separate segregated fund, including the appointment of the administrators of the committee or fund."

(c) PENALTY.—Section 309(b)(1)(C) of FECA (2 U.S.C. 437g(d)(1)(C)) is amended by inserting "section 319 or" before "section 322".

Mr. BREAUX. Mr. President, I essentially start by telling my colleagues that I agree with the thrust and the goal of the Bentsen amendment which I interpret to be the elimination of influence by foreign nationals or foreign companies on the American political process. They should not be involved.

They should not be influencing the political process in this country.

However, I point out that under the Breaux-Dole amendment, which is now pending as a substitute, we retain current law. Current law also recognizes that foreigners should not be involved in the political process of the United States. There are no foreign PAC's in existence in the United States of America. None. Not one. There are no foreign nationals who are able to make a contribution to anyone in the U.S. political system. There are no foreign contributions to any existing U.S. PAC. That is illegal. That is prohibited under the current rules and the current regulations.

What we are dealing with under the Bentsen amendment, to which my amendment is a substitute, is a prohibition against U.S. domiciled subsidiaries that are taxpaying companies in this country; and are companies that are licensed and chartered in this country; that employ U.S. citizens in this country, which citizens are taxpaying citizens in this country; and under the Bentsen amendment these citizens, 3 million-plus Americans, if PAC's are to be allowed, would be prohibited from doing what any other American citizen is permitted to do, and that is to make a contribution to the company's political action committee for which he happens to work.

It is interesting that in my reading of the amendment of the Senator from Texas it would not prohibit that employee for that foreign-owned subsidiary from making a contribution to his labor union PAC. It could be the labor union that works in that foreign subsidiary, which interests are the same as that subsidiary in seeing to it that that subsidiary does well and makes a profit so they can continue to work for it. The Bentsen amendment would not prohibit that employee from making a contribution to the labor PAC that works in that plant.

Take Shell Oil, for instance, which employs literally thousands of people in my State of Louisiana, which is a foreign-owned company. But the Shell Oil Co. that is located in Louisiana is a Louisiana citizen. It pays Louisiana taxes. It is domiciled in our State. They employ thousands of Louisiana citizens. Those citizens, under the Bentsen amendment, would not be able to contribute to the PAC of the labor union that happens to work in that particular plant. They can make a contribution to the labor union, but they could not make a contribution to the Shell political action committee.

What my amendment would do is simply say that the current law under the Federal Election Commission that prohibits any foreign national from donating money to or serving on the board of a PAC of a U.S. subsidiary is contingent and it becomes the law of the land, not just a rule, not just a regulation.

The Breaux amendment says that there can be no foreign PAC's. The Breaux amendment says that there can be no foreign contributions to any U.S. political action committee. It goes even further than that. It requires that there be a certification, a certification in every political action committee's file, which certification clearly says that this PAC has not solicited, accepted, or received a contribution from a foreign national. It further says that no foreign national has directed, dictated, controlled, or directly or indirectly participated in the decisionmaking process of this political committee with regard to any of the elections, and that any person who knowingly and or willfully makes a false statement in this certification shall be subject to the penalties.

Mr. President, the penalties that we have in this legislation are indeed very strict in the sense that they are criminal penalties that are applicable to anybody found to be in violation. These penalties are, and I point out, a person who violates it is subject to 1 year plus and/or a $25,000 fine or up to 300 percent fine over the amount of the violation of the PAC contribution.

Mr. President, what we have done in my substitute legislation which I point out is only applicable if PAC's are somehow found to be still legal after this legislation is completed that there will be no foreign contributions to any U.S. organized political action committees, that no foreign national can participate in any U.S. political action committee, but that the millions of citizens in this country who merely work for a U.S. subsidiary that happens to be 50 percent or more owned by a foreign citizen should not be prohibited from participating in the political process.

I am very concerned that while I share completely and totally the concerns that the Senator from Texas [Mr. BENTSEN] has expressed, I merely point out that the broad brush of his amendment goes much farther than we need to go in order to clear up the political action committee foreign subsidiary problem.

I also point out that, number one, we have not had problems in this area. We have not seen any violations of foreign nationals trying to make contributions to political action committees or trying to influence that political action committees do with their funds with the companies that are in fact U.S. subsidiaries of foreign nationals already. This is not a problem that needs to be corrected. And I want to point out that in general political action committees have not been causing any problems in the election process. In fact, in 1972 they were part of the reform. They had the amount that they can contribute dramatically reduced because of inflation. In 1972 a PAC could give a $5,000 contribution. Almost 20 years later that is the same limit or ceiling on what they can give.

It is very clear that because of inflation over almost 20 years, that the $5,000 ceiling in 1972 is worth far less in 1991 or the 1992 election cycles. So every year by inflation we have dramatically reduced the amount of money that a political action committee can donate in terms of its effective buying power. The final point is that these political action committees, in fact, are not part of the problem at all.

In my own State, there are between 50,000 and 60,000 Louisiana citizens who would be prohibited by the Bentsen amendment from making a contribution to the political action committee of the company they happen to work for merely because this U.S.-domiciled subsidiary, the U.S-domiciled company of Louisiana that happens to be foreign owned would prohibit them from participating in their political action committee for that particular company. They would not be prohibited from making a contribution to the labor union PAC that works within the same boundaries of that company which has the same interests in assuring that that company would in fact be successful from a financial standpoint.

Mr. President, I do not think that these 50,000 to 60,000 Louisianians should be are arbitrarily prohibited without a showing of a problem from participating in the process through the political action committees that their companies have set up to allow them to have a greater voice in the selection of the candidates that they would like to see serve them in a national Congress and also in other areas as far as State and local governments are concerned.

Mr. President, I offer my amendment as a substitute to the Bentsen amendment, and ask that Senator DOLE be allowed to join with me as a cosponsor as he has indicated to me by unanimous consent.

Mr. MCCONNELL. I would like to be added as a cosponsor.

Mr. BREAUX. If there is no further debate, I ask for the yeas and nays on the amendment.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas [Mr. BENTSEN].

Mr. BENTSEN. Mr. President, I appreciate the comments of the Senator from Louisiana about the objectives of my amendment. He is sharing the objective. But the amendment he proposes has an interesting provision requiring the PAC officials to certify that no foreign national participated directly or indirectly in the PAC decisions and provided the criminal penalties for local violations. As he has stated, those are identical to the provisions that are already on the books

now for illegal contributions totaling $2,000 or more.

But this amendment does not eliminate a single foreign PAC, and in no way does it get rid of the pressures on those working for that company which is foreign owned.

Mr. President, this came very forcefully to mind when we had the question of Toshiba, and the transfer of submarine propellers technology to the Soviet Union. We had tried carefully and zealously to prevent it from going to our major threat at that time, the U.S.S.R.

When that issue was raised on Toshiba, in that election cycle and every public forum, public hall meeting that I held, you had Americans there, the managers of the divisions representing Toshiba, arguing against the U.S. position in that regard.

That is what I saw happening. So do not tell me they do not look over their shoulder to see what the management thinks back home.

That is why I think it is important that we put a quantifiable limitation on these PAC's, one that is easily defined. The current law, according to the Justice Department, is ambiguous, harder to enforce than a 50 percent ownership test that is under my amendment.

This amendment that is being brought up at the present time assumes that it will be easy to make these certificates of noninterference and do it truthfully. Perhaps, perhaps not. The question is how do you prove the subtle pressures in a court of law?

So if you want to be sure you catch the violators, remember that the Department of Justice favors the ban on PAC's with 50-percent foreign ownership. Instead of permitting this current ambiguity to continue to cloud the FEC decisions over the years, I think we ought to put this rule in, carry out the Bentsen amendment, and defeat the amendment proposed as a substitute by the Senator from Louisiana.

The PRESIDING OFFICER. Who yields time?

Mr. BREAUX. I yield myself such time as I may use.

I only point out in response to the good points of my colleague from Texas, some of which I think everyone really needs to understand, that there are no foreign PAC's. They are illegal. There are no foreign contributions to any U.S.-subsidiary PAC that can be legally made under current rules and regulations. Those are illegal. No foreign national, no foreign citizen, can contribute to any U.S. political action committee now. That is the rule under the Federal Election Commission.

My legislation takes that a step further, and makes that a statutory requirement; also adds the fact that there has to be a certification that every political action committee must file to that effect when they file their reports; and, third, imposes very strict criminal penalties for the first time as well as civil penalties for anybody who knowingly violates any of those rules and regulations.

We can argue whether we should have political action committees or not. These amendments only apply if in fact they are found to be legal after all of these legislative efforts are completed. But the point I make is that these matters that the Senator is addressing himself, which I agree with, should not be allowed in this country. They are already prohibited.

The final point is that, I think, millions of American citizens who work in this country, who desire to participate in their political action committee formed by the company they work for, located in this country, domiciled in this country, licensed in this country, paying tax in this country, should not be arbitrarily prohibited from doing so. That is what the amendment would do.

I do not know if we have more arguments.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER (Mr. LIEBERMAN). Is there a sufficient second?

Mr. LAUTENBERG. Mr. President, I am strongly opposed to letting foreigners influence our political process. Ours is a government of, by and for the people—the American people. And that is the way it should be.

The underlying Bentsen amendment, unfortunately, is inconsistent with that principle. The amendment would treat some American citizens as second-class citizens, by denying them political rights available to other Americans. That is why I feel compelled to oppose it.

Mr. President, the issue is not whether foreigners can get involved in the American political process. They should not and, under current regulations, they may not.

Nor, Mr. President is the issue one of political action committees or PAC's. The legislation we are considering would ban all PAC contributions, whether they represent Americans who work for foreign-owned companies or Americans who work for domestically owned companies.

Mr. President, the real issue here is whether American citizens who happen to work for a company with majority ownership abroad should be denied political rights available to other Americans.

Mr. President, the second-degree amendment proposed by the distinguished Senator from Louisiana [Mr. BREAUX] would codify existing regulations, to ensure that no foreigner may participate in the American electoral process. Foreigners would be prohibited from donating money to a PAC, or from influencing the decisions of a PAC. The amendment also would put teeth into these rules, through the establishment of penalties for violators. I think these proposals make sense, and I support the Breaux amendment.

Mr. President, my State of New Jersey has aggressively sought investment from abroad. Given our location and our top flight, educated work force, we are an attractive location for many foreign investors. As a result, the citizens of our State are now benefiting not only from the jobs that have been created by such companies, but by the products that are produced by these companies in New Jersey for sale to New Jerseyites and other Americans.

Mr. President, according to the New Jersey Department of Commerce, in 1987 there were 169,000 New Jerseyites who worked for foreign-owned companies. That number may well be higher now. These people—and the children and families who depend on them—should not be discriminated against just because a majority of the owners of their company happen to reside outside the country.

Mr. President, we should do everything we can to ensure that foreigners do not directly participate in American electoral politics. But let us not discriminate against American citizens in the process.

Mr. BENTSEN. Mr. President, I will be moving to table the amendment with the yielding back of time

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. Mr. President, I am prepared to yield back the remainder of my time, assuming the proponent of the amendment is.

I ask unanimous consent that we set the vote at 6:15 to give people time to get here, and I move to table.

Mr. BREAUX. I yield the remainder of my time.

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

Mr. BENTSEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Under the previous order, the hour of 6:15 p.m. having arrived, the vote will now occur on the motion to table made by the Senator from Texas to the second-degree amendment of the Senator from Louisiana, [Mr. BREAUX].

The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Delaware [Mr. BIDEN] is necessarily absent.

I further announce that the Senator from Hawaii [Mr. INOUYE] is absent on official business.

I also announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Indiana [Mr. SYMMS] is necessarily absent.

I also announce that the Senator from North Carolina [Mr. HELMS] is absent due to a death in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 35, nays 60, as follows:

[Rollcall Vote No. 67 Leg.]

YEAS—35

Akaka	Gore	Moynihan
Baucus	Graham	Nunn
Bentsen	Grassley	Pell
Bingaman	Harkin	Reid
Boren	Heflin	Riegle
Bryan	Hollings	Rockefeller
Burdick	Jeffords	Rudman
Burns	Kennedy	Sarbanes
Byrd	Kerry	Sasser
Dodd	Kohl	Simon
Exon	Levin	Wellstone
Fowler	Metzenbaum	

NAYS—60

Adams	Durenberger	Mikulski
Bond	Ford	Mitchell
Bradley	Garn	Murkowski
Breaux	Glenn	Nickles
Brown	Gorton	Packwood
Bumpers	Gramm	Pressler
Chafee	Hatch	Robb
Coats	Hatfield	Roth
Cochran	Johnston	Sanford
Cohen	Kassebaum	Seymour
Conrad	Kasten	Shelby
Craig	Kerrey	Simpson
Cranston	Lautenberg	Smith
D'Amato	Leahy	Specter
Danforth	Lieberman	Stevens
Daschle	Lott	Thurmond
DeConcini	Lugar	Wallop
Dixon	Mack	Warner
Dole	McCain	Wirth
Domenici	McConnell	Wofford

NOT VOTING—5

Biden	Inouye	Symms
Helms	Pryor	

So the motion to lay on the table the amendment (No. 251) was rejected.

The PRESIDING OFFICER. The question occurs now on the amendment offered by the Senator from Louisiana [Mr. BREAUX].

Mr. BENTSEN. Mr. President, if I may address the majority leader and the Senator from Louisiana?

The PRESIDING OFFICER. The Chair recognizes the Senator from Texas [Mr. BENTSEN].

Mr. BENTSEN. Mr. President, I am prepared to accept the amendment to my amendment and do not see a need for a rollcall vote.

Mr. BREAUX. Will the Senator yield? I certainly agree with the Senator. I ask unanimous consent to vitiate the order for the vote that was previously ordered on my amendment.

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

Mr. BREAUX. I thank the Chair.

The PRESIDING OFFICER. The question then is on agreeing to the amendment offered by the Senator from Louisiana [Mr. BREAUX].

The amendment (No. 251) to the amendment (No. 250) was agreed to.

The PRESIDING OFFICER. Without objection, amendment No. 250, as amended, will be agreed to.

The amendment (No. 250), as amended, was agreed to.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment as amended was agreed to.

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

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, parliamentary inquiry. Am I correct now that the Bentsen amendment, as amended by the Breaux amendment, has been agreed to by the Senate?

The PRESIDING OFFICER. The Chair advises the Senate majority leader he is correct.

Mr. MITCHELL. If I may have the attention of the Senate, pursuant to the agreement previously entered into, there will be no further rollcall votes this evening. Senator MCCONNELL will be recognized to offer his amendment, on which there will be 2 hours and 45 minutes of debate. Following that, Senator WELLSTONE will be recognized to offer his amendment, on which there will be limited debate this evening. Then tomorrow morning, at 9:45, there will be 15 minutes of debate equally divided on the McConnell amendment and a vote on the McConnell amendment, following which there will be 10 minutes of debate equally divided on the Wellstone amendment and then a vote on the Wellstone amendment.

So, Senators should be aware there will be a vote on the McConnell amendment at 10 a.m., and a vote on the Wellstone amendment at approximately 10:30 a.m. Any Senators who have other amendments to this bill I hope will be prepared to offer them beginning immediately after the vote on the Wellstone amendment.

I thank my colleagues.

The PRESIDING OFFICER. The Chair recognizes the Senator from Virginia.

Mr. WARNER. Mr. President, I have an inquiry of the Senate majority leader. I wonder if this Senator at some appropriate time in the next hour or two might just have a minute or two to introduce a bill? Will that interfere with the schedule?

Mr. MITCHELL. It would not from my standpoint. With the consent of the distinguished Senator from Kentucky, who under the agreement would not be recognized, I suggest the Senator now seek recognition if he only needs a minute or two and that he proceed to do so.

Mr. WARNER. Mr. President, I regret to say I do not have the paperwork before me at this time. I will at some appropriate time this evening ask for no more than a few minutes within which to introduce legislation.

The PRESIDING OFFICER. Under the previous order the Chair now recognizes the Senator from Kentucky [Mr. MCCONNELL].

Mr. MCCONNELL. Mr. President, it is my understanding the Senator from Massachusetts would like to proceed for a minute or two as in morning business.

Mr. PRESIDING OFFICER. The Chair recognizes the Senator from Massachusetts.

ON RAJIV GANDHI

Mr. KENNEDY. Mr. President, I wish to join my colleagues in expressing great sorrow over the tragic assassination earlier today of Rajiv Gandhi. His loss will be felt throughout the world for many years to come.

Rajiv Gandhi was the greatest living leader in India. He was also more than that. He was, in the tradition of his family, a dedicated public servant who put the goals, and values of his country beyond his own personal interests.

From 1984 until 1989, Rajiv Gandhi was Prime Minister of India—the largest democracy in the world. He understood that the greatest threat to his people and his nation comes from ancient enemies such as poverty, hunger, illness, and injustice, and he worked hard throughout his brilliant career to end them.

India is a country of many races, religions, and cultures. Under Rajiv Gandhi's leadership, India's rich and diverse community worked in harmony to implement and preserve the democratic ideals that the Gandhi family cherished and championed through three generations of outstanding leadership to their country and to the world. I recall in particular how deeply President Kennedy cherished his relations with Gandhi's grandfather, who was Prime Minister Nehru of India, in the early 1960's.

His tragic death marks the end of a great era of leadership by his family for the people of India. Even as the world mourns his death, we celebrate his life.

SENATE ELECTION ETHICS ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 252 TO AMENDMENT NO. 242

(Purpose: To strike the spending limits and public benefit provisions)

Mr. MCCONNELL. Mr. President, for myself, Mr. NICKLES, and Mr. GRAMM I

send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. McCONNELL], for himself, Mr. NICKLES, and Mr. GRAMM, proposes an amendment numbered 252 to amendment No. 242.

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

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

The amendment is as follows:

Strike section 101.

Strike subsection (d) of section 102.

On page 43, lines 18 through 20, strike "an eligible candidate (as defined in section 501(2) of the Federal Election Campaign Act of 1971)." and insert "a legally qualified candidate".

Strike subsection (b) of section 103.

Strike section 104.

Strike section 105.

On page 47, beginning with line 17, strike all through page 50, line 3.

On page 50, line 4, strike "(b)" and insert "SEC. 304A. (a)".

On page 52, line 8, strike "(c)" and insert "(b)".

On page 53, line 1, strike "(d)" and insert "(c)".

On page 54, line 6, strike "(f)" and insert "(e)".

On page 54, line 16, strike "(g)" and insert "(f)".

On page 61, strike lines 5 through 13.

On page 61, lines 16 and 17, strike "and subsection (c) or (d)".

Mr. McCONNELL. Mr. President, this is the amendment that many have been waiting for, which deals with the issue of public funding and restriction on participation in politics. There is at least one Senator here to speak on the amendment so I will withhold my opening statement until a little bit later in the debate.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Oklahoma [Mr. NICKLES].

Mr. NICKLES. Mr. President, I wish to compliment my friend and colleague, Senator McCONNELL, from Kentucky, for his outstanding leadership on this issue. This is an important issue. It is an issue that needs to be debated, and he has discussed it thoroughly and I think has done an outstanding job.

Most everyone on this floor has probably stated they are in favor of campaign reform. As a matter of fact, I think if we ask the American people, do you favor campaign reform, a strong majority would say "yes." I also believe, if we asked the same people the question, do you think American taxpayers should subsidize U.S. Senate campaigns, the answer would be overwhelmingly "no."

The American people do not want their tax dollars going to help subsidize U.S. Senate campaigns. Time and time again we hear people say we have to have a tax subsidy in order to have spending limits. I totally disagree.

I do not think spending limits are necessary. They inhibit or restrict free speech. In many cases they would keep people from participating in elections to the extent that they should have the opportunity to do so. I come as a candidate not from a wealthy background. I come as a candidate who has been outspent in races. But I personally think we are making a serious mistake to say once we reach a magical number we cannot expend a dollar more than that or, if we do, the heavy hand of the taxpayer is going to come in and give our opponent up to millions of dollars.

In some cases, if you spend over the so-called general election spending limit by as much as one-third, your opponent will receive millions of dollars of taxpayers' money. I think that is wrong. I do not think taxpayers want their dollars to be used in that manner, certainly not to restrict the rights of people to participate in campaigns and certainly not to be giving politicians certain, what I would call, political welfare.

Why should politicians be able to mail at one-fourth the rate of any other taxpayer? That is right, Mr. President. They can mail first class at 7.25 cents, whereas most taxpayers have to pay 29 cents per mail. Politicians would be able to mail for 7.25 cents.

Why should politicians be able to receive broadcast discounts equal to 50 percent of what anybody else pays? Why should politicians get rates from radio people or TV people one-half the rates of anybody else? I do not think that makes any sense. Why should politicians get vouchers that they can use to purchase broadcast time? And those vouchers are not free. They are paid for by taxpayers. The cost of this bill, Mr. President, is enormous.

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

Mr. NICKLES. No; I will not. I want to make a few more remarks, and then I will be happy to yield.

People have said the cost of this is minimal; we have reduced this. But the facts are this is an enormously expensive bill. It is enormously expensive to the taxpayers. It is enormously expensive to, I am going to say consumers because they are going to be the ones paying for the broadcast discounts. I doubt the broadcasters would be consuming that. My guess is consumers would one way or the other.

I do not know how I would respond to a small radio station in my State of Oklahoma which says if I have to offer a U.S. Senate candidate one-half the lowest rate, I guess I have to do that for a congressional candidate, and if we are going to do it for a U.S. Senate candidate, certainly we have to do it for a gubernatorial candidate. We are going to be mandating these lowest rates for a variety of offices and campaigns. I think that is a mistake.

I rise in support of the McConnell amendment because I think it is a serious mistake to have public financing in campaigns. I think it is a serious mistake to be saying politicans, by definition, are entitled to receive these, I am going to call them political welfare benefits, and I think it would also be a serious mistake to be denying people the opportunity to contribute and participate in elections once somebody reaches the magical number that we would define.

If we set that number—in my State I believe in the general election it is $1.1 million—if somebody exceeds that amount by $1, they are entitled to receive hundreds of thousands of dollars in benefits. If they exceed that amount by 30 percent, they would receive over $1 million subsidy or gift, whatever, from the taxpayers. Not only would they receive that million dollars, but then they could take that and buy broadcast at one-half the rate, so that million-dollar gift has now turned into a $2 million gift. The cost of this proposal is enormous.

Mr. BRADLEY. Will the Senator yield?

Mr. KERRY. Will the Senator yield?

Mr. NICKLES. I will be happy to yield to the Senator from New Jersey.

Mr. BRADLEY. The Senator mentioned the mail subsidy that is involved in this. Does the Senator have those figures from his speech?

Mr. NICKLES. Yes.

Mr. BRADLEY. What were those figures?

Mr. NICKLES. Under the proposal, the substitute for S. 3, there is a million dollar subsidy. The subsidy is equal to 5 percent of the general election limit.

Basically what that means is that a person could take that amount of money and purchase subsidized mail and when they purchase subsidized mail, they can purchase the mail at first class, for example, at one-fourth the rate of other taxpayers or other constituency.

Mr. BRADLEY. So do I understand the Senator is opposed to subsidized mail?

Mr. NICKLES. I am opposed to the Federal Government and having the taxpayers pay for politicians to receive mail at one-fourth the rate for their political purposes; the Senator is correct.

Mr. BRADLEY. Would that apply, as well, to political committees, such as the Republican Senate Campaign Committee and the Democratic Senate Campaign Committee?

Mr. NICKLES. I will be happy to consider the Senator's offer. What I do not want to do is have a greater expansion, if there is. I am not even sure what the exact mail rate costs are and whether

or not they are subsidized, whether or not they pay for themselves. There is a whole variety of mail rates. But I will tell the Senator what we do not need to do by passing this bill and maybe we should review those.

I do not know if they lose money or not. But I know this process would lose money. Mailing first class at 7.25 cents would lose money because we just ask constituents to do that. I do not think political parties can mail for 7.25 cents on first-class mail. I do not believe that is the case. I really do not know what it is, but I do not think we should allow candidates this opportunity to have, again, a political welfare system.

Mr. BRADLEY. Does the Senator know offhand because of his previous position and service, how much respective campaign committees, Republican Campaign Senate Committee, for example, raised from direct mail in the last 2-year cycle?

Mr. NICKLES. I do not have those figures right off the top of my head.

Mr. BRADLEY. I think that if you consulted the record, you would find the Republican Senate Campaign Committee raised much, much more than the Democratic Senate Campaign Committee from direct mail. On one level, that is a tribute to the ability of the campaign committee. But it is also an acknowledgment that the committee did mail at subsidized rates, which is a form of public financing.

Mr. NICKLES. I have the floor. The Senator asked a question.

Mr. BRADLEY. I thank the Senator for yielding the floor, and I think we will come back to these points during the debate.

Mr. NICKLES. Mr. President, I might make one comment. One, I do not know if that is a subsidy or not. I know the Democratic proposal is a big subsidy for mail. There are different classes of mail rates. You have a different rate for third class, you have a different rate for a variety of junk mail, and you have a different rate for a lot of different types of mail. Some of them make money. Some of them are less than first class, but some of them happen to make money because of volume or because of codes or whatever.

But I do know that under S. 3, the mail subsidy is a big subsidy that would cost taxpayers hundreds of thousands of dollars, and we do not need to be adding that kind of subsidy for politicians. We do not need to be adding that kind of additional burden on the backs of taxpayers.

Mr. McCONNELL. Will the Senator yield for a question and also an observation?

Mr. NICKLES. Yes, I will yield.

Mr. McCONNELL. In listening to the question of the Senator from New Jersey, it occurs to this Senator—and maybe this is a deal worth making—I gather the Senator from New Jersey finds offensive the reduced rate currently allowed political parties. Also, there are nonprofits that benefit from reduced mail rates which get involved in politics. So quite possibly we may have come up with the parameters of an agreement in which we could get rid of the reduced mail rate for nonprofits as well as for parties and maybe we could strike an agreement here.

We have been searching for 3 years for a bipartisan agreement. Maybe the thing to do is eliminate all this public funding across the board, including mail subsidies for parties as well as for nonprofits when they engage in political activities.

Mr. BRADLEY. Is the Senator referring to something like the Baptist Church?

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

Mr. NICKLES. Mr. President, I appreciate my friend and colleague's statement. I have not called for a review of all the postal rates and whether some rates are subsidized or not. I do know I personally, and a lot of our constituents, receive a lot of junk mail and I often wondered why we do not charge more for that mail than we do first class. Sometimes the post office comes back and says that happens to make money and the other loses money. I do not know. I am not even on that committee.

I do not have any objection to reviewing the various charges we now have. We have a lot of differentials in mail rates, but what we do not have right now is a special discount rate for candidates for U.S. Senate to give mail at one-fourth the rate the rest of our constituents receive. That is what I do not want to have happen. I do not want to have politicians getting mail at one-fourth the cost.

I will also say—not everybody on this side of the aisle or that side of the aisle will agree—I do not think politicians should get broadcast rates at one-half the rate of anybody else in America. I think that is offensive. I think that is a mistake. I do not think politicians should be getting vouchers to where they can get hundreds of thousands of dollars of vouchers to go out and buy TV time. I find that offensive, and I find particularly offensive the idea of spending limits when people say that these spending limits are voluntary. But if I decide as a candidate or PHIL GRAMM decides as a candidate that he is opposed to public financing of campaigns, so he says I am not going to participate, but if he spends $1 more than the so-called spending limit, his opponent is going to get millions of dollars.

If he spends 30 percent more than that amount, his opponent is going to get several millions of dollars. I find that offensive. I think that is a serious mistake. That is not voluntary spending limits. That is coercion. That is forcing somebody to participate in the system because you are holding the heavy hand of the taxpayer and subsidies through mail and broadcast discounts over their head. That would be a serious infringement on free speech. That is a serious mistake. I hope that we will not make that mistake this week when we consider this bill.

Mr. President, I yield the floor. I thank my friend from Kentucky.

The PRESIDING OFFICER. The Senator from Texas [Mr. GRAMM].

Mr. GRAMM. Mr. President, I do not think we are under a time limit, are we?

Mr. BOREN. Yes, we are.

Mr. GRAMM. I ask the distinguished Senator from Kentucky to yield me 5 minutes.

Mr. McCONNELL. I yield the Senator from Texas 5 minutes.

Mr. GRAMM. Mr. President, I want to talk about three general issues. This bill is probably the most sophisticated bait-and-switch maneuver that I have seen in my 13 years in Congress. Every year we have this massive buildup for a bill and then every year that bill is set aside and a new one is substituted in its place. And so I do not want today to try to get into a debate about the details. I want to talk about three issues, two of which are addressed by this amendment.

First of all, taxpayers funding of elections. Mr. President, the American people in poll after poll are adamantly opposed to taking the taxpayers' money in any shape, form, or fashion and using it to pay for politicians to run for public office. Most Americans are outraged that fringe candidates have gotten taxpayer funding to run for President. If people want to run for public office, I think most Americans believe that one of the requisites for running is having people who support them. I know that it dulls the palm of many politicians to have to go out and deal with real world issues, deal with real people, have to ask them for support, but I believe it is a fundamental part of the democratic process. The American people are adamantly opposed to taxpayer funding.

Let me remind my colleagues that every April 15 when the American taxpayers fill out all those tax forms, they have an opportunity to donate $1 to fund Presidential elections with taxpayer dollars. We do that poll every time somebody does their tax return.

Mr. President, does it not tell us something that less than 1 in 5 people, when it does not cost them a penny, say on their tax return they want politicians to have their tax money? That is when it does not cost them anything. It does cost the system something. It is not free. But for the individual taxpayer it is an opportunity to give politicians a dollar, and by over a 4-to-1 margin they say I do not want politicians to have my dollar.

Mr. President, that tells me something. It tells me that the American people do not want taxpayer funding of elections. I simply want to remind my colleagues that we are about to have a vote on exactly that issue. The people who are for taxpayer funding are going to have a chance to vote against the amendment of the distinguished Senator from Kentucky. The people who think taxpayers ought not to be funding elections will have an opportunity to vote for his amendment and then the American people will know.

The second issue is a subsidiary issue having to do with broadcasting rates. Why should we use the power of the Federal Government to force broadcasters to give us broadcast time? What gives us the right to take their property, to use it to promote our elections? Mr. President, this is really not a free benefit. This is going to drive up the cost of broadcasting, going to drive up the cost of advertising products. Everything from baby food to shoes will rise in cost because we impose that cost on broadcasters.

Mr. BOREN. Will the Senator yield for a question on that point?

Mr. GRAMM. I will be happy to yield.

Mr. BOREN. Is the Senator aware of the fact that the Senator from Kentucky expands the number of candidates eligible for 50 percent discount broadcast time because he allows it not only to those candidates who accept the spending limits but to those who do not, and the distinguished minority leader would go further in his proposal and allow free time as opposed to 50 percent discount time?

Mr. GRAMM. The amendment before us deals with taxpayer funding.

Mr. BOREN. It does strike the language, as I understand it, from the bill which limits the 50 percent discounted time only to candidates that accept spending limits. As I understand it, it leaves the 50-percent discount given by the broadcaster to all candidates; is that not correct?

Mr. McCONNELL. That is certainly not the intent.

Mr. GRAMM. Mr. President, let me say I do not have a dog in that particular fight. The distinguished Senator from Kentucky is perfectly capable of responding to this issue. Let me let him do that in a separate forum. The point I want to make is——

The PRESIDING OFFICER. If the Senator will withhold, the time originally allocated to the Senator from Texas has expired.

Mr. GRAMM. I ask for 4 additional minutes.

Mr. McCONNELL. I yield the Senator from Texas 4 additional minutes.

Mr. GRAMM. The point I want to make is that when we are forcing broadcasters to give away time, or to give discounts to politicians, that is adding to the demand for advertising space and time. That is driving up the cost of operating the American economy.

The point I want to make is that that is not free. Whatever various amendments do, I do not think that is a good idea. I submit that broadcasters would be here complaining about it except they are probably concerned about making all the politicians angry.

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

Mr. GRAMM. I do not yield at this time because I want to go on and make my main point.

My point is pretty clear. I do not think broadcasters ought to have to give politicians special rates because we have the power to seize their property, or take their license, or to otherwise limit their ability to make a living.

Now, Mr. President, the final point I want to address is the most curious proposal of all because it uses the term "spending limit," but when you look at it very closely it is about as undemocratic as it can be.

Mr. President, we have decided in the past, in the name of campaign reform, to limit the ability of all individuals to contribute to campaigns. We made a decision—I say we. The Congress made a decision—to limit the ability of any individual in a primary or general election to give more than $1,000. You could argue that we did that to limit the amount of speech that rich people could have and to produce a more level playing surface.

But the proposal here is not to limit what individuals could give. In fact, I think you could make an intellectual argument—it is not one with which I think I would agree, although I would be willing to listen to it—that we ought to lower it from $1,000 to $500, or $1,000 to $250, or $1,000 to $100, or $1,000 to $10. We could limit the ability of any individual to give more than $10. I think you can perhaps have an argument for that. I doubt it would hold water, but you could make it.

Mr. President, that is not the argument that is being made. The argument being made is that we ought to limit the ability of people to participate in the political process by setting out an arbitrary number, a certain amount in dollars. That means that if an individual has already obtained that maximum in contributions and then Sarah down the street or Pastor Brown up the road comes in and says, I want to contribute $10 to your campaign you have to say, wait a minute, you should have been here yesterday because the law says you cannot speak in this campaign because you were late getting through the gate.

Mr. President, at a time when people are not voting, when people are not involved, why should we pass a law that says, if somebody wants to contribute $10 to a campaign, they cannot do it? We could limit the ability of any individual to have more than a certain amount of impact, but what possible logic could there be in limiting the number of people that can be involved?

Mr. President, it would seem that there is only one possible logic; that is, the proponents of this bill do not want people involved.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GRAMM. I ask for 2 additional minutes. This will be the final 2 minutes.

The only thing I can conclude, Mr. President, cynical though the conclusion may be, is that the proponents of this bill do not like political involvement. They simply want to say people that have lots of money can give only $1,000. But if a whole bunch of people want to contribute in small amounts, you reach a point where you must say to anybody that comes in and wants to contribute $10, wants to have their say in the political process, you must tell them no.

Mr. President, I do not think that makes any sense. I do not think that is the democratic way. If you want to limit contributions, limit the amount any individual can give, but do not limit the number of people that can give.

So, Mr. President, I think it is very important that we go on record tomorrow—and I am delighted we are going to have the vote—saying two things: One, we are opposed to any shape, form, or fashion to limiting the ability of any individual to contribute whatever they want to contribute within the law, and the candidate who is the beneficiary to spend it. If we want to lower the amount that any individual can give, that is a different issue. But there is no reason on Earth we ought to limit the ability of people to be involved.

Second, we need to say very clearly no taxpayer funding of elections.

I yield the floor.

AMENDMENT NO. 252 AS MODIFIED

Mr. McCONNELL. Mr. President, the distinguished manager of the bill, on the other side, suggested that my amendment might have had some impact on broadcasting. In order to make certain that is not the case, I send a modification of my amendment to the desk.

The PRESIDING OFFICER. Is there objection to the modification?

Without objection, the amendment is so modified.

Mr. BOREN. Mr. President, could the modification be stated?

The PRESIDING OFFICER. The clerk will state the modification.

The legislative clerk read as follows:

The Senator from Kentucky, [Mr. McCONNELL] for himself, and Mr. NICKLES, proposes an amendment numbered 252, as modified.

Strike section 101.

Strike subsection (d) of section 102.

Strike section 103.

Strike subsection (b) of section 103.

Strike section 104.

Strike section 105.

On page 47, beginning with line 17, strike all through page 50, line 3.

On page 50, line 4, strike "(b)" and insert "SEC. 304A(a)".

On page 52, line 8, strike "(c)" and insert "(b)".

On page 53, line 1, strike "(d)" and insert "(c)".

On page 54, line 6, strike "(f)" and insert "(e)".

On page 54, line 16, strike "(g)" and insert "(f)".

On page 61, strike lines 5 through 13.

On page 61, lines 16 and 17, strike "and subsection (c) or (d)".

Mr. MCCONNELL. Mr. President, this amendment is designed to deal only with the question of public funding, taxpayer funding, of elections and spending limits, and I hope the modification will make that clear.

Mr. President, I yield 3 minutes to the distinguished Senator from Mississippi.

Mr. COCHRAN. Mr. President, this so-called reform measure proposed by the authors of S. 3 is centered on two old ideas: One is taxpayer financing of elections; the other limits on campaign spending. No matter how well-intentioned these ideas are, they are bad ideas. I do not believe that a majority of this Senate will vote themselves a campaign contribution from the Public Treasury.

We have passed a great many entitlement programs here in Washington, but I do not think we are ready to pass an entitlement program for politicians. This Senator is not going to vote for it.

Spending limits, the other plan, in the Democrats plan, may have a broader appeal, but it is greased. It is a greased plan to guarantee a permanent Democratic majority in the Senate.

The Supreme Court, first of all, says that spending limits are like free speech. They are political expressions and as such are protected by the first amendment. To be constitutional, spending limits must be voluntary.

Looking at the provisions of this bill, it is obvious that the limits in S. 3 are not voluntary. Candidates who refuse the limits are punished by a provision that can send hundreds of thousands of dollars, maybe even millions of dollars, of taxpayer money to their opponents.

So, as such, spending limits in S. 3 are limits on free speech, violations of the first amendment, and if passed, will almost certainly be found unconstitutional.

Why do I say it would guarantee a perpetual Democratic majority? If you look at the average campaign spending in the last cycle, Mr. President, you will see that the average incumbent in 1990 elections spent $3.4 million or $3.54 million. The average limit proposed in S. 3, interestingly enough, is $3.674 million. It just happens to slightly exceed the average amount that the incumbents are now spending. But what about the challengers? The 1990 challenger spending was $1.76 million.

The fact of the matter is the per candidate expenditure by incumbents is still going to remain very high and that by challengers exceedingly low. No challenger can expect to be an incumbent under these limits. So I think we ought to realize what we are being asked to approve, Mr. President. I hope the Senate will reject S. 3.

Mr. MCCONNELL. Mr. President, I want to thank my friend from Mississippi for his leadership on this issue over the years. I thank him for being here tonight to participate in this debate.

Mr. President, 2 months ago, the Chairman of the Federal Election Commission testified before the Rules Committee that the vast majority of the American people chose not to designate $1 of taxes they already owe to go to the Presidential election campaign fund. Four elections and $500 million later, the fund is nearly bankrupt.

Two months ago, several nonpartisan and highly knowledgeable witnesses testified before the Rules Committee that the Presidential system of spending limits, which is the bad joke propped up by the public financing fund, simply does not work.

We have, Mr. President, in the current Presidential system an expensive, bad joke that Americans do not choose to support with taxes they already owe. This is not an add on, Mr. President. These are taxes they already owe.

Today, we have before the Senate a bill, S. 3, that would impose this debacle on the Senate. The ultimate goal of proponents is to replicate the Presidential system and have it apply to the House as well—535 races, thousands of candidates, more lawyers, more accountants, and more auditors.

To be fair, S. 3 is not exactly like the Presidential system of limits. Yet, like that system, S. 3 would be expensive and like that system, S. 3 will not work.

What distinguishes S. 3 from the Presidential system is that S. 3 is already clearly unconstitutional. So, with S. 3, taxpayers not only would pay for a bad joke, but they would pay for an assault on the first amendment to the Constitution as well. One does not have to be a scholar, a lawyer, or a constitutional genius to figure out that the American taxpayers are not eager to pay for our campaigns. Eighty percent of the taxpayers are already not checking off a dollar from taxes they already owe to go to the Presidential candidates nor are they clamoring to pay for our Senate campaigns. Yet, S. 3 would cost the taxpayers hundreds of millions of dollars.

I have heard it said that regardless of what the nonpartisan experts, the scholars, say, our constituents say differently, that they want S. 3.

Mr. President, my constituents have rejected the Presidential system. Only 18 percent of Kentuckians check off to allocate a dollar from taxes they already owe. Eighty-two percent of Kentuckians do not choose to support the Presidential system with $1 from taxes they already owe.

Mr. President, that is not a poll. That is reality. That is a head count, taxpayer by taxpayer.

I put my ear to the blue grass, and I do not hear any Kentuckians saying they want to pay for our campaigns. They are screaming out that they do not want their tax dollars to pay for anybody's campaign, not even the President's. Clearly, S. 3 is out of step with the American people; it is out of step with Kentucky; it is also out of step with California, Oklahoma, New York, Florida, Hawaii and, yes, I would suspect even West Virginia.

In order to help this bill better conform with the desires and interests of American taxpayers, I am offering an amendment to strip all the taxpayer financing provisions. This amendment eliminates the taxpayer-funded broadcast vouchers, which I typically refer to as food stamps for politicians; it eliminates the taxpayer-funded penalties which kick in if one's opponent decides to speak too much; eliminates the taxpayer-funded payments to counteract independent expenditures; and it eliminates the taxpayer-funded preferential mail discounts for eligible candidates.

What this amendment says, in sum, is that we are not going to fleece the taxpayers to pay for our campaigns at a time when the budget deficit continues to grow, taxes continue to increase, the bill for Desert Storm must be paid, and the recessionary economy is cutting into private paychecks.

To make S. 3 better conform with the interests of challengers, the public, and the nonpartisan educated views of scholars, this amendment would also strip out its spending limit provision. To put it another way, it would eliminate the provision that seeks to put a cap on how many people can participate in American political races for the Senate.

What makes the taxpayer financing provisions of S. 3 so incredibly offensive is that they are a prop up of a fraud: spending limits. Virtually every reputable scholar who has studied the issue believes spending limits are bad policy, they do not work, and their intended effect is antidemocratic.

Mr. President, I have a list of those scholars. The junior Senator from Minnesota and I were discussing this issue of the scholars, he having come to the Senate off a campus recently. I think it is important to point out, as I have in the past, that there may be one out there somewhere—maybe it is the junior Senator from Minnesota—but I have been unable to find any well-

known scholars anywhere in the country in favor of spending limits.

I would say most of them—and I have not looked at their registration—are liberal Democrats. Some of them even favor some public funding by way as a floor, not a ceiling. But they are all against spending limits. Some of them may have been in favor of them back in the 1970's, until they had a chance to observe the Presidential system over the last 15 years. So the experts have spoken, Mr. President.

I ask unanimous consent that this list of experts be printed in the RECORD at this point.

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

SCHOLARS AGAINST SPENDING LIMITS

Herbert Alexander—Professor, University of Southern California. Director, Citizens' Research Foundation. Director, President Kennedy's Commission on Campaign Costs.

Christopher Arterton—Dean, Graduate School of Political Management, New York. Chair, Campaign Finance Study Group, John F. Kennedy School of Government, Harvard University. Assoc. Professor of Political Science, Yale University. Member, Presidential Nomination and Party Structure of the National Democratic Party.

John Bibby—Professor of Political Science, University of Wisconsin.

Joel Fleischman—Vice Chancellor, Duke University. Chair, Department of Public Policy Studies, Duke University. Member, Committee on Election Reform and Voter Participation, American Bar Association.

Joel Gora—Associate Professor, Brooklyn Law School. Assistant Legal Director, American Civil Liberties Union. Winning Counsel, Buckley v. Valeo (1976).

Gary Jacobsen—Associate Professor, University of California, San Diego.

Xandra Kayden—Research Associate, John F. Kennedy School of Government, Harvard University. Director, Women's Advisory Council, McGovern-Shriver Campaign.

Susan King—Assistant to the Commissioner, Federal Election Commission. Chair, U. S. Consumer Product Safety Commission under President Carter.

Michael Malbin—Assistant Director, House Republican Conference Committee. Resident Scholar, American Enterprise Institute. Editor and Co-author, "Money and Politics in the United States."

Nicholas T. Mitropoulos—Assistant Director, Institute of Politics, Harvard University. Senior campaign staffer for George McGovern, Jimmy Carter and Charles Robb.

Jonathan Moore—Director, Institute of Politics, Harvard University.

Richard Neustadt—Lucius N. Littauer Professor, Harvard University. Founding Director, Institute of Politics, Harvard University. Consultant to President Truman, Kennedy, and Johnson. Chair, Platform Committee, 1972 Democratic National Convention.

Gary Orren—Professor, Institute of Politics, Harvard University. Member, Democratic Commission on Presidential Nominations. Director, Polling and Survey Research, Kennedy for President Committee, 1980.

Norman Ornstein—Resident Scholar, American Enterprise Institute.

Nelson Polsby—Professor, University of California, Berkeley.

Austin Rammey—Professor, University of California, Berkeley.

Larry Sabato—Associate Professor of Government, University of Virginia.

Richard Scammon—Professor, American University.

Frank Sorauf—Professor, University of Minnesota.

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

Mr. McCONNELL. Not right now.

Michael Malbin, one of the scholars I mentioned from the Rockefeller Institute, says, and I think this is really the critical point when it comes to spending limits:

> In every Presidential election since public funding, spending has gone up, with more and more of the money going off the books and underground. If people care enough about an election, they will look for ways to get involved. If they are big and well organized and cannot contribute directly, then they will look at independent expenditures, or delegate committees, or registration, and get-out-the-vote, or communicating with members, or buying issue ads that publicize the position of an incumbent, without directly advocating election or defeat. Or dozens of other devices, some of which have not even been thought up.
>
> Off-the-book activities like these have become more prominent in every election since 1976.

This is Presidential elections we are talking about, Mr. President.

> Some of them can be regulated, but there is no way they can all be eliminated without running roughshod over the first amendment.
>
> More important, many of these devices favor the well organized and the powerful over smaller participants. What the limits seem to be doing, in other words, is encouraging the powerful to engage in subterfuge and legal gamesmanship. It is giving them an incentive to increase their influence in ways that are poorly disclosed. As a cure for cynicism or corruption, this seems bizarre.

Michael Mablin said that.

What is really bizarre is forcing taxpayers to pay for proven disaster. This bill is the S.S Titanic II of campaign finance reform. The Presidential system of taxpayer financing and spending limits has already sunk. That disaster has already occurred.

Members who do not want to launch another disaster will vote for the McConnell amendment.

Mr. President, taxpayers do not want ot pay for David Duke to favor a racist agenda. They do not want to pay for Lyndon LaRouche to favor his agenda, and tax dollars to pay for furthering anybody's agenda.

It is time we furthered the taxpayers' agenda. Tax Freedom Day 1991 was just on May 8. Americans, on average, will have to turn over every penny of their paychecks for the first 5 months and 8 days of this year to cover the state and local Federal tax bill. Only on May 8 did they begin to get to the point where they can put it in their own pockets. They had to work from the beginning of the year to May 8 to pay all the Government obligations. There are a lot of us who think that is obscene, and so is a bill that makes them pay for our campaigns.

I urge my colleagues on both sides of the aisle to support this amendment. This is a critical amendment. This is one that really matters. This is the one that really separates the Senate philosophically.

Do we want to put a limit on how many people can participate in the American political process? The Supreme Court said you cannot do that. And this bill seeks to do it in ways that penalize those who would speak too much.

And second, do we want to start another entitlement program for us? I wonder how many people who have served in the Senate have ever abolished any program outside of the Defense Department. We ought to be thinking about that as debate goes along: Is there anything we are willing to give up outside the Defense Department?

I know plenty of people like to give up a lot of what they do in the Defense Department. Have we ever abolished a program? I think maybe one, since I have been here: Federal revenue sharing. If we cannot stop anything, at least we cannot start something new, something new that will grow and grow and grow, because once we get our hands in those cookie jars, there will be no end to it and the subsidy will get bigger and bigger and bigger.

There are 1,183 Federal assistance programs on the books now, operated through 52 Federal agencies. We are spending $687 billion in fiscal 1992 for entitlements. There are at least 20 major entitlement programs on the books already. Do we want to start one more?

Do we really want to start one more for us, so we do not have to go out and ask anybody for financial contributions, bearing in mind the contribution limit is pretty low? That $1,000 limit that was set up in the mid-1970's is worth about 450 bucks in today's dollars. Let us see how many of those people can get involved in our campaigns and participate in the American political process, and send the taxpayers the bill? Is that what we want to do, Mr. President?

Let us just put it this way, Mr. President. I am totally confident that an overwhelming majority of the voters in each of our States, if confronted with this issue and an accurate description of what we seek to do, would be overwhelmingly opposed to it. This is going to be a big issue in next year's election. The American people deserve to have this issue discussed in the political arena.

The issue of campaign finance reform, in general, is an issue that makes eyes glaze over, even in this body. It hardly has made a difference. As a matter of fact, I cannot think of a single race in which how a person voted on

this kind of issue in the past has made a difference. I suspect not a one.

But this amendment crystallizes the issue, this issue, sums it up in a way that voters can understand and appreciate and grasp. It is quite simple: There has to be money in politics because that is how you communicate with the voters in the communication age. The question is, Who is it going to come from? Is it going to come out of the Treasury? Or is it going to come from individuals, as many of them who want to participate, provided their participation is limited and fully disclosed? That is the issue. I suspect it will be a major issue in the election in 1992.

Mr. BRADLEY. Mr. President, will the Senator yield?

Mr. McCONNELL. Mr. President, I yield the floor.

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

Mr. McCONNELL. I am happy to yield, if the Senator will use his time.

Mr. BRADLEY. I think the distinguished Senator from Minnesota was next in speaking.

Mr. BOREN addressed the Chair.

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

Mr. BOREN. I yield at this time to the Senator from Minnesota, who has been waiting some time, as much time as he might desire.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, let me rise to present a different perspective from that of the McConnell amendment. We have had a great deal of discussion over the last half hour about the extent to which people have become disengaged from politics, disengaged from the system that currently exists. I would like to speak to that issue through some personal experiences.

Mr. President, I was just elected in November, and sworn in January. I have never taken part in a debate about campaign reform. But I can tell you that there is no issue that I care more deeply about politically, professionally, and personally, than the role of money in politics. The way in which money has come to dominate politics in our country is the ethical issue of our time.

Mr. President, I am talking about a corruption that is far more serious than the wrongdoing of an individual office holder. I am talking about a systemic corruption that comes from a huge imbalance between the vast majority of people and those few who have the financial wherewithal to count more.

We have moved dangerously far away from a central principle of democracy, which is that each person counts as one, and no more than one. And, what I would argue, is that unless we begin to do something about this money chase, and unless we do something to limit all the money that goes into the Senate races and House races, then we will not have dealt with the most important issue before us as a people.

I knew when I started out campaigning 2 years ago; I had a gut feeling.

My gut feeling was that we needed to make money the issue in our campaign. So when I decided to run for the U.S. Senate, I said I would do it a different way: I would raise $5 and $10 contributions. And my goal was not to turn politics upside down; it is already upside down—my goal was to turn politics right side up.

I do not believe that those who oppose some limitations on spending along with some incentives understand the extent to which politics right now needs to be turned right side up; where once and for all, people in a democracy count again, as opposed to money having such impact on our elections.

So the green bus was a symbol. It was a symbol of all that was not sleek, of all that was not big money. But from the very beginning, my candidacy encountered imposing obstacles, imposing barriers.

When I campaigned for the endorsement of my party, the Democratic Farmer Labor Party, people said to me—it is not uncommon; it happens to Democrats and Republicans and others all the time—we agree with you on issues, but we do not think you are electable. There was no discussion about content of character; there was no discussion about leadership; there was no discussion about vision; there was no discussion about issues. All the discussion had to do with whether or not I could raise millions of dollars to be elected to the U.S. Senate.

That is some commentary on our country; the millions of dollars that people have to raise now in order to be viable candidates for the U.S. Senate is a sad commentary. It is like saying you cannot raise the money; therefore, you cannot win.

We struggled, and we won the endorsement. After getting the Democratic endorsement, I hoped maybe we had put the issue to rest. Unfortunately, we had not. When I came to Washington, DC, as a candidate I met the gatekeepers. Those who very early on decide whether or not you as a candidate will be able to get the money. These are the people with the purse strings. These are the people who have the big money.

They are not your next-door neighbors. Who is kidding whom? We know where the money comes from. And money talks, as it so often is said in politics, then early money screams. And that is usually the big money. And so the chase begins.

But there was very little interest in our campaign. Every time I asked people to consider supporting me, the answer that I would get was: Will you be able to raise millions of dollars?

Since when did that become a qualification for running for the U.S. Senate? We have to do something about these huge amounts of money that go into these campaigns. It has become absolutely obscene.

To me, the translation of that question was: Will people with a lot of money and some of the political action committees be willing to give you the cash? Are you connected with the heavy hitters? Do you know the players? Can you raise all the money?

That is the definition of whether or not you were a viable candidate.

The answer I tried to give was, "No. I am not wealthy myself. I don't have millions of dollars. But we'll have a grassroots campaign. We will go to cafes everywhere. I will not spend my time raising big money, but I will try to raise big issues, I will try to go directly to people in the best sense of what a democracy is all about."

I could see the eyes glaze over. In every one of those meetings that I had, what was said to me was, "Thanks for coming. Keep us posted. Good-bye. See you later." No interest in issues. I cannot even remember a conversation that I had here in Washington and in some parts of the country that dealt with my positions on issues.

And the media perpetuates this cycle. The media repeatedly judges candidate viability by fundraising ability. The pundits buy into it and the conventional wisdom is—and what a sad commentary this is for a democracy—that success comes from money.

That is what S. 3 is about. That is what public financing is about and that is what another proposal that I hope the junior Senator from Massachusetts will introduce along with Senator BRADLEY and Senator BIDEN is about. It is an effort to get some handle on this and to try to have some kind of even playing field.

As my campaign progressed, I saw my dream fade. In the framework of the current system it was unrealistic. We had our spaghetti dinners. We went to cafes. It was a grassroots campaign. But too much time was spent on the phone raising money.

I cannot say to you tonight, Mr. President, that I was successful, but I can tell you one thing. I hated being on that phone raising money. It is degrading. It is like begging. It keeps a lot of good people out of politics, people who will not run in the first place because of this money chase.

It also has a demoralizing effect on our communities. I have heard the Senator from Kentucky, the Senator from Texas, the Senator from Oklahoma talking about low rates of participation in politics. Well, part of the reason for that is that people have decided that the system is out of control. It is

not their game any longer. It is now all big bucks.

When I speak to young people in communities in Minnesota—and I imagine my colleagues hear the same thing—I say to them at the beginning, take out a piece of paper. And they do. And then I say to them, "I am going to mention the word 'politics.' Please write down what comes to your mind." And they do. They write down big money, fake, phony promises that are not kept, so on and so forth. It does not matter what kind of school, urban or rural, suburban; it makes no difference—they all say the same thing. And I believe they are reflecting the views of their parents.

I tell them politics does not have to be that way. All of us on both side of the aisles agree to that: That politics does not have to be about big money. That it can be about improvement of lives, about less economic suffering, about making this a better world. I honestly believe that and I am not ashamed of mentioning it or saying it on the floor of the U.S. Senate. I do not think that any of us would be. We believe that and that is why we are here.

But I will tell you something; it is very difficult to make that case given the way we now conduct finance campaigns. There is a deep sense of skepticism about politics and politicians in our country, and the people feel that this Capitol, that the U.S. Senate and the U.S. House of Representatives, does not belong to them; it belongs to people with big bucks.

Let me repeat that. Let us be honest about it. If we want to talk about low levels of participation and we want to talk about what people are saying back in cafes and at the grassroots, we can say that people do not believe any longer that this Capitol, the Senate or the House, belongs to them. They think it belongs to people with big bucks. They do not think that we any longer have a system where each person counts as one, and no more than one. They do not think that democracy is really functioning in our country. And that is not just a perception. I have heard that word over and over again in the debates. It is not just people. They are right and that is a reality.

I tell my story because I think in my story lies a larger story of what is happening in American poltiics today. Money determines political viability, determines who gets to run in the first place. And that is wrong. If money talks, early money screams, and those who have the big money become the gatekeepers in the electoral process, and that is wrong. I find it unbelievable that a few well-connected people can have so much say and so much power. That is wrong. That is a disgrace.

Money has given an overwhelming advantage to incumbents. We do not have competitive elections in our country. Look at the Senate races in 1990. One challenger won of all the Senate races. Now, maybe all of us would like to think that we all won because truth, beauty, and justice triumphed. Because we were more intelligent, more human, whatever. That is not true. We do not have competitive elections. Money gives the overwhelming advantage to the incumbent, and that is wrong.

The money chase makes it hard for people to be effective legislators. I can see it in the faces of my colleagues who are now in their last 2-year cycle. You can see it. People are exhausted. People cannot stay Thursday evening; they have to leave, exhausted from making phone calls in the evening, exhausted from traveling all across the country. The money chase goes on. It is difficult, no matter how committed a legislator you are, to be a really effective legislator given this outrageous way that we finance our campaigns today.

Money all too often determines the issue agenda, what is talked about, what is introduced. And that is wrong. And money determines who legislators all too often are acountable to: Cash constituencies, not real constituencies. Let me repeat that: Cash constituencies, not real constituencies. And that is wrong.

And, finally, money determines election outcomes, and that is what is really wrong. The relationship between money and politics has become the ethical issue of our time. We no longer have a democracy that is really functioning the way it should. The principle that each person counts as one and no more than one has been violated. The system is badly broken and it needs to be fixed.

When we talk about campaign reform, Mr. President, I think it is quite clear what we need to do. Much good work has been done on the legislation that we are considering. I am supporting both S. 3 and S. 128, the substitute that I hope will be introduced.

Both of these bills move in the right direction. I am pleased to support them as important steps forward. But I wish we could go further. Of the two, I like S. 128 because it assures more of a level playing field by providing public financing as a benefit for eligible candidates in the general election period. We have talked about public financing. S. 3 talks more about benefits, not public financing. But I want to talk about public financing for a moment since that has come up over and over again.

Mr. President, I do not understand the opposition to public financing for Senate elections. Opponents of public financing argue that the people do not want it. They argue that people will not accept it. Well, if you frame public financing as "food stamps for politicians" then, of course, people will be skeptical. I understand why Senators frame public financing that way. That is politics. But what we have today—and it seems to me that the opponents of S. 3 and the opponents of S. 128, if it is introduced, have forgotten this—what we have today is checkbook elections, auction-block democracy, and Government going to the highest bidder.

If you ask people whether they would be willing to spend $5 or $10—I have not costed it out—to reclaim their Government, then I think the response would be an overwhelming yes. That is the issue: What can we do by way of limiting expenditures or what can we do by way of public financing or what can we do by some level of benefits to make sure that people can reclaim their own Government.

That, I think, is the real issue. And when we define the issue that way, which is exactly the way the issue should be defined, people overwhelmingly want to see change.

In his book "Sleepwalking Through History," Haynes Johnson gives us the following vignette:

> In Midland, Texas, entrepreneurs in the Nation's oil production capital, gathered at the Holiday Inn to celebrate Reagan's inaugural. On a buffet table * * * they placed a cutout of the Capitol dome in Washington. On it was one word: "Ours."

The people of America know that the Government no longer belongs to them. That is the issue. We need public financing so that average citizens can say to themselves, "The Capitol of the United States of America belongs to us."

Let me repeat it. The people of America do not believe that this Government belongs to them any longer. People do not feel they control their own politics or their own Government. And we need changes, whether it be S. 3 or whether it be moving toward a system of public financing so that average citizens can say to themselves the Capitol of the United States of America belongs to all of us.

There are some small and some large problems that remain unanswered. But S. 3 and S. 128 are important steps in the right direction—in the direction people want us to take.

I do not understand why in both bills, candidates are allowed to contribute $250,000 to their own campaigns. This, to me, is way out of line with what most Americans can afford. I will be offering an amendment to lower this amount to ensure that people who do not have the wealth, or a high income, do not have any inherent disadvantage when it comes to running for the U.S. Senate.

Let me point out in Presidential races, in exchange for benefits, candidates agree to a $50,000 limit. Why we would allow candidates to spend five times more for a Senate race in one State than we allow a candidate to spend for a national race for President of the United States is beyond me.

That is not the only problem. Even under S. 128, though I think it is an important and critical step in the right direction, there will still be gatekeepers during the primary period. The point is, by the time general elections come around, you have two candidates. There are a lot of women and men who are eligible to run for office but now you have narrowed it down to two candidates. All the arguments that are compelling about why we should have a level playing field, and about how we have to deal with the whole way in which money has undercut politics in a general election, apply to the primary as well, in just as compelling a fashion. We have not yet taken the step to deal with the primary but I hope sometime we will and I believe that we have to.

I would like to share some work I have been doing in a project over the last few months with some really talented people who have been thinking hard about how we can change the way we finance Senate elections: Phil Stern, Randy Keehler, Ellen Miller, Marty Jezer, and Ben Centuria. Together we have tried to think about a way in which we could extend public financing to cover the primary as well as the general election. It is not an easy challenge. It is difficult to figure out exactly what the mechanisms are for making that concept operational.

I do not have all the answers today, but I believe it is an effort that absolutely should be undertaken. I think it is critical that the U.S. Senate pass a major campaign reform bill now. I do not believe it will be the end. I think it will only be the beginning. But I do think it is critically important that we pass campaign reform legislation now.

This is an interesting test case. The people outside of the Senate and the House, the people who live in the country, want the change, but they do not have the power. And too many people, I am afraid, in the U.S. Senate—or at least some Senators—have the power but they do not want the change. That is the point we are at right now. Wendell Phillips, way back when—probably in the 1850's or 1840's—the great abolitionist—was giving a speech. He was talking about slavery. He wanted to abolish slavery. He finished his speech and a good friend came up to him and said: "Wendell, why are you so on fire?"

And Wendell Phillips looked at his friend and he said, "Brother May, I am on fire because we have mountains of ice before us to melt."

Today we have some mountains of ice before us to melt. Of course there will be opposition, but I believe that S. 3 and S. 128 are historically important reforms. I believe the U.S. Senate will take the action. I believe we will pass a campaign reform bill. It will not be heaven on Earth but it will make it a better politics right here in this country. It will be a wholer politics; it will be a more wholesome politics; and it will be a politics where individual people once again can feel empowered and not left out of the process.

The PRESIDING OFFICER. Who yields time? The Senator from Oklahoma.

Mr. BOREN. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator may proceed.

Mr. BOREN. Mr. President, first of all I want to take this time to compliment my colleague from Minnesota for the remarks he has just delivered. He has spoken eloquently about the need to return the political process to the people. He has spoken about the alienation that our people feel when they no longer feel that this Capitol and this Government belongs to them. And he has talked about the need to restore that sense of identity of the people with their own Government.

There is no greater need in this country than the need to restore that sense of ownership and proprietorship by the people themselves of their own Government. I want to compliment my colleague from Minnesota for his contribution to this debate and for the very eloquent remarks which he has just made. I hope all our colleagues will take them to heart and I hope the American people will seriously consider the message which he has given to us tonight.

Mr. WELLSTONE. I thank the Senator from Oklahoma for his remarks.

Mr. BOREN. Mr. President, I yield 10 minutes to the Senator from New Jersey.

Mr. WARNER. Mr. President, parliamentary inquiry?

The PRESIDING OFFICER. The Senator may state his point.

Mr. WARNER. Earlier today when the majority leader addressed the Senate on the manner in which the balance of time would be disposed I interjected and asked if I could have about 2 minutes within which to introduce a bill that of course is not germane to this subject. I am just wondering, from the floor managers, when would it be convenient to have that 2 minutes.

Mr. BOREN. From the point of view of this Senator, the Senator from New Jersey has been waiting. I would like him to be allowed his time at this point. Then, as far as this Senator is concerned, I would be happy, if the Senator from Kentucky is agreeable, to allow the Senator from Virginia to proceed at that point with the time not being charged against either side in this debate.

Mr. WARNER. I thank the managers and I thank my distinguished friend from New Jersey and I shall await the appropriate time.

Mr. McCONNELL. Yes.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for up to 10 minutes.

Mr. BRADLEY. Mr. President, I also thank the Senator from Minnesota for his comments. I think what the Senate has heard in the last 25 minutes is a real cry from the heart and it is too infrequent that this body in this Hall cries from the heart.

I think he has spoken with not only a rich personal experience and strong set of personal values and dedication to the basic principles of our country, but I think he has spoken in a way that, certainly from my standpoint, has pierced the veil that frequently covers debate in the U.S. Senate.

It was a cry from the heart and I salute him for it.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I commend the Senator from Minnesota for a powerful, eloquent, reasoned statement on the issue now before the Senate. This is an important issue. It deserves the attention of every Senator, on whichever side each Senator comes down.

But I think the Senator from Minnesota has set the issue before the Senate clearly, concisely, with great emotion and power in a way that I believe is extremely persuasive. I thank him for it, and thank him for his helpful statement, and I thank the Senator from New Jersey for yielding.

Mr. WELLSTONE. I thank the Senator from Maine, the majority leader, and also the Senator from New Jersey for those remarks. It means a great deal to me as a freshman Senator. Thank you.

Mr. BRADLEY. Mr. President, for 6 years Democrats in this body have been trying to enact meaningful campaign finance reform. Frankly, our position has not changed that much in 6 years, whether we were the minority or the majority.

Mr. President, spending limits have always been the cornerstone of the Democratic proposal. There are some restrictions on sources of money. As a matter of public record, spending limits have been the Democratic approach since 1974 when the Federal Election Campaign Act first passed. I mention this because there is a consistency in the Democratic approach to this issue which has frankly been lacking on the other side of the aisle throughout this process.

Many of us have watched the evolution of the Republican position over the years. We have watched it with great interest. In 1985, when they controlled the Senate, their interest was in protecting the status quo, reasonably believing the current system favored incumbents and they had more incumbents. During the 100th Congress, they were staunch defenders of PAC's while they still believe PAC's would help Republicans more than Democrats. During the 101st Congress, in an abrupt about face, they proposed the

elimination of PAC's and talked about raising individual contribution limits because, obviously, they have more and wealthier donors. Now they want to limit out-of-State donations and a few other things. A cynic might conclude that the idea of reform on the other side is a sham in which only Republican donors are allowed to contribute to Republican candidates. That is not my view, necessarily; a cynical view, but something is there.

The only thing consistent about the Republican position has been their opposition to any real reform in the form of spending limits. And now they have added opposition to any form of public financing, which I believe is the other meaningful step to reform our current system.

The reasoning offered is the public does not want public financing. Mr. President, I am sympathetic to the solicitude for the American public on behalf of our colleagues in the Senate, but I can personally think of a lot of things the American public does not want us to spend money on if what we were spending money on were revealed to the American public in an intense way.

For example, I suspect the American public would not spend more money subsidizing tobacco instead of spending more money on child immunizations. I suspect that the American public would not want tobacco companies to be able to deduct the cost of their advertising and, thereby, increase tax burdens on the American public instead of taking that money and putting it into a Head Start Program or into a WIC Program.

So, Mr. President, I think the idea that public financing is not a good idea because the American public does not want it, really has not been tested. I think if you take a look at the proposal on the other side, what they are really saying is if we do not have any spending limits, because that will be the effect of it, no spending limits, no public financing, then, Mr. President, no one in an election will ever focus on the fact that tobacco companies deduct their advertising expenses while at the same time they are hooking children on nicotine and imprisoning them to a life of being less than they could be.

Why? Because with no limits, only the big will have more. There will be no means to make the point in a campaign. We will hear in campaign after campaign what we have heard on the floor tonight and throughout debates on campaign reform which is up is really down; black is really white.

It defies my imagination to hear some of the arguments that have been made on this floor tonight. This is a proposal, the Senator from Kentucky says, because we do not want public financing of elections, to which the Senator from New Jersey responds, oh, really?

Ronald Reagan, who is not Lyndon LaRouche, nor even David Duke, who were the two people who were mentioned here, the public does not want to finance Lyndon LaRouche and David Duke. I agree, but if you take the amount of money that Lyndon LaRouche received and compare it to what a number of Republicans have received in public moneys, Ronald Reagan received $90.9 million for his 1976, 1980, and 1984 Presidential campaigns. President Bush received $60 million for his 1980 and 1988 Presidential campaigns. The distinguished Republican leader of this body, Senator DOLE, received $8.1 million for his 1980 and 1988 Presidential campaign. The Republican Party has accepted $32.2 million in public money to pay for conventions since 1976.

So, Mr. President, to say that we do not think public money is appropriate defies the record. The record has been every Presidential candidate but one since 1976 has accepted the money and conventions have been financed by the money. But the argument that is being made is that is the Presidential election; we are talking about the Senate. Indeed, let us talk about the Senate.

Earlier, the distinguished Senator from Oklahoma confirmed that Senate campaign committees, indeed, have a subsidized rate. The Postal Service assesses about $8 million as the cost of subsidized campaign mailings by the campaign committees of the Senate. So if the distinguished Senator from Kentucky really does not want public money in campaigns, then a part of his amendment should be to give up the subsidized mailings that now are available to campaign committees and that are obviously used more by the Republican Senate Campaign Committee than the Democratic Senate Campaign Committee, and that is why he might not want to give it up.

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

Mr. BRADLEY. I will be pleased to yield to the Senator in hopes that he will be confirming my expectation that he was about to modify his amendment so that the campaign committees would no longer be subsidized.

Mr. MCCONNELL. If the Senator is groping for consistency, maybe I can get the Senator's support by eliminating all public subsidies period, mail or any other kind of public subsidy, that may currently exist as well as the Presidential system. Then we will have no public subsidy at all. Will that bring the Senator on board?

Mr. BRADLEY. What public subsidies was the Senator thinking of other than the subsidies for the campaign committees?

Mr. MCCONNELL. The Presidential system, which is an enormous public subsidy. We will get to that later in the debate ultimately.

But if consistency would bring the Senator on board, kind of decoupling politics from the Government in terms of financial support, that is a deal this Senator would be happy to make. Would that bring Senator BRADLEY on board?

Mr. BRADLEY. I would say to the distinguished Senator from Kentucky that public financing would bring the Senator from New Jersey on board. The point I am making is that to puff one's chest out about how bad public financing is while at the same time your campaign committee is raising money from subsidized public dollars is slightly inconsistent.

My only purpose is not to try to broker a deal on the floor of the Senate for a package of which I have but one vote but simply to point out that there is an inconsistency in the argument that the other side makes about public financing.

Mr. MCCONNELL. Will the Senator yield for a further question since we are on the subject of inconsistency?

Mr. BRADLEY. One might say thou doth protest too much.

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

Mr. BRADLEY. Certainly.

Mr. MCCONNELL. On the subject of inconsistency, is the Senator familiar with the fact that in the one major race in America where we have spending limits, the Presidential system, spending went up 50 percent from 1984 to 1988?

Mr. BRADLEY. With the spending limits in the Presidential race, the money available for the Presidential race came from individual Americans deciding—their choice—to contribute to a Presidential system.

Mr. MCCONNELL. In unaccounted and undisclosed——

The PRESIDING OFFICER. The time of the Senator from New Jersey has expired.

Mr. BRADLEY. I yield myself 5 more minutes.

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, it is so ordered.

Mr. BRADLEY. The Senator from Kentucky makes an interesting point, focusing on the Presidential system, but of course the overall campaign finance system, the overall system of finance for elections is not simply individual contributions. It is also the hundreds and thousands and millions of dollars that flow into States in so-called sewer money. It is also independent expenditures. It is also PAC contributions. It is also the subsidized mailing rates of campaign committees of the Senate. And so you have to see it in its totality.

Mr. MCCONNELL. The Senator from Kentucky certainly does see it in its totality. The Senator from New Jersey left out labor union soft money. But if you add all of that up, the Presidential

system clearly has not restrained spending and presumably that is what S. 3 is about.

The only point the Senator from Kentucky was going to make really by way of question is how the Senator from New Jersey felt that extending a system akin to the Presidential system to 535 additional races would control spending any more in the congressional system than it has in the Presidential system?

Mr. BRADLEY. I think that in a matter of few days or hours the distinguished Senator from Massachusetts and I and the distinguished Senator from Delaware, Mr. BIDEN, and the distinguished Senator from Minnesota will be offering a system with limits, and that is my approach to the problem.

Mr. McCONNELL. My only question is, in what way does the Senator expect that might work since it clearly has not worked in the Presidential system to control spending?

Mr. BRADLEY. I believe that it has worked in the Presidential system. I believe the American people have greater confidence in Presidential races because of the checkoff.

Mr. McCONNELL. Even though spending has gone up 50 percent from 1984 to 1988 in Presidential races, but in the congressional system where there are no spending limits spending went down 5 percent from 1986 to 1988 and 10 percent from 1988 to 1990?

Mr. BRADLEY. The point is confidence in the system.

Mr. McCONNELL. It is not controlling spending. The Senator has no expectation that this will——

Mr. BRADLEY. I have my ideas about controlling spending of the Congress and we might begin with the deductibility of tobacco advertising. There are varieties of ways you can control spending. The issue is how you control campaign spending and what effect the control of that spending has on the confidence of the American people in their system of government.

Mr. McCONNELL. It is a question of sort of consumer confidence rather than whether or not this is really going to control spending. I gather the Senator from New Jersey thinks it will really control spending.

Mr. BRADLEY. It is a question of how you can restore confidence in the system, in the electoral system of the States.

Mr. McCONNELL. So we restore confidence by spending public dollars on a system that will not limit spending.

Mr. BRADLEY. I personally believe that we restore confidence by having a voluntary decision made by individual taxpayers to have public financing on an individual basis as they choose and have overall spending limits. I believe that those are the cornerstones of real reform. I believe that is central to returning the system to the people of whom the distinguished Senator from Minnesota was so eloquently speaking.

I might also point out that earlier there were references made to Pastor Jones or Aunt Millie who want to give a dollar or $10 or $20. That is possible through a public finance system where you checkoff if you choose. That is not the kind of system we have now.

The kind of system we have now, as reported by Citizen's Action Computer, showed fewer than 9,000 individuals contributed more than $95 million to the 1990 congressional campaigns. There were actually no more than 179,677 large, over $200 donors to Federal candidates—179,000 Americans. Out of nearly 240 million Americans, there were 179,000 Americans.

So the present system we have is one that allows a very few number of people to contribute sizable amounts of dollars to the process. What I would like to do is to broaden that dramatically, allow them to checkoff on their income tax, if they choose, to contribute to a campaign. If that amount does not equal the limits, then you do not give candidates any taxpayer dollars. They are forced to raise up to the limit.

The PRESIDING OFFICER. The time of the Senator from New Jersey has expired.

Mr. BRADLEY. Mr. President, I see the distinguished Senator from Virginia, who has patiently waited. He has graciously allowed us to extend our debate another 5 minutes, and so I am prepared to yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. McCONNELL. Mr. President, I was in hopes that the Senator from New Jersey would stick around so we could continue the discussion further if he can.

Mr. BRADLEY. If the distinguished Senator from Kentuckly wants to yield on his time and inconvenience the Senator from Virginia, I am prepared to continue.

Mr. McCONNELL. Mr. President, the understanding was that the Senator from Virginia would be allowed to proceed for a few moments as if morning business. The time is not chargeable to either side. I suggest he be given that opportunity now.

If the Senator from New Jersey can stay, that will be good. If not, we will continue the debate later in the debate on the bill.

The PRESIDING OFFICER. Is there a request for the Senator from Virginia to speak as if in morning business?

Mr. WARNER. Mr. President, the Senator from Virginia respectfully requests that I be allowed to speak for no longer than 1½ minutes as if in morning business.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Virginia is recognized.

Mr. WARNER. I thank the Chair.

(The remarks of Mr. WARNER pertaining to the introduction of S. 1121 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. Who yields time?

The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I yield to the Senator from Mississippi 5 minutes.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I thank the distinguished Senator from Kentucky from yielding this time. I just found the debate we have been listening to very interesting, referring to Presidential campaigns and the public financing of those campaigns as an example of why we should have that for Congress. As a matter of fact, as I pointed out yesterday, that fund is going broke.

They will not have enough money for the next two Presidential campaigns unless they raise the amount of the checkoff, or they start dipping into the General Treasury. So there are other problems with it.

In fact, I think some of the people that ran for President that participated in that system will tell you they are still having difficulties with auditing and all that goes on after they have accepted the public financing of Presidential campaigns.

The big problem with it, the reason a lot of people do not participate is they make them check off $1, or check off that amount if it is more. But they do not get to indicate where it is going to go. I, for one, do not check off because I want to—whatever I can give, whether it is $1 or $100, I will choose the candidates I want to give it to.

Another interesting point was made about the public financing for the party conventions. If the American people in Mississippi, in Kentucky, Connecticut, really understood part of that money was going for party conventions, they would have a fit; millions of dollars going to put on party conventions. You would think the parties, through their own apparatus, private contributions, could at least put on their political party conventions.

So I am astounded at some of the debate I just heard as an example of why we should have public financing of congressional campaigns. I was thinking earlier today I should come over and ask this question. Are we having fun yet? Surely we are supposed to be having fun because this cannot be serious. This is a joke, is it not? Does anybody really think this is going to become law with the stuff in this bill and the stuff we are adding to it?

I assume we are just enjoying, and having a good time. I assume also at

some point, maybe tomorrow, we will get serious about this.

Let me go over some of the things we are talking about in this bill. Public financing of congressional campaigns—that is enough said right there. The idea that this is food stamps for politicians running for Congress is the apt way to describe it.

Let me tell you—I do not know. Maybe they like it in some States. But in Mississippi you could get strung up talking about how we are going to pay for congressional campaigns out of public financing and eventually out of the Treasury. That is what they have in mind, spending limits, but no limits on soft money or sewer money, no limits; you do not even have to report it.

How did we just happen to overlook this little problem of soft money? Let me tell you. As a member of the Ethics Committee, I can tell you that is one of the great ways to get in trouble. We need to take a look if we are serious. How can we overlook the question of at least reporting soft contributions?

Look at the amendments we have offered. With all due respect to the offerors of these amendments, do you really think the American people want to hear four mandated Presidential debates, Get out of Dodge.

I went through all of that when I ran for the Senate; had 12 debates; finally got to where the people were saying "Please spare us of any more debates." But, oh, yes, we are going to mandate you have to have four debates plus debates for the Vice Presidential candidates.

We are going to have—if we get this elimination of more honoraria—we were brave today—we are going to eliminate honoraria and outside earned income. But we are not going to do anything about having parity between the two bodies. But to show our real courage, we then said, well, we will also limit outside unearned income. Who are we kidding? We are picking on each other. Nobody in this body thinks either one of those amendments will be in the final version of passage. What are we doing? Are we just playing with this thing? Are we really interested in campaign finance reform?

At the very minimum, let us show we have had a good time. You know we are going to put some of these funny things that are going to be coming up behind us. Let us start off and get serious. And the first thing we should do is pass this amendment by the Senator from Kentucky, get rid of the public financing campaigns, and then let us start talking about some serious campaign finance reform that would really restore the faith of the American people.

Do you think public financing of congressional campaigns is gonig to restore the faith of the people in the political campaign process in America? I am telling you, the opposite would be the result.

So I advocated it the other day. I will do it again. I want campaign finance reform. I am prepared to vote for real campaign finance reform, maybe one that even has some things in it I do not like. We have to have a consensus to do that.

By coming in here with jokes as amendments, and by taking these hard positions, oh, yes, we are going to have spending limits, and we are going to have public financing of campaigns. You are not serious. It is not going to become law. We are just posturing.

So I urge the Senate to let us begin to find a consensus. I know the men working on this legislation. The Senator from Oklahoma is serious and he is a good man at finding a consensus on any piece of legislation. I know that is true of the Senator from Kentucky. But from what I have seen yesterday and today so far on this bill, we are not serious.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. McDONNELL. Mr. President, I would like to thank the Senator from Mississippi for his fine statement. He is right on the mark. Hopefully the debate will produce better results as we move along with the bill.

I yield the floor.

ORDER OF PROCEDURE

Mr. BOREN. Mr. President, I ask unanimous consent that the distinguished chairman of the Foreign Relations Committee, the Senator from Rhode Island, might be recognized to conduct another parliamentary matter with time in relationship to the tragic death today of Mr. Gandhi of India, and that he might be allowed to proceed at this time without being charged to either side.

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

THE MURDER OF RAJIV GANDHI

Mr. PELL. Mr. President, we were all shocked and saddened to learn of the death, the murder, the assassination of former Indian Prime Minister Rajiv Gandhi. Coming as it does in the midst of a national election, this cowardly deed can only be seen as an attempted assault on India's democratic institutions. As we express our condolences to the Gandhi family and to the people of India, we must also work to ensure that the cause for which Rajiv Gandhi gave his life—the cause of a democratic and unified India—shall continue.

In November 1984, I became the first Member of Congress to call on Rajiv Gandhi after he became Prime Minister of India. It was a position he never sought, but after his brother died in an airplane accident, he acceded to his mother's request and entered politics. He became Prime Minister after his mother was brutally murderd by her bodyguards.

I remember Rajiv Gandhi as a cheerful and highly intelligent leader. Our conversation ranged from issues of higher education to questions of nuclear proliferation and Indian foreign relations. In each case, Rajiv Gandhi listened carefully to my questions and responded thoughtfully to the specific issues I raised. He was not one for stock responses.

As Prime Minister, Rajiv Gandhi worked to liberalize the Indian economy and to improve the lot of his desperately poor nation. During his 5-year tenure, Rajiv Gandhi strengthened democracy in India and offered a helping hand to the new democratic government in neighboring Pakistan. And when the Indian electorate failed to give his Congress Party an absolute majority in the December 1989 elections, Rajiv Gandhi accepted the people's verdict, standing aside to allow another party to form a government even though his own party had the largest number of seats.

India has had the most successful democratic experience of any developing country. Since independence, it has held elections on a regular schedule, with governments and political parties alike accepting the verdict of the people. Coming as it does in the midst of India's 10th general election, this murder of the man thought most likely to be India's next Prime Minister is an assault on Indian democracy. India's democracy is a strong one, in part because of the contribution made by Rajiv Gandhi, and I believe India will survive this assault.

Rajiv Gandhi's youth compounds the tragedy of his murder. He had so much to offer to his country. My condolences go to his widow Sonia, his children Priyanka and Rahul, and to the people of India.

EXPRESSING THE SENSE OF THE SENATE OVER THE ASSASSINATION OF RAJIV GANDHI, FORMER PRIME MINISTER OF INDIA

Mr. PELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 131, submitted earlier today by Messrs. MITCHELL, DOLE, PELL, HELMS, MOYNIHAN, and HATFIELD regarding the assassination of Rajiv Gandhi.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 131) expressing the sense of the Senate over the assassination of Rajiv Gandhi, former Prime Minister of India.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution.

There being no objection, the Senate proceeded to consider the resolution.

Mr. PELL. Mr. President, I ask unanimous consent that all the Members of our body be added as cosponsors.

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

Mr. MITCHELL. Mr. President, it is with profound sadness that I learned of the assassination of former Indian Prime Minister Rajiv Gandhi.

A figure of tolerance and unity, and a respected statesman, Gandhi will be deeply missed by all Indians and by the international community.

Rajiv Gandhi came from a family dedicated to political activism and committed to India's future.

Leaving his career as a pilot to enter politics upon the death of his brother, Gandhi was elected to Parliament and subsequently became General Secretary of the Congress (I) Party. He succeeded his mother as party leader after she was assassinated by extremists in 1984.

It is difficult to accept that he, too, has lost his life in carrying out the family tradition of political leadership.

It is particularly tragic that he should be killed by an act of terrorism in the midst of elections, for he fought to uphold and improve India's democratic system.

The act of cowardice not only felled a compelling political leader; it strained the very democratic tradition of which India is justly proud.

I hope the perpetrators of the bombing, which also killed other innocent prople, are swiftly brought to justice.

Such ignoble and self-defeating actions have no place in Indian society today, and should not give way to further violence.

We will remember Rajiv Gandhi for his significant contribution to India's economic development and growing leadership in the international arena. Here in America, we will also remember a leader who worked to expand mutual understanding and respect, building a stronger foundation for the friendship between our two great nations.

I hope and trust that Rajiv Gandhi's legacy, his commitment to improving India's democratic system, economic future, and relationship with the United States, will be carried on by a new generation of Indian leaders.

His assassination outrages us all. We share the grief of his family and the people of India, and we extend our profound condolences.

The PRESIDING OFFICER. Is there further debate on the resolution? If not, the question is on agreeing to the resolution.

The resolution was agreed to.

The preamble is agreed to.

The resolution, with its preamble, is as follows:

S. RES. 131

Whereas Rajiv Gandhi courageously served his nation as Prime Minister and as leader of the opposition;

Whereas Rajiv Gandhi embodied the post-independence generation of Indian leadership committed to economic liberalization, to individual rights, and to Indian leadership on behalf of democracy and development in Asia and the Third World;

Whereas Rajiv Gandhi has made an important contribution to better relations between the world's most populous democracy and the United States;

Whereas Rajiv Gandhi has been murdered in the middle of an election campaign in a cowardly attack that is intended as an assault on Indian democracy itself; Now, therefore, be it

Resolved, That the Senate of the United States—

Condemns the cowardly murder of former Prime Minister Rajiv Gandhi and others in the bomb explosion of May 21, 1991;

Expresses its profound regret over the deaths of Rajiv Gandhi and other victims of election violence in India;

Offers its deepest condolences to Rajiv Gandhi's widow Sonia, to his children Priyanka and Rahul, and to the people of India; and

Stands in solidarity with the people of India in their effort to sustain the most successful democratic tradition in the developing world.

Mr. PELL. Mr. President, I move to reconsider the vote by which the resolution was agreed to, and move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXPRESSING THE PROFOUND REGRET OF THE CONGRESS REGARDING THE ASSASSINATION OF RAJIV GANDHI OF INDIA

Mr. PELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 155, now at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 155) expressing the profound regret of the Congress regarding the assassination of Rajiv Gandhi of India.

The PRESIDING OFFICER. Is there debate on the concurrent resolution? If not, the question is on agreeing to the concurrent resolution.

The concurrent resolution was agreed to.

The preamble was agreed to.

Mr. PELL. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

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

The motion to lay on the table was agreed to.

SENATE ELECTION ETHICS ACT

The Senate continued with the consideration of the bill.

Mr. BOREN. Mr. President, I yield 2 minutes to the Senator from New Jersey.

Mr. BRADLEY. Mr. President, if the distinguished Senator from Kentucky would want to continue our colloquy, I would be glad, if he would like to follow up. I could not quite get the drift of his line of questioning about controlling spending and why Presidential campaigns were spending more money. He might want to repeat that question.

Mr. McCONNELL. It is one of the interesting ironies that the Presidential race in which we allegedly have spending limits is the race in which spending is out of control. Spending escalated about 50 percent from 1984 to 1988 in the Presidential race, most of it large money off the books, undisclosed.

I often describe spending limits as like putting a rock on jello. It sort of oozes off onto the side, as undisclosed expenditures. In the congressional races, on the other hand where there is no big money contribution—they are limited—virtually all of the money comes directly into the campaign, and we have not seen the explosion of soft money we have seen in the Presidential race.

My question of the Senator from New Jersey was essentially this:

It was not a complicated question. I was asking the Senator from New Jersey how, in light of the experience with the Presidential system, the Senator from New Jersey felt that S. 3, or something akin to it, would control spending in congressional races?

Mr. BRADLEY. Well, I say to the distinguished Senator from Kentucky that it is not a real mystery to me why spending at the Presidential level increased dramatically from 1984 to 1988. The fact is, there were a lot more candidates on both sides. It was an open Presidency. So, in 1984, there were not nearly the number of candidates, not nearly the amount raised. I think that it is fairly understandable why there would be more money spent in 1988 than in 1984.

I would come back to the central question, which is integrity in the system. And I would focus on and say, once again, that that should be the issue here. I think that it is a slight diversion to try to look at the numbers of 1984 and 1988 and say that, therefore, spending limits on senatorial races will not produce the desired result. Of course, they will produce the desired result.

The PRESIDING OFFICER. The time of the Senator from New Jersey has expired.

Mr. McCONNELL. Mr. President, I yield 15 minutes to the Senator from Massachusetts.

Mr. KERRY. Mr. President, thank you.

Mr. President, I heard the distinguished Senator, and my friend from Mississippi, talk about getting serious here, suggesting that we are not serious because we are proposing some component of public funding in campaign finance reform.

There really is not an automatic sequitur that, as a result of the proposal for funding, which the Senator from Kentucky happens to oppose and the President said he would veto, that does not mean that it is a serious proposal. Those do not go hand in hand.

The Senator may object to it, as he does; he may not like it, and he may think it is wrongheaded, as he does. The Senator may think that some of the people in his State, or the majority think it is wrongheaded. But that does not mean that it is in fact wrongheaded, or that it is something we should not be considering.

I will say to the Senator from Mississippi that I share the feeling that we ought to get serious about campaign finance reform. But if you want to measure seriousness about a notion called reform, you cannot, under any description whatsoever, consider serious a proposal that does away with any limits at all, and that defeats the ability to have any restraint at all.

That is not, under anybody's measure, a reform. That is opening the doors and floodgates of the very system we have today to even worse abuse. We are supposed to—I underline "supposed to"—be sensitive to the needs, concerns and demands of the public. The public has spoken on this issue again and again and again.

The proposal of the Senator from Kentucky flies directly in the face of every single expression that the people of this country have made about the excessive influence of money in politics. The proposal of the Senator from Kentucky says that we are going to enfranchise the people with money. It says that we are going to open the floodgates, so that those with money can have even more influence on campaigns, not less. And it has not the least iota of restraint in it whatsoever.

Let me share what the American people have expressed on this subject. This is from a Yankolovich-Clancy-Shulman poll for Time and CNN, October 1990: "In your view, does money have too much influence on who wins elections?" And 88 percent of the American people responding, in a sample of over 1,000, said "yes." Only 10 percent said "no."

In an NBC News-Wall Street Journal poll of more than 1,000 registered voters, with a margin of error of 4 percent, October 1990: Officeholders who raise a lot of their campaign funds from special-interest PAC's, or political action committees. What it says is, "Tell me how much it bothers you personally: A lot; some; or not much at all." And 47 percent of the American people answering that said it bothers them a lot; 28 percent said it bothers them some. Only 22 percent said not much.

Millionaire candidates who use their own money to pay for their campaigns to get elected. More than 50 percent of the American people said they are bothered by that; a majority. Officeholders who raise most of their campaign funds from outside of their State; 68 percent of the American people are bothered by that.

So, Mr. President, you can run the gamut of every public opinion poll, almost, that has been done. Another one, a Harris survey of over 1,200 adults in May of 1990. The question asked was: "Do you feel that the following item is a major cause of corruption; a minor cause; or not a cause at all?" Here is the item: Most large contributors wanting some influence in Government after the election; 70 percent of the American people said that is a major cause. The large amounts of money it takes to run a political campaign; 69 percent of the American people said that is a major cause of corruption. A candidate without enough money would usually lose the election; 61 percent of the American people perceive that to be true.

On another question from another Harris survey:

> Let me read you some statements about money and politics. For each, tell me if you agree or disagree. Here is the statement: Withstanding now over $10 million for some races for Governor, and over $500,000 in races for Congress, those who contribute large sums of money have too much influence over the Government.

Eighty-four percent of the American people believe that that is true.

A poll, again done by Harris, done a year later, again on 1,200 adults:

> How important is the amount of money a candidate has to spend on a campaign, when it comes to that candidate's success in getting elected? Very important; somewhat important; rather unimportant; or not important at all?

Fifty-one percent of the American people said very important, and 33 percent said somewhat important, for a total of 84 percent of the American people understanding how important it is in terms of the relationship of money.

Mr. President, I can go on and on. There is not a poll in this country, not one poll, not one sampling of American public opinion that does not document the American people's sense that the system is out of control, that the system is corrupt, that money has too much influence, that they as individuals do not have influence and cannot compete. And there is not one contrary poll in America that suggests that people like the current system.

So what does the Senator from Kentucky do? He comes along and says: Let us make the current system even worse; open the floodgates even more. Let us eliminate any incentive whatsoever, and have unlimited capacity for people with big money to be able to contribute.

Mr. President, the data is very clear that about one-half of 1 percent of the American voters contributed more than 46 percent of the large contributions in campaigns in this country; one-half of 1 percent have a significant impact on the outcome, and the other people do not.

If we do not have some kind of limits in what happens in terms of campaign expenditures, it is going to be completely out of reach of the average person, as the Senator from Minnesota said, to be able to run and out of reach of the average citizen to be able to feel they have any input into the process.

I hear my colleagues on the other side of the aisle keep saying, by gosh, no American in their right mind wants tax dollars taken to pay for a lousy politician running for office. The fact is that the American people are paying more for the politicians who run for office with the private funding system than they would be if they supported a public funding system that separates those people with influence over what happens here from those who do not have any. There are countless studies that show very disturbing incidents of correlation between the influence process and the votes.

I am not suggesting, Mr. President, that that is the way it happens because I know my colleagues well and I think more often than not the money chases the votes. But the perception is there, the perception is there, and we are supposed to be sensitive to perceptions. We are supposed to create a system that is supposed to be beyond approach, beyond the ability of people to have to suffer the recurring cycle of cynicism as a consequence of our unwillingness to be able to rein the system in.

What is it about the political process now that makes it so unfair for people to have a limit on what they spend in campaigns if the same limit applies to both sides equally? That really brings us to the nub of what this fight is all about. This fight is not about ideology, about whether or not the taxpayer wants to spend some money, because that was voted on years ago and the ideologic issue did not come up, and it was passed.

As my colleague from New Jersey pointed out, Republicans have consistently used Federal dollars to run for President of the United States. Ronald Reagan was elected on those dollars. He never once complained about Federal dollars being spent. BOB DOLE ran. He never once complained about that money. He spent $8 million of the Federal taxpayers' money and never complained about it once. President Bush spent $60 million of the taxpayers' money and never complained about it once. Here we are with the minority suddenly saying, oh, gosh, we want to represent the taxpayers in this. The

fact is they are really representing themselves; they are representing a party that has the ability to raise extraordinary amounts of money way above their opposition, and that money, they believe, is essential to political life.

That is what this battle is about. It is about whether or not people are willing to stand on the same ground, on an even-footing campaign effort, or whether it is going to continue to be that kind of uneveness. If you have any doubt, let me quote the former Senator from Nevada. I do not know anybody in the U.S. Senate who did not appreciate the character and the contributions of Paul Laxalt. And Paul Laxalt was chairman of President Reagan's campaign in 1976, 1980, and 1984. Here is what he said about the impact of public funding on the race and on the whole process.

> There is far too much emphasis on money and far too much time spent collecting it. It is the most corrupting thing I see on the congressional scene. The problem is so bad we ought to start thinking about Federal financing of House and Senate campaigns. It was anathema to me, but in my experience with the Presidential campaigns, it worked and it was a breath of fresh air.

Thus spoke the conservative distinguished former Senator from Nevada, first chairman of President Reagan's campaign.

Today some 6 out of 10 Americans support the concept of public funding. Why? Because they want to liberate the U.S. Congress from the interests of special money or what they perceive to be the interest of special money. I frequently said and I repeat again, I am not inherently opposed to the existence of PAC's or to PAC's contributing in the process. What I have always objected to is the disproportionate share that they represent and the fact that without the ability to have limits and without the encouragement for other people to participate in the process with small donations and to put a premium on the small donations, we wind up with a process that shows that terrible imbalance and creates the perception that the American people have that this system is not worth supporting and politicians are not worth caring about and simply reenforces the cynicism that so many people in the country feel.

Public funding today works in 12 States in this country. The New York mayor is elected through a funding process and nobody has complained and suggested it does not work. In fact, it is about to be adopted in the State of the distinguished Chair, the Senator from Florida. I am convinced that one of the best bargains American taxpayers could get is to have the minimal sum that is put forward in this bill to be spent as an incentive for people to have real reform rather than to have only those with money influencing the process, further disenfranchising Americans and costing people countless millions of dollars for the special-favor legislation, the special-interest legislation that gets passed as a consequence of that.

Now, this is a broad cross-section of the opinion from the country that suggests that this is an appropriate way to proceed. There are newspapers all across America, many in some of the most conservative and Republican bastions of this country, which want public funding because of the negative influence of money in politics.

The Coffeyville Journal of Coffeyville, KS, editorialized events saying:

> The best action that can be taken by us is limit reelection campaigns to a set dollar amount and then to finance those campaigns publicly. Sure, it would cost the taxpayers. At least we know for certain who is footing the bill, and that is more than the taxpayer can say today.

Or the Detroit Free Press editorializes:

> The best answer to campaign finance abuse as far as we are concerned is to be found in public financing of congressional campaigns combined with firm spending limits.

The very thing the Senator seeks to do.

The Gainesville Sun of Gainesville, FL:

> Public financing the only answer, more modest reforms too easily circumvented.

In the words of the San Jose Mercury News, of San Jose, CA:

> Congress has to get serious about public financing of campaigns.

So I respectfully suggest, Mr. President, that this talk of the taxpayer somehow being protected from having campaigns funded is in effect the very reverse; it is not a protection for the taxpayer, it is a guarantee of continual abuse of the taxpayer and further disenfranchisement of the taxpayer and further distancing of the taxpayer from the affairs that most concern the taxpayer. It would be far cheaper for the American taxpayer to fund the campaigns of those who run for the U.S. Senate in the general election, not the primary because there is no way to do that, but to do it in the general election, and in the end it would save this country money and streamline the process.

Mr. President, for the last year and a half, six of our colleagues sat on the Ethics Committee and had the unenviable task of trying to decide where it was proper for a Senator to act on a piece of legislation and where it was not. As we know, every Member of the Senate walked around and tried to sort out that particular issue, and still is perhaps.

The Keating affair challenged, frankly, the legitimacy of the entire fundraising process. There is not anybody here who is immune from the potential challenge that some think they did, some efforts they championed, some particular vote that they cast somehow was not associated with the campaign finance process. Some may say, OK, those are the brickbats we take in public life. We have to put up with it. Some say, if you cannot defend yourself with that, you should not be in the business. There are a lot of nuances to it. Would it not really be better if the American people did not have to have that question answered? Would it not be better if that question did not have to be asked in the first place, if our actions were clearly beyond reproach with respect to the association of money and campaigning and indeed our campaigns and our ability to get elected were based not on our bank accounts but on the quality of our service, the quality and quantity of our ideas, and our ability to be able to serve the people in our districts in a way that suggests that we ought to be here or we ought to return here?

Mr. President, that is, I think, what this system was supposed to be all about. The reason we are seeing term limitations, which I think is a lousy idea, not because I am here, but because I think you would strip from this place experience, you would have staffs run Government more than they might even today, have people coming here worried about what their job is going to be the moment they have gotten here and where they are going. There are a host of reasons why that is not a good policy. The reason it is catching on currently is because campaign financing has become the incumbent's tool and, as a consequence of that, people are saying the only way we can reclaim access and reclaim our voice and democracy in a sense is to limit the terms and somehow that will cure the problem.

The cure is not term limitation. The cure is to have campaign finance reform with limits and with adequate incentives in the system so that people will not feel that they will only get elected by virtue of the amount of money they spend.

Twenty-five years ago, when Robert Kennedy was here, he warned us and said:

> We are in danger of creating a situation in which our candidates have to be chosen among the rich or those who are willing to be beholden to others.

I would respectfully suggest that 25 years later the system is more so; you either have to be rich or you have to be beholden. You have to have extraordinary access to amazing amounts of money.

Mr. President, you know I have been outspent in every campaign that I have run, and I think that in the final analysis that colleagues here would be far stronger in their ability to be able to run if we were to change this system so that Americans are willing to vote and willing to think about our process in terms that are a little more elevated

and a little more positive than we find ourselves in today.

It is my belief that the Senator from Kentucky has some good ideas about some areas of reform. I hope that somehow we really could create a consensus, though it obviously looks like it is one of those impossibilities around here. But to do away with limits, which is the essence of reform, is to take us backwards from where we are today, and it is really to perpetuate, even worse than perpetuate, it is to make worse the current system because it would give license to people and to the notion that all you need to do is raise a lot of money and know people who have a lot of money.

America has increasingly become divided in the last 10 years between those who do have money and those who do not. I cannot think of anything that would be more of a prescription for creating a greater gulf between elected officials in the U.S. Congress and the American people, and I hope we will reject it on that basis.

I yield back whatever time I have to the distinguished Senator from Oklahoma.

Mr. BOREN. Mr. President, how much time remains on this side?

The PRESIDING OFFICER. The Senator from Oklahoma has 15 minutes and 50 seconds remaining.

Mr. BOREN. I yield to myself 12 minutes.

Mr. President, I want to make just a few comments and not prolong the debate. The Senator from Kentucky and I have debated this subject on a number of occasions. But I do want to call to the attention of my colleagues what we are really dealing with in terms of an amendment.

This amendment strikes out not only those incentives which are available to encourage candidates to accept voluntary spending limits, the incentives of reduced broadcast rate time—and in doing so, by the way, that strikes out a provision which is a similar provision of the bill of the distinguished leader on the other side of the aisle, Senator DOLE, who includes a provision of free time for candidates for a certain amount of time preceding the election—it also strikes out those additional incentives in forms of vouchers and lower mailing rates.

But in addition to that, it strikes out, I think, the heart and soul of campaign reform itself, those provisions in the bill which are aimed at limiting spending; strikes out all of those provisions which would stop the money chase, which would stop the never-ending war for more and more money, the upward spiral for more and more money spent in campaigns. That is really the essence of the amendment by the Senator from Kentucky.

Let me just say as a minor matter, I think, in terms of those functions that deal with the incentives that are provided, let me say that is certainly not a partisan issue, that some public funding is provided in the bill.

Democratic and Republican candidates for President have accepted public financing, including Members of this Chamber, and of course President Reagan and President Bush. Republican Presidential candidates and the Republican Party have accepted $241 million in public funds—and have abided by voluntary contribution limits—since 1976.

President Reagan has been the top recipient of public funds, receiving a total of $90.5 million for his Presidential bids in 1976, 1980, and 1984.

The Republican Party has accepted $32.2 million in publicly funded grants for its Presidential conventions since 1976. Republican Party campaign committees have spent millions of dollars in public funds in the form of postal subsidies for political mailings.

I point that out not to be argumentive, Mr. President, but to point out that there seems to be a great willingness to accept public funding in some instances while decrying it as a matter of principle when it comes to offering very, very modest incentives that would cause people to accept voluntary spending limits and stop the money that is corrupting American politics.

Let me point out that the cost of our bill is not hundreds of millions of dollars or even a billion dollars as some have said on the other side of the aisle. We have had an estimate made by CBO which indicates that the cost is approximately $25 million a year. It does not follow from that that we will have to pay for that by increasing taxes on the American people. There is a voluntary checkoff system which can be looked at as a possible source of funds.

The sense-of-the-Senate resolution we have already passed indicates that we might simply cut some of the subsidies we are now giving for lobbying—$500 million over a 5 year period in terms of tax subsidies we are now giving for lobbying expenses of major organizations—or we might look at the $25 million on mass mailings and newsletters that the Senate spends each year for example. It could perhaps, as this Senator has advocated, be curtailed or stopped and used to pay for clean election campaigns without putting any additional burden on the taxpayers.

The Bush administration has requested this year $30 million for the National Endowment for Democracy to promote democracy in other countries.

We are talking about $25 million of incentives to promote democracy in this country.

But the basic point that we really ought to be talking about is this: As I say, the heart and soul of campaign reform is to do something about runaway campaign spending, more and more money being poured into campaigns every year. That is what the amendment of the Senator from Kentucky would strike from the bill, all voluntary spending limits. The sky is the limit once again. And we are told by those on the other side that have argued against this proposal is S. 3 and argued for striking out of the spending limits, that it is a good thing, it encourages political participation, that we allow more and more money to pour into campaigns and have more and more spending.

Mr. President, the American people know better than that. Can we really honestly sit here and say it is a good thing that it now costs an average of $4 million to run for reelection to the United States Senate; that it is a good thing, and all the time and attention that it takes to raise that kind of money is being spent by Members of Congress instead of doing our duty to solve the problems of this Nation. Is it a good thing that Members of Congress have become full-time fund-raisers in order to raise these millions of dollars and part-time Members of Congress, part-time public officials? Is it a good thing because we know that if we have unlimited amounts of money that can be raised by candidates that incumbents are always going to be able to raise more money will change?

Why? Because those special interests that want access to politics want to get along with the people that are already here, that chair the committees and the subcommittees or are the ranking members. And it is no small coincidence that special interest funds last year went at a rate of 16 to 1 for incumbents over challengers in the House of Representatives, and in total spending House Members, incumbents, were able to raise eight times as much money. In the Senate it is almost three times as much money.

Is it good for America when we should have competition in politics that this system of more and more and more money pouring into the system gives such an advantage to incumbents over challengers that there is no possibility that we can have competition again? Is that good for America?

Is it good that the Members of this body have to go all across the country mainly to other States because more than half of the money spent on campaigns last year was raised outside the home State or district of the Member of Congress?

Is it a good thing that our Members have to go raise that money from people they do not even know in other States instead of spending time back home in their own districts talking to their own people and solving their own problems?

Is it a good thing that the appearance of corruption is created when contributions are given by people in those other States with whom Members of

Congress are not well acquainted, who later turn out to have tainted reputations? I do not think so, Mr. President.

Is it a good thing that spending is so out of control with incumbents having such an advantage that 97 percent, 96 percent won reelection races to Congress last year?

Is it a good thing that more and more excess financing in American politics is based on who can raise the most money, not based on who has the strongest character or the best ideas to solve the problems of this country? No, it is not a good idea.

I do not think there is any way it is a good idea. It must be stopped if we are to return the political process to where it should be, where it should be, to competition on qualifications, competition on ideas, competition on ideals for this country. The people understand it.

I would have to commend the people of Senator MCCONNELL'S home State, the Senator from Kentucky. In a recent poll from the Louisville Courier Journal, which was published on Sunday, March 3, 1991, this year, it was found that "an overwhelming number of Kentucky voters, 85 percent believe that campaign spending should be limited." And, if I go into additional questions they were asked, do you agree or disagree that large amounts of money necessary for major statewide election campaigns in Kentucky have kept the best qualified people from running for office, 76 percent of the people said "yes."

If you are a new person trying to break into politics and you have to think about the millions and millions of dollars that it takes to run, of course it would discourage you, when you consider it is likely to go to incumbents.

Then they were asked, "Do you think the large amounts of money it takes to run political campaigns are a major cause of corruption?" Sixty-two percent said it was a major cause of corruption, 24 percent said it was a somewhat minor cause of corruption, and only 4 percent said it was not a cause of corruption at all. We want to know why the American people are becoming alienated from the political process, where 86 percent of the people realize with all this money being pumped in it creates an illusion of corruption of the political process?

Mr. President, do we want to talk about this problem or do we want to do something about this problem? One of the things that is wrong with America today is we have become a Nation of people who talk about solving problems. Oh, yes, you have the street commissioner, he comes on the nightly news and he stands before a pothole deploring the fact that pothole exists in the street. He gets on the evening news with a sound bite but he does not do anything about patching the pothole.

We have a serious problem eating at the heart and soul of the election process. As long as elections are decided on the basis of who can raise the most money, it will always favor incumbents, so we do not have any competition in American politics.

As long as that goes on we are going to have a deeper and deeper disillusionment of our own people, especially with more and more of that money coming from special interests that have no connection with the home States of those involved. How long are we going to wait, Mr. President? Are we just going to talk about it? Are we going to get up on the floor of the Senate and wave our arms, and pound the desk, and talk about it over and over in sound bites on the nightly news, or are we going to do something about it?

The time has come for us to do something about it, and the first thing to do is defeat this amendment which strips spending limits out of the bill. How in the world can you have campaign reform and not deal with the major problems identified by the American people themselves, in poll after poll after poll: 80, 85 percent, nearly 90 percent saying we must stop this money chase?

We want our elected officials to compete in an old-fashioned way on the basis of ideas, seeing the people, debating the issues, debating the merits and qualifications of those candidates. We do not want it to be based upon money.

So, Mr. President, it is time for us to act. Let us adopt this bill that is before us. Let us not wait. How long are we going to wait? How much erosion into the political process of this country is going to occur? How much is disillusionment going to increase, before we do something about it?

We are the trustees of the political process. The American people have sent us here. And, as the Senator from Minnesota said, this should be their chamber of Government. This should be their Capitol Building. This should be their Congress, not the Congress that gives access to those who contribute more and more of the money to finance political campaigns. It ought to belong to every American.

Every American counts and every American should count equally in the political process, including those who cannot afford to make large political contributions. That is what this is all about, Mr. President. It is about a struggle for the soul of this democracy itself, and we are put here to be the trustees.

This great system of government was here before we came, and it was alive, and it was vital, and we have a responsibility to pass it on to our children. At the rate of growth of spending of political campaigns, by the time those who are graduating from high school today get old enough to run under the qualifications of the Constitution of the U.S. Senate, at the average rate of increase it is going to cost somewhere between $12 and $15 million in the average small State to run for the U.S. Senate.

I yield myself 1 additional minute.

Mr. President, enough is enough. We have talked long enough. It is time to do something about the problem and not just talk about it. Are we serious or are we not serious?

If we are serious, we have to have a plan to put some spending limits in place, and that means abiding by the Supreme Court decision, and that means having some incentives in place to have people accept the voluntary spending limits that will be necessary to get this money chase under control. Let us not wait any longer, Mr. President. Let us vote down this amendment that would strip spending limits out of the bill. Let us keep a series of incentives that will be necessary to get these spending limits put in place. Let us restore integrity, and let us restore vitality, and let us restore the confidence of the American people in the campaign process.

Let us not wait. It is our responsibility. If we do not do it, Mr. President, no one else will. The American people deserve better. Let us meet our responsibility for a change.

The PRESIDING OFFICER. Who yields time? The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. the Senator from Kentucky controls 30 minutes, 1 second.

Mr. MCCONNELL. Mr. President, I am certainly not going to use the entire 30 minutes.

There has been a lot of loose talk tonight, Mr. President, about polls. I think it is important to look at how the question is asked in determining what a poll answer is going to be. Peter Hart and Bob Teeter teamed up for NBC and the Wall Street Journal earlier this year. The date of this poll was December 1990. The question, Mr. President, was "Would you favor or oppose public financing of congressional elections?" It could not be more directly stated. Thirty-eight percent favor, 55 percent oppose, and 7 percent are not sure.

My good friend from Oklahoma referred to polls appearing in the Courier Journal, a Kentucky newspaper. We do not have to refer to polls to know how Kentuckians feel about public funding, Mr. President. Eighty-two percent of all the taxpayers in Kentucky do not checkoff on their tax returns to divert a dollar of taxes that they already owe into the public coffers.

With regard to poll results on spending limits, I can confidently tell you if the question were asked, "Do you think there ought to be a limit on how many people can participate in the political process by contributing limited

and disclosed amounts of money," I think the answer would be overwhelmingly that there should be no limit on participation in politics in this country.

Earlier the Senator from New Jersey and I were engaged in a colloquy. We ran out of time. I do want to respond to a couple of points that he made. I am sorry he is not still here. He raised at least two points that I think deserve a response.

In the colloquy concerning the increase, this exorbitant, astronomical increase in spending in the Presidential system where there are supposedly spending limits, he asserted that the 50-percent increase in Presidential campaign spending between 1984 and 1988 that I had pointed out to him was attributable to the larger number of candidates running for the primary on both sides. The fact of the matter is that may obscure the figure a little bit but most of the 50-percent increase came from money spent off the books, not direct subsidies to candidates. We are talking about the black market here, Mr. President.

The real reason spending is going up astronomically in the Presidential system is that the public money does not replace private money, it just augments it. So what people are doing is they are accepting the public money, you get all of that, and then you get a bunch of private money spent on your behalf as well through all the various loopholes.

In addition the Senator from New Jersey referred to a computer study done by Citizen Action—this is one of the Ralph Nader groups—on campaign financing. I might just point out that Citizen Action is a shell corporation which has been charged with laundering labor soft money in a suit still under investigation by the IRS, and the FEC. So I would look at any study done by Citizen Action somewhat with a jaundiced view, Mr. President.

Our friend AL SWIFT over in the House, a Democratic Congressman from Washington, said there are only three groups against public funding of campaigns: incumbents, challengers, and the public. AL SWIFT, Democratic Representative from Washington said, there are three groups against public funding: incumbents, challengers, and the public. That sums it up, Mr. President, better than anything I could say.

This amendment we will be voting on at 10 o'clock in the morning is the critical amendment. This is the amendment that will be the issue in the 1992 race. This is the issue that will determine whether or not the Senate wants to go on record as extending the failed Presidential system to 535 additional races.

As I have often said, and I say again tonight, the FEC would soon be the size of the Veterans' Administration if we extended public funding to congressional races and every fringe candidate in America who looked in the mirror sometime and said gee, I think I see a Congressman in there, is going to be able to reach into the cookie jar and get some of that public money to go out to run for the Congress.

Mr. President, what we also know because of the experience with the Presidential system is not only will all this public money be spent—not only on Republicans and Democrats but all these fringe candidates—it will not have any impact on spending whatsoever. Because you see, Mr. President, you cannot constitutionally limit spending. You cannot limit independent expenditures. You cannot limit what a wealthy person would spend in his own behalf. And you cannot, in the aggregate, limit spending in a campaign.

The net result of all this is going to be a lot of public money spent, a lot of fringe candidates financed, and no cap on spending. It is an abysmal failure by every standard that we measure. It is amazing to me that people will still stand up in this boand defend the Presidential system as some kind of success. There is not a credible academician anywhere in America, Mr. President, not one, who thinks that the Presidential system is a success.

The issue is whether we want to extend that to another 535 races. I think that clearly is a terrible idea.

Mr. President, let me say I hope the Senator from Minnesota is here. I say to my friend from Oklahoma, I am prepared to yield back the remainder of my time if he is prepared to yield back the remainder of his time. The Senator from Minnesota is going to lay down his amendment, and then we can go home for the evening.

Mr. BOREN. Mr. President, I will be happy to comply. I would like to take 1 minute, if I might, to reply to the comments just made by my good friend from Kentucky. I yield myself 1 minute, after which time I will yield back the remainder of my time.

Mr. President, I want to say that there is one comment that was made by the Senator from Kentucky that really defines the basic philosophical difference between us as we debated this issue for a long time. He seems to believe that putting limits on the massive amounts of money that are pouring into American politics is somehow depriving people of the right to participate in politics. I think that is where we fundamentally differ. He believes that participation can be measured in terms of dollars contributed to candidates or dollars amassed in a campaign fund.

I simply believe that the essential element of participation in our democracy should not be the giving of money or the spending of money. I think, really, the essence of participation in American politics—and the way it should be and the way I participated in it as a child even: tacking up posters, going to rallies, putting on bumper stickers—is in the campaigning and the debating of the issues and the knocking on doors and fundamentally, of course, above all, for the casting of votes where every American does count in an equal way. This is the essence of participation.

I think it shows how distorted the process has become; that we started to think of participation in the political process primarily as a matter of participating in raising and spending of dollars.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, my friend from Oklahoma and I differ. I suggest quite respectfully that you could put up posters and hand out leaflets until you are 95 years old in the State of Florida and nobody would still know who you were. The cold, hard reality is in this modern communication age the way in which you participate in politics effectively is to contribute.

The congressional system ensures that those contributions will be in small denominations and fully disclosed. That is the way you contribute today, Mr. President. This is not the horse and buggy era. People do not go out on the courthouse steps and listen to political debates anymore. Whether we like it or whether we do not, there must be money in politics and it can only come from two places: It can come out of the Treasury or it can come from a whole lot of individuals. This is not big money in the congressional system.

I listened to all these speeches tonight railing about big money. There is not any big money in the congressional system. It comes from a whole lot of people in small and disclosable amounts. The big money is in the Presidential system. That is where the big money is, in the system with the public funding and the spending limits.

Mr. President, this debate is about participation. The Supreme Court has said that the contributing of money can be limited and disclosed, but the right of a whole lot of people to do that, to give to a candidate to help him speak is a constitutionally protected right. So we do differ.

The Senator from Oklahoma looks at all these people participating in our campaign and he thinks that is a tainting experience; that it would be cleansed by pushing them out and accepting public dollars instead.

I look out at all these people participating in the American democracy and I do not find that tainting. I think it ought to have an opportunity to support or oppose each of us as aggressively as they want to. I think that is what makes this democracy function.

So, Mr. President, I will be happy to yield back the remainder of my time if the Senator from Oklahoma will yield back the remainder of his time.

Mr. BOREN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

Under the previous order, amendment No. 252, offered by the Senator from Kentucky, is laid aside and the Senator from Minnesota is recognized to offer an amendment.

AMENDMENT NO. 253

(Purpose: To decrease the amount of an eligible candidate's personal funds that may be used in an election campaign)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE] proposes an amendment numbered 253.

On page 13, line 18, strike "$250,000" and insert "$25,000".

On page 52, line 10, strike "$250,000" and insert "$25,000".

The PRESIDING OFFICER. Under the previous order, there is 10 minutes on this amendment, equally divided.

Who yields time? The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, first of all, let me say how proud I am to have Senator BOREN, Senator CONRAD, Senator DASCHLE, Senator FORD, Senator HARKIN, Senator METZENBAUM, Senator MITCHELL, Senator SIMON, Senator LEVIN, Senator SASSER, and Senator DODD as cosponsors of this amendment.

I assured the Senator from Kentucky who has certainly, I think, distinguished himself, agree or disagree, in a long day of debate that I would be very brief. Tomorrow we will have more time to discuss this.

I want to say to the Senator from Kentucky, it is tough for a colleage teacher to try and do this is about 3 minutes, but I am going to give it may best shot.

Mr. President, the amendment I offer tonight is very straightforward. It simply lowers the amount that candidates can contribue to their own campaigns from $250,000 to $25,000.

This is a limited amendment, but it sends an important message. What I am trying to do with this amendment is to deal with what I think is a real economic bias to this $250,000 threshold.

Mr. President, this amendment really raises one question, and I think it is a fundamental question about this threshold: What percentage of American people have the financial wherewithal to contribute a quarter of million dollars directly, or in the form of a loan, to their own campaign?

I will admit that I do not have the exact figures on this, but my gut tells me that not very many people in our country can contribute that kind of money either as a direct gift to their own campaign or in the form of a loan.

Mr. President, I also want to make sure above and beyond their first problem which deals with people not being able to take advantage of their own high income, that high income should not be really a major issue in any kind of Senate compaign, to deal with what I think is another kind of a problem.

I want to point out that for Presidential compaigns, in exchange for benefits, candidates are limited to a $50,000 contribution. It seems to me odd that in a Senate race in one State a man or woman running for a U.S. Senate position would be able to contribute five times as much money to his or her own campaign than someone running for President of the United States.

So, Mr. President, what I am trying to do is bring this system more into line with the way we have conducted the Presidential election. I offer this amendment as something which I think will make our system more equitable, more fair, and more just.

I view this, and I believe Senator BOREN and Senator MITCHELL and the Senator from Kentucky and other leadership on this issue also view it as a perfecting amendment. I think while it is a small step, it is a small step that sends a message that the American people will understand.

The PRESIDING OFFICER. Who yields time?

The Senator from Oklahoma.

Mr. BOREN. Mr. President, if there is no further debate on the other side of the aisle, I suggest to my colleague from Minnesota that we yield back all time remaining to him at this point on the amendment, which I am proud to cosponsor, and ask my colleague from Kentucky to yield back all time tonight on the Wellstone amendment.

Mr. MCCONNELL. I yield back my time.

The PRESIDING OFFICER. The Senator from Kentucky yields back all time. The Senator from Minnesota is controlling 1 minute 47 seconds.

Mr. WELLSTONE. Mr. President, I will yield that time back to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Minnesota has yielded back his time.

Mr. BOREN. We yield back all time, Mr. President

Mr. HATFIELD. Mr. President, several years ago, a clothing store advertisement in the New York Times caught my eye. It consisted of a picture of an American flag set on fire, with the words "We May Be Hated, But at Least We Look Cool" emblazoned across it. The ad was not very big, and I have not the vaguest idea whether it had any effect at all on the store's sales.

But it represented a twist on the old adage about a picture being worth a thousand words—that ad spoke volumes about the dangerous tendency in our age and in our culture to be more interested in how things look than in what they really are.

In my view, this elevation of appearance—indeed what really amounts to nothing less than a national obsession with appearance—has had an enormously detrimental effect on the way elected officials do their jobs and indeed on how people get themselves elected in the first place. The underlying problems involved in the decline in the public's trust and confidence in Congress is at least in large part due to this obsession and its manifestations. Sound bites have replaced informed debate—nationwide fundraising has replaced neighbor-to-neighbor networking—and, at its worst, simplistic rhetoric becomes a substitute for effective public policy.

No doubt like every one of my colleagues on both sides of the aisle, I have spent a considerable amount of time in recent years wrestling with the various issues thrown together under the general heading of "campaign finance reform." Each of us is painfully aware that Congress, the greatest deliberative body in the world and the very bedrock of our democratic system, now ranks somewhere beneath "Dog Catcher" in public opinion polls.

In fact, I am afraid I have been ignoring this larger point. That is: If you start from the premise that the public's trust and confidence are more important than anything else—and that without them, nothing else is possible—then the line with regard to these particular issues between how things look and what they really are starts to become very fuzzy and ultimately irrelevant anyway. If we have in place a system which encourages organizations and corporations to give politicians and their campaigns large sums of money, then it does not matter much if individual politicians know that they are not influenced by that money, the appearance of a potential problem is there in the first place.

Do I think that honoraria and PAC contributions necessarily translate into influence peddling by special interests? Of course not. But would banning honoriaria get us that much further away from the appearance of a potential problem? I do not think there is any question but that it would. Therein lies my point: We too often behave as if we are playing some game of chicken with the public's trust, the object of which is to come as close to losing the trust we have been given without going over the line.

But, Mr. President, this is not playing a game at all. This is very serious business: and the object—the respon-

sibility with which we have been entrusted—is to do everything we possibly can to preserve and nurture the public's trust and confidence in us and in this institution. That means doing everything we can to eliminate the shadow of doubt these things cast.

The legislation now before us is not a magic wand—all the rhetoric aside, we cannot wave it and restore the public's trust and confidence in Congress and in each one of us. Indeed, the underlying problems cannot be solved with policy pronouncements or legal requirements of any kind, for the underlying problems involve something far more profound than some laundry list of "thou shalt nots" could ever even address.

That said, however, I do believe that banning honoraria, eliminating PAC's and imposing limits on campaign spending represent rather significant steps in the right direction. The same conclusions that led me to announce earlier this year that I will no longer accept gifts or honoraria and will resign from the boards of all organizations that could potentially have an interest in Federal legislation have led me to change my positions on these issues now.

In a nation where hundreds of thousands of people literally do not have shelter or enough to eat, raising and spending vast sums of money on political campaigns is not only a very real problem but also just plain obscene. The question for most of us in this particular regard is not whether to limit campaign spending but how to do it. Perhaps the proposal contained in this legislation will be deemed unconstitutional—I am very sensitive to that problem. But after a great deal of thought—and a bruising reelection campaign last fall—I am no longer convinced that the potential for these limitations being deemed unconstitutional somewhere down the line necessarily argues against them, at least insofar as nobody seems to have a better idea. Put simply, I think we must—at a minimum—go on record on this issue. And as I read it, that is precisely what this legislation does: even if it is ultimately deemed unconstitutional, it does put us on record in support of campaign spending limitations.

Banning honoraria and eliminating PAC contributions are fundamentally different issues—and there are those who will argue that the rush to do these things is merely an extension of our national obsession with how things look. They will argue that these things are themselves nothing more than simplistic rhetoric, and that banning honoraria and eliminating PAC contributions will do nothing more than make the general public think that the underlying problems have been solved—without ever really addressing them in the first place. I find these arguments quite compelling: at least insofar as I reject the increasingly popular motion that honoraria and PAC's are synonymous with special interests.

I have been in the Senate for 25 years—a quarter of a century. For all its frustrations, I love this institution and I am tremendously proud to serve in it. Morever, I am tremendously proud to live in a nation that is served by it: for as I said, this institution is the very bedrock of our democratic system. That is why I think we must do everything we can to restore the public's trust and confidence and to set the very highest possible standard: for ourselves and for Congress as a whole. Unfortunately, the only method available for restoring trust in actual virtue is by changing mechanisms which may not be substantively negative, but provide a negative appearance.

Sadly, this is a paradox we can avoid. We must restore the appearance of propriety to restore the public's trust. I do not think I exaggerate when I say that, in so doing, we will be restoring the public's trust and confidence in democracy itself.

MORNING BUSINESS

Mr. BOREN. Mr. President, I ask unanimous consent there be a period for morning business with Senators permitted to speak therein.

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

TRIBUTE TO ROSINA BULLINGTON

Mr. LEAHY. Mr. President, May 26 marks a milestone in the life of a dedicated public servant. I rise to ask my colleagues to join me in a special tribute to Rosina Bullington, Assistant General Counsel to the U.S. Department of Agriculture, who on that day will mark her 50th year of service to the people of the United States. Her commitment to service is rare.

As chairman of the Senate Committee on Agriculture, Nutrition and Forestry, I like to think that I have some degree of influence over the direction of U.S. agricultural law. That influence, however, pales in comparison with Ms. Bullington's distinguished career.

Originally from Hillsboro, IL, Rosina Bullington has helped implement the agricultural policies of 10 Presidents, beginning with Franklin D. Roosevelt, 27 Congresses, and 12 Secretaries of Agriculture. She has served under 14 General Counsels. In that time, the law associated with United States agricultural policy has grown from a relatively manageable number of provisions to an extremely complex array of statutes, regulations, and case law that is almost impenetrable to someone not already expert in the field.

During the entire existence of the Commodity Credit Corporation as a Federal corporation. Ms. Bullington has served to interpret, guide, and advise on its legal authorities. Beginning in 1948, the Commodity Credit Corporation has been the principal tool for implementing U.S. agricultural policy. Its pervasive presence in the United States—and less directly the world's—agricultural sector has required continuous delicate legal judgment and analysis regarding the limitys of its authority, its obligations as prescribed by Congress, and its responsibility to U.S. farmers, agri-business, and other affected industries in the U.S. economy.

For over 30 years, Rosina Bullington has guided the development and conduct of programs under many foreign assistance laws, including the Agricultural Trade Development and Assistance Act of 1954, commonly known as Food for Peace. She has assisted in developing the role of the Department of Agriculture in international debt restructuring efforts and has been the guiding force in a consistent, reasoned interpretation of section 22 of the Agricultural Adjustment Act, a law which protects many of our domestic price support programs from injurious imports.

As a result, in the area of international and domestic agricultural law, Ms. Bullington now serves as an invaluable expert, resource person and institutional memory.

From the New Deal to the Great Society and even through the Reagan revolution, Ms. Bullington has been one of those responsible for figuring it all out, for giving meaning and reason to less than precise legislation. And for these 50 years, she has never wavered in her integrity and her resolute determination to uphold the law as written, despite political pressures and the whims of bureaucrats.

Being a female attorney during a time and in an area dominated by males was not easy. The system sometimes worked against women, especially women who had to balance the demands of raising these children. But she persevered. And for those who question why she continues in her job into her second 50 years, it is because her title did not come easy, her responsibilities are important, and she knows no one can do it better.

Farmers, developing countries, the hungry people of the world who were fed by U.S. food assistance programs, U.S. agriculture as a whole, and the U.S. Congress are deeply in her debt. She has been and continues to be an inspiration. Rosina Bullington brings great credit to all attorneys in the Federal Government.

FORMER SECRETARY OF STATE CYRUS VANCE ANALYZES "NEW WORLD ORDER" IN FLETCHER SCHOOL ADDRESS

Mr. PELL. Mr. President, our distinguished former Secretary of State, the Honorable Cyrus Vance, gave an elo-

quent and important address at the Fletcher School of Law and Diplomacy on May 12 entitled "A New World Order?"

The New World Order that Mr. Vance describes goes beyond the narrow borders of military security. It goes beyond simplistic notions of the United States as a world policeman.

Mr. Vance's New World Order encompasses international peace and security, economic development, the problems of excessive population growth and environmental deterioration, the need to strengthen democracy and human rights, and the need to rebuild our international institutions.

This is a comprehensive analysis by one of our most experienced and qualified statesmen. I ask unanimous consent that the text of Secretary Vance's statement be printed in the RECORD at this point.

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

A NEW WORLD ORDER?

(Remarks by Cyrus Vance, the Fletcher School of Law and Diplomacy, May 12, 1991)

The two and one-half years since 1989 will unquestionably be remembered as a time when unprecedented and unexpected events took place at every turn. And, in the wake of those events it will be remembered that literally dozens of people began offering definitions of something called "a new world order." A number of them seem to have in mind only enhanced military security.

For my part, I am convinced that a "new world order" cannot be confined to questions of military security, or based on notions of the United States as world arbiter.

In that spirit and recognizing that the new world situation encourages us to look for solutions that would have been previously impossible, let me offer a few ambitious suggestions.

A new world order, I believe, should be structured along the general lines of the recent Stockholm Initiative to meet the following imperatives:

International peace and security;

Sustained economic development;

Curbing uncontrolled population growth and environmental degradation;

Fostering democracy and human rights; and

Strengthening international institutions.

INTERNATIONAL PEACE AND SECURITY

The first and primary imperative of a new world order must be the maintenance of peace and security on both a global and regional scale.

Although the Cold War may be over, and no immediate major conflict seems likely to engage the United States, we need look no further than the nightly television network news to recognize that national, ethnic, religious, economic and other conflicts—both across and inside present national borders—pose potential threats to peace and security.

Beyond maintaining appropriate military capabilities, we should begin our search for peace and greater security by stengthening the mandate and the capabilities of the institution that has the widest and most potentially-effective reach—the United Nations.

The UN's collective security potential was at least partially demonstrated during the Gulf crisis. After Iraq's invasion of Kuwait, nations working within the UN framework impressively and effectively applied an unprecedented policy of embargo and containment. And, when the war ended, there was no choice but to turn to the United Nations to provide long-term stability and humanitarian aid.

Yet, with new thinking in mind, imagine for a moment what might have been possible had the UN possessed the capacity to head off or avert Iraq's aggression.

In this connection, Prime Minister Ingvar Carlsson's Stockholm Initiative recommends, among other things, the establishment of a global emergency system within the United Nations.

Under this proposal, which I enthusiastically support, permanent UN political offices would be established in key places, such as India/Pakistan, South Korea/North Korea, Iraq/Kuwait, and Iran, to provide early-warning of potential aggression. But that, alone, would be inadequate. The UN also needs its own collective security forces—by which I mean earmarked forces that are available on the call of the Security Council—to intervene, forcibly if necessary, when the Security Council so determines.

To make the global emergency system effective, the Secretary-General should be granted greater leeway to deploy the organization's diplomatic monitoring, and dispute-resolution capabilities whenever requested by a member state.

Returning to the Gulf crisis, a UN with such capacity and authority could have posted intermediary forces on the Iraq-Kuwait border could have facilitated peaceful discussion of the two countries' border disputes, and could have signaled that Iraqi aggression would trigger a collective response by the world community.

But the United Nations cannot be everywhere. To keep the peace, we also need to modernize regional security arrangements, particularly in volatile areas like the Middle East and South Asia, where no effective regional institutions now exist.

The Conference on Security and Cooperation in Europe—known as CSCE—has facilitated to a major degree the post Cold War thaw which has taken place in Eastern and Central Europe. NATO, of course, was the Western shield which kept a fragile situation stable until a thaw could take place. But it was CSCE, through treaties and confidence-building measures, which helped the West, the Soviets, and the Warsaw Pact countries work their way through an essentially peaceful transition to democracy and free-market economies.

In the wake of the Gulf war, this model should be considered for the Middle East. Obviously, on one level, a regional conference would discuss Arab-Israeli relations and the issue of a Palestinian homeland. But, on another level, affected nations both inside and outside the region could tackle a broader range of issues, including regional security arrangements, human rights, environmental degradation, economic cooperation, and restraints on all kinds of weapons.

As to the latter, there is a crying need to rid the Middle East of weapons of mass destruction and methods of delivery as soon as possible, but the limitation of conventional arms exports to the Middle East must also be addressed as an item of top priority.

Here at home, we regard it as quite normal that we should be beginning a major military build-down. With the presently fading Soviet threat, we are beginning to reduce strategic weapons and other expenditures and to reallocate the resources to domestic priorities. Yet, in the Middle East and much of the rest of the world, arms sales continue only slightly abated. Unfortunately, we and other arms-exporting nations persist in viewing such buildups as commercial opportunities rather than potential threats to regional and, as we have recently seen, our own security. We urgently need a convention limiting the sale of conventional arms, especially in the Middle East.

SUSTAINED ECONOMIC DEVELOPMENT

Correspondingly, peace and development will be served if a prospective new world order includes a recommitment to international economic cooperation and increased development assistance.

Both the United States and other countries have had recent bouts of protectionist flu as economic pressures and changing world trading patterns have endangered the previous worldwide consensus on access to goods and money.

President Kennedy, when he signed the historic Trade Expansion Act of 1962, remarked that "a rising tide lifts all boats." The premise remains true but, sadly, its support is less widespread than one would hope.

The General Agreement on Tariffs and Trade needs to be reinforced, not weakened, as seems to be the drift today. When the International Monetary Fund and World Bank were created at Bretton Woods, the GATT was seen as the global trade organization which could accommodate the interests of both developed and developing countries while holding back the protectionist and mercantilist forces which were so destructive in the past. But protectionist forces now seem unfortunately to be gaining strength, rather than waning.

The GATT, World Bank, IMF and UNCTAD (the UN Trade and Development organization) all are important global institutions. They are complemented by regional trade and financial entities ranging from the European Community to the Asian, African and Latin American development banks and, now, the new European Bank for Reconstruction and Development.

Over the past several years, fresh regional groups have taken on new life. That is good. But, it would be tragic for all of us if this were to end up dividing the world into European, Asian, and North American economic blocs pitted against each other, while leaving the world's poor nations on the outside looking in.

Have-not nations cannot prosper absent a free and open international economic and financial environment. But such an environment alone will not ensure sustained growth. No viable new world order can be based on a trickle-down theory.

We must not forget, however, that the history of the past 40 years has been replete with surprising economic-success stories. The development process, once begun, takes on a dynamic momentum that carries it forward at a self-sustaining rate. Certain interrelated factors can be identified as reasons for success.

Investments in human capital through better education, health, population planning, and training.

Investments in infrastructure and industry which have the long-term prospect of bringing success in international markets.

Development of domestic agricultural production, distribution, and processing.

By the same token, we have learned that grandiose projects such as dams, superhighways, steel mills and modern airport complexes often do not make sense unless

they are part of sound, overall plans for sustainable economic development.

We must face the dual realities that slow growth in both developed and developing nations illustrates a down side of interdependence, namely that slow growth in each decreases demand for products of the other. Similarly, we must also recognize that debt service continues to consume a major share of developing country resources. Even resource-rich but heavily indebted potential powerhouses such as Brazil and Mexico will do well in the next decade not to lose ground. And it is evident that these issues are severely aggravated by problems of population, environment and refugees.

The common threat that links these complex and intersecting factors is evident: No nation can resolve all its own problems without the help of other nations. Common action is essential.

We have learned from hard experience that multilateral global action is the only way we can achieve widespread sustainable growth and expanding investment.

The United Nations estimates that one billion people—one-fifth of the world population—now live in extreme poverty. Yet the World Bank estimates that with sufficient investment, this number could be reduced by almost half by the end of the decade.

Such an effort would require that all nations commit themselves to simple and discrete targets.

The worldwide cost of meeting key social-development targets is estimated at $20 billion annually—the cost, if you will, of sustaining the recent Persian Gulf war for a fortnight.

It is all a question of priorities: do we care enough to make a similar investment in the future of humanity?

The long-cited target for development assistance is that each industrialized country provide seven-tenths of one percent of its GNP to international development. With slow world growth, this will be hard to achieve. As we know, a heavily indebted developing world will be hard pressed to borrow enough money or generate enough wealth internally unless direct assistance is forthcoming and spent wisely. This is a reality we cannot avoid.

CONFRONTING CRITICAL GLOBAL ISSUES

There are two commanding and sensitive issues which both rich and poor must confront if a successful new world order is to emerge. I am talking, of course, about population and environment. The relevance of these subjects has recently been graphically and tragically demonstrated, once again, in Bangladesh. But Bangladesh, although particularly heartwrenching, is not unique.

As to population, as nations develop, birth rates invariably recede—another reason why promoting economic development is in our long-term interest. Nonetheless, longstanding religious and social pressures will continue to make it difficult to curb population growth.

It is sobering to realize that, if current projections hold, the 1990s will produce the largest generation yet born—with some 1.5 billion children entering an already-crowded world.

Population growth, by definition, tends to reduce standards of living except in nations which enjoy remarkable economic growth. Population growth also adds to environmental pressure—most directly, in areas where new deserts are created as forests are destroyed to provide land for cultivation. Such growth encourages exploitation of children, migrants, and others in the workplace. It pits neighboring countries against each other as they feel the others' population pressures.

It will take political courage, but leaders of both developed and developing nations must commit themselves to population planning programs as an integral part of their plans for economic development. A good place to start would be for the United States to renew its funding of the UN Fund for Population Activities.

In contrast to population, the related issue of environment is on everyone's mind. But the question remains: Is the United States willing to invest the political and financial capital required?

In the rush to development humanity has already done irreversible damage to the planet. And both developed and developing nations are to blame.

More than half of Africa's arable land is at risk of becoming desert. One-third of Asia's and one-fifth of Latin America's land is in the same state. We know of the environmental catastrophe which exists in the Soviet Union and in much of Eastern and Central Europe.

We are aware, however, that further damage can be checked and some of the prior damage reversed, if we muster the political will to act.

One pattern for future progress is to be found in ideas such as Debt-for-Environment swaps, in which host countries receive debt relief in return for protecting vital environmental resources. The new Global Environment Facility created by the UN and World Bank, and the private International Foundation for the Survival and Development of Humanity, created three years ago, have helped to raise public consciousness and to offer practical alternatives. One is that environmental impact assessments be built into economic development plans at both national and international levels.

Issues of global warming and ozone depletion, already high on the international agenda, must not be shunned or postponed simply because they are politically difficult. To come to grips with these challenges the nations of the Northern Hemisphere alone will need to reduce emissions of carbon dioxide from the combustion of oil, coal, and other fossil fuels by perhaps 50 percent in the next 25 years or so. And we must eliminate the use of CFCs and halons on a far more rapid and comprehensive scale.

The scope of the problem is illustrated by the stark fact that if just four industrializing countries, India, Brazil, China, and Indonesia, were to increase their use of CFCs and halons up to the limit now permitted under the 1987 Montreal Protocol, the annual release of CFCs would increase by 40 percent rather than diminish.

Let us hope that next year, at the landmark UN Conference on Environment and Development, the participants will move from rhetoric to action. And let us hope the United States will take the lead.

FOSTERING DEMOCRACY AND HUMAN RIGHTS

There is another issue which is all too often ignored. It is the erroneous belief that the internal affairs of other nations are not a proper subject for state-to-state discourse, and that internal events in other countries, such as human rights violations, are not our concern. I strongly disagree.

Although our options may at times be limited in dealing with such questions, we should never stop trying to apply diplomatic, economic, and political pressure that will help the human family continue its passage toward a more open, more democratic, and freer life.

Lech Walesa and Vaclav Havel, among others, would endorse that view. So would the black citizens of South Africa and other nations where international support and pressure is helping to bring about change. So would citizens of China, still awaiting the day when their time, too, will come.

Those countries which have attempted to create economic development in a totalitarian framework have found it does not work. The human spirit, liberated, is capable of productivity and achievement undreamed of under the deadening hand of conformist control. Just as we have seen that economic and social policy steps are necessary for development, we have also seen that political steps contribute to development—the establishment of constitutional government, the rule of law, accountability of governmental officials, openness, and respect for human rights.

Regarding the rule of law, I am encouraged by the current work of the "Permanent 5" members of the Security Council on an agreement to submit certain international disputes to the International Court of Justice. Such an agreement is one of several ways governments could commit themselves to respect international law and accept the jurisdiction of the World Court.

Moreover, I believe that, just as the United Nations should establish early-warning mechanisms to foresee and, if possible, forestall military conflict between nations, the UN should strengthen its machinery for monitoring and bringing pressure to bear on violations of political and human rights.

And, just as direct intervention should be an option for the UN in a military crisis, so should it be in situations where humanity is in crisis.

The past two and one-half years have been tumultuous. But they have demonstrated that the tide of history is not running in the wrong direction. Although often beyond our control, it is currently flowing toward openness and freedom of the individual—concepts that lie at the heart of much Western thought and certainly of our own American Revolution.

In the decade of 1980s, we have seen in our own country the common good often subordinated to a selfish search for individual gain. I hope and believe your generation can and will reverse this in the decade that lies ahead.

In the 1940s, the international community held historic summits in San Francisco and Bretton Woods which helped establish a basis for a more enlightened world order. The Stockholm Initiative, to which I have referred earlier, proposes that a comparable World Summit on Global Governance should be called to address the unprecendented challenges and opportunities which confront us today.

Such a Global Summit, which must be carefully prepared through a process of consultation and negotiation among the participants, would, I suspect, lead not only the United States but most nations to the realization that it is incumbent on us to modernize present structures of cooperation—and to create new or modified institutions where needed. I refer particularly to the United Nations, which needs to be modernized, streamlined, and strengthened to meet the tasks that face it. This will require a number of changes such as broadening the authority of the Secretary-General, and overhauling the UN financial system.

This morning, I have suggested several other structural changes which would be

steps on the road to greater international peace and security . . . to shared and sustainable economic development . . . to curbing uncontrolled population growth and environmental degradation . . . to fostering democracy and human rights . . . and to creating a world order in which both law and justice become the norm, rather than the exception.

We have today an unparalleled chance to define the future. Let us seize the time.

HAIL TO THE "PEACEMAKERS"

Mr. PELL. Mr. President, I would like to bring to my colleagues attention an editorial from the April 7, 1991, Santa Barbara News-Press entitled "Peacemakers."

On the previous day, the Nuclear Age Peace Foundation welcomed the Dalai Lama of Tibet and Dr. Linus Pauling, both Nobel Prize Peace laureates, to Santa Barbara by bestowing upon them their Distinguished Peace Leadership Award and Lifetime Achievement Award, respectively.

This was among the first of many honors the Dalai Lama received on his visit to the United States that culminated with his appearance in the Capitol rotunda on April 18.

It is most gratifying to learn that throughout his travels in the United States, the Dalai Lama had a receptive audience for his message of altruism and universal responsibility. Not only politicians in State capitals and Washington, but scholars and young people came by the thousands to seek an alternative to violence and destruction in his philosophy of compassion, and to affirm their own identity as "peacemakers."

I commend Mr. Frank K. Kelly, vice president of the Nuclear Age Peace Foundation, and all the other "peacemakers" who so warmly and rightly welcomed the Dalai Lama to the United States this spring, and I ask that the editorial "Peacemakers" be printed in the RECORD.

[From the Santa Barbara News-Press, Apr. 7, 1991]

PEACEMAKERS

"Today more than ever before, life must be characterized by a sense of universal responsibility, not only nation to nation, and human to human, but also human to other forms of life."—The Dalai Lama.

It is a message that seems lost in a world saturated with images of war and barbarous massacres of innocent civilians under skies blackened by the smoke of a thousand oil wells wantonly set aflame.

It is a message, however, that because of such atrocities, makes even more powerful and poignant the focus on peace this weekend in Santa Barbara.

The Nuclear Age Peace Foundation, founded in Santa Barbara in 1982, honored two of the world's pre-eminent avocates for world peace during ceremonies Saturday night. Dr. Linus Pauling and Tibet's Dalai Lama, both former Nobel Peace Prize winners, received the foundation's first Lifetime Achievement Award and the 1991 Distinguished Peace Leadership Award, respectively.

Today, the Dalai Lama, forced into exile in 1959 after Chinese communists occupied his country, will speak before a sold-out audience at UCSB. Since his exile, the world's foremost Buddhist and winner of the 1989 peace prize has traveled the world "consistently advocating a non-violent solution to restoring Tibet's independence."

In the words of Frank K. Kelly, the Peace Foundation's vice president, "He didn't call for U.S. troops to liberate Tibet," but has pursued a different path, attempting to appeal to the "conscience of humanity."

Dr. Pauling, who was awarded the Nobel Price for chemistry in 1954, received the 1962 peace price for his efforts to limit testing of nuclear warheads. "The peace prize is the one I value the most," says the 90-year-old Pauling, "because receiving it means to me that working for world peace is respectable." When hostilities erupted in the Persian Gulf, he spent $18,000 on two newspaper advertisements protesting the war.

As profiles in courage and commitment to their ideals, the Dalai Lama and Dr. Pauling represent a point of view that exercises the cynics, particularly in a world that somehow continues to breed despots like Saddam Hussein. But that reality is precisely why the pursuit of world peace is "respectable," necessary and invaluable.

By reminding all peoples of all societies that violence to any part injures the whole, the peacemakers keep planting the seeds that keep alive humanity's benevolence. And, as the interconnectedness of the global village becomes more and more intense, it only makes their efforts more compelling.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,257th day that Terry Anderson has been held captive in Lebanon.

THE CRISIS IN ETHIOPIA

Mr. KENNEDY. Mr. President, this morning, facing his imminent overthrow by rebel forces, President Mengistu of Ethiopia abdicated his office and fled the country.

After years of atrocities—ranging from Government-induced famines to the bombing of peasant villages and other barbaric human rights violations under President Mengistu's brutal dictatorship—the people of Ethiopia now have a unique opportunity to join together in a spirit of reconciliation to end the current civil war and to form a new, democratic government which recognizes the basic human rights of its peoples.

The warring factions are at a critical juncture. They can take advantage of this window of opportunity and agree to an immediate cease-fire and negotiations toward a peaceful future. Or, they can continue the bloodshed and violence that has plagued the country in recent years.

Ethiopia's future will be shaped by the events of the next few weeks. All Ethiopians, and all friends of Ethiopia, know that a just and lasting solution to the problems in this region of the world can only be reached through a peaceful and open political dialog. Resort to further violence will only compound the tragedy of the past.

I encourage all parties to this controversy to take immediate steps to pursue a path toward peace. I commend the administration for its offers to help mediate, and I hope that the good offices of the United States will be utilized at this critical time in the search for a peaceful settlement.

The peoples of this region have a long history of conflict. But they also share the same goals—peace, justice, and a better life. We should do all we can at this critical turning point to ensure that their efforts are successful.

REMOVAL OF INJUNCTION OF SECRECY

Mr. BOREN. As in executive session, Mr. President, I ask unanimous consent that the injunction of secrecy be removed from the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific (Treaty Document No. 102-7), transmitted to the Senate today by the President; that the treaty be considered as having been read the first time; that it be referred with the accompanying papers to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

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

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith, for the advice and consent of the Senate to ratification, the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific, done at Wellington on November 24, 1989 (the "Wellington Convention"), and Protocol I, done at Noumea on October 20, 1990, to the Wellington Convention.

The Wellington Convention was negotiated by the South Pacific states and is designed to prohibit driftnet fishing in the South Pacific Ocean. The Convention prohibits the use of driftnets or the transshipment of driftnet catches in waters under the fisheries jurisdiction of the parties within the Convention area, and by vessels and nationals of the parties anywhere within the Convention area. For the United States, these obligations will apply to the United States Exclusive Economic Zone around American Samoa and certain unincorporated U.S. islands and to U.S. nationals and vessels documented under U.S. laws fishing within the Convention area.

Protocol I to the Wellington Convention was adopted by the South Pacific states as the instrument by which distant water fishing nations, whose nationals and vessels fish in the Conven-

tion area, agree to prohibit their nationals and vessels from fishing with driftnets in that area.

Public Law 101-627 amends the Magnuson Fisheries Conservation and Management Act [MFCMA] to, among other things, prohibit driftnet fishing in waters subject to U.S. fisheries jurisdiction, and by U.S. vessels and nationals anywhere. As a result, no additional legislation will be required for the United States to implement the Convention.

Ratification of the Wellington Convention and Protocol I is consistent with U.S. policy on driftnet fishing. Section 107 of Public Law 101-627 provides that it is the policy of the Congress that the United States should support the Wellington Convention and secure a permanent ban on the use of large-scale driftnets on the high seas of the world. Early ratification by the United States will demonstrate U.S. commitment to this policy and encourage similar action by other nations whose participation in the Convention and Protocol I is important.

I recommend that the Senate give early and favorable consideration to the Wellington Convention and Protocol I and give its advice and consent to ratification, subject to the understandings described in the accompanying report of the Secretary of State.

GEORGE BUSH.

THE WHITE HOUSE, *May 21, 1991.*

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 a nomination and a treaty which were referred to the appropriate committees.

(The nomination and treaty received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 3:33 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House disagrees to the amendments of the Senate to the bill (H.R. 2251) making dire emergency supplemental appropriations from contributions of foreign governments and/or interest for humanitarian assistance to refugees and displaced persons in and around Iraq as a result of the recent invasion of Kuwait and for peacekeeping activities, and other urgent needs for the fiscal year ending September 30, 1991, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. WHITTEN, Mr. NATCHER, Mr. SMITH of Iowa, Mr. YATES, Mr. OBEY, Mr. ROYBAL, Mr. BEVILL, Mr. MURTHA, Mr. TRAXLER, Mr. LEHMAN of Florida, Mr. DIXON, Mr. FAZIO, Mr. HEFNER, Mr. MCDADE, Mr. MYERS of Indiana, Mr. MILLER of Ohio, Mr. YOUNG of Florida, Mr. EDWARDS of Oklahoma, Mr. ROGERS, and Mr. SKEEN as managers of the conference on the part of the House.

At 8:12 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 155. A concurrent resolution expressing the profound regret of the Congress regarding the assassination of Rajiv Gandhi of India.

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-1223. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the deferral of certain Department of Defense budget authority that was not reported to the Congress; pursuant to the order of January 30, 1975, as modifed on April 11, 1986, referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Armed Services.

EC-1224. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend title 10, United States Code, to allow the commanders of the unified and specified combatant commands to pay for, or authorize payment for, deployment of certain forces assigned to their commands for training, and training with the military and other security forces of friendly countries and for other purposes; to the Committee on Armed Services.

EC-1225. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend chapter 631 of title 10, United States Code, authorizing additional foreign countries to acquire supplies and services from the Department of the Navy; to the Committee on Armed Services.

EC-1226. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the third report on United States costs in the Persian Gulf conflict and foreign contributions to offset such costs; to the Committee on Armed Services.

EC-1227. A communication from the General Counsel of the Department of the Treasury, transmitting a draft of proposed legislation to authorize appropriations for the United States Mint for the fiscal years 1992 and 1993; to the Committee on Banking, Housing, and Urban Affairs.

EC-1228. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the annual report of the Federal Housing Administration for fiscal year 1989; to the Committee on Banking, Housing, and Urban Affairs.

EC-1229. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the report on direct spending or receipts for P.L. 102-40; to the Committee on the Budget.

EC-1230. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to the law, the "Pay-As You Go" status report as of May 13, 1991; to the Committee on the Budget.

EC-1231. A communication from the Chairman and Chief Executive Office of the Communications Satellite Corporation, transmitting, pursuant to law, the annual report of the Corporation for 1990; to the Committee on Commerce, Science, and Transportation.

EC-1232. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report entitled "Commercial Motor Vehicle Speed Control Devices"; to the Committee on Commerce, Science, and Transportation.

EC-1233. A communication from the Assistant General Counsel of the Department of Energy, transmitting, pursuant to law, notice of a meeting related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC-1234. A communication from the Secretary of the Interior, transmitting, pursuant to law, the annual report on the Outer Continental Shelf Natural Gas and Oil Leasing and Production Program for fiscal year 1990; to the Committee on Energy and Natural Resources.

EC-1235. A communication from the Deputy Secretary of the Agriculture, transmitting, pursuant to law, the annual report of the Department of Agriculture on its hazardous waste management activities for calendar year 1990; to the Committee on Environment and Public Works.

EC-1236. A communication from the Acting Chairman of the United States International Trade Commission, transmitting a draft of proposed legislation to provide authorization of appropriations for the United States International Trade Commission for fiscal year 1993 and fiscal year 1994; to the Committee on Finance.

EC-1237. A communication from the Administrator of the Health Care Financing Administration Department of Health and Human Services, transmitting, pursuant to law, a report on the Rural Health Care Transition Grant Program; to the Committee on Finance.

EC-1238. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on progress made during 1990 to implement a program of research on outcomes of health care services and procedures; to the Committee on Finance.

EC-1239. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report on implementation of the United States Government Assistance program for Central and Eastern Europe; to the Committee on Foreign Relations.

EC-1240. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, notice of the Presidential authorization and use of certain refugee assistance funds; to the Committee on Foreign Relations.

EC-1241. A communication from the Secretary of Transportation, transmitting a

draft of proposed legislation to amend title 31, United States Code, to permit designation by the President of a Chief Financial Officer at the Department of Transportation who is appointed in the competitive service; to the Committee on Governmental Affairs.

EC-1242. A communication from the Acting Assistant Secretary of the Interior (Policy, Management and Budget), transmitting, pursuant to law, a report on the self-governance baseline measurements; to the Select Committee on Indian Affairs.

EC-1243. A communication from the Secretary of Education, transmitting a draft of proposed legislation to amend the Emergency Immigrant Education Act of 1984 to simplify and improve the allocation of funds, to ensure that program funds are more specifically targeted to meet the special educational needs of eligible immigrant children without supplanting State and local funds, to clarify ambiguous provisions, and for other purposes; to the Committee on Labor and Human Resources.

EC-1244. A communication from the Secretary of Education, transmitting a draft of proposed legislation to make certain amendments to the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), and the Act of September 23, 1950 (Public Law 815, Eighty-first Congress), and for other purposes; to the Committee on Labor and Human Resources.

EC-1245. A communication from the Acting Under Secretary of Defense (Acquisition), transmitting, pursuant to law, a report on Department of Defense Procurement from Small and Other Business Firms for the period October 1990 through February 1991; to the Committee on Small Business.

EC-1246. A communication from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to require, after the effective date of this amendment, licensure, certification or registration of social workers appointed in the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation:

Report to accompany the bill (S. 521) to amend section 315 of the Communications Act of 1934 with respect to the purchase and use of broadcast time by candidates for public office, and for other purposes (Rept. No. 102-59).

By Mr. FORD, from the Committee on Rules and Administration, with an amendment in the nature of a substitute.

S. 250. A bill to establish national voter registration procedures for Federal elections, and for other purposes (Rept. No. 102-60).

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. HARKIN (for himself, Mr. DURENBERGER, Mr. KENNEDY, Mr. HATCH, Mr. SIMON, Mr. DODD, Mr. ADAMS, Mr. WELLSTONE, Mr. BINGAMAN, Mr. JEFFORDS, and Mr. COCHRAN):

S. 1106. A bill to amend the Individuals with Disabilities Education Act to strengthen such Act, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. SHELBY:

S. 1107. A bill to amend title 38, United States Code, to provide for the payment, on an interim basis, of compensation, dependency, and indemnity compensation, and pension to veterans and their survivors and dependents if their claims for those benefits are not decided by the Department of Veterans Affairs within specified time limits; to the Committee on Veterans Affairs.

By Mr. WIRTH:

S. 1108. A bill to require a 2-year moratorium on the burning of hazardous wastes in cement kilns, and to provide a study by the Administrator of the Environmental Protection Agency; to the Committee on Environment and Public Works.

By Mr. GORE (for himself, Mr. SASSER, Mr. BOREN, and Mr. NICKLES):

S. 1109. A bill to amend section 547 of title 11, United States Code to provide that certain withdrawal transactions made by depositors from certain financial institutions not be avoided as preferential transfers; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. KASTEN:

S. 1110. A bill to amend the Federal Food, Drug, and Cosmetic Act to require that standards of identity for milk include certain minimum standards regarding milk solids, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. MITCHELL (for himself, Mr. COHEN, Mr. D'AMATO, Mr. AKAKA, Mr. KERREY, Mr. LIEBERMAN, Mr. RIEGLE, Mr. DURENBERGER, Mr. METZENBAUM, Mr. KENNEDY, Mr. EXON, Mr. BROWN, and Mr. DIXON):

S. 1111. A bill to protect the Public from Health Risks from Radiation Exposure from Low Level Radioactive Waste, and for other purposes; to the Committee on Environment and Public Works.

By Mr. HOLLINGS (for himself, Mr. MITCHELL, Mr. MCCAIN, Mr. WIRTH, Mr. KOHL, Mr. D'AMATO, Mr. LUGAR, Mr. BRYAN, Mr. ROBB, Mr. COHEN, Mr. INOUYE, Mr. HEFLIN, Mr. BURNS, Mr. CHAFEE, and Mrs. KASSEBAUM):

S. 1112. A bill to establish a commission to advise the President on proposals for national commemorative events; to the Committee on the Judiciary.

By Mr. PELL (by request):

S. 1113. A bill to amend the Peace Corps Act to provide authorization of appropriations for the Peace Corps of the United States for fiscal years 1992 and 1993; to the Committee on Foreign Relations.

By Mrs. KASSEBAUM (for herself, Mr. DOLE and Mr. BOREN):

S. 1114. A bill to amend the National Trails System Act to designate the Frontier Military Road for Study for potential addition to the National Trails System; to the Committee on Energy and Natural Resources.

S. 1115. A bill to amend the National Trails System Act to designate certain cattle trails and overland stage trails for study for potential addition to the National Trails System; to the Committee on Energy and Natural Resources.

By Mrs. KASSEBAUM:

S. 1116. A bill to allow certain insured depository institutions to forgo their insured status and engage in a broad range of restricted financial service activities and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BINGAMAN:

S. 1117. A bill to establish the Bureau of Land Management Foundation; to the Committee on Energy and Natural Resources.

By Mr. ADAMS:

S. 1118. A bill to authorize highway projects capable of achieving a reduction in single occupancy vehicle miles traveled and volatile organic emissions; to the Committee on Environment and Public Works.

By Mr. ADAMS (for himself and Mr. KENNEDY):

S. 1119. A bill to amend part F of title IV of the Higher Education Act of 1965 regarding the computation of the expected family contribution to exclude the portion of the current market value of a family's principal place of residence or farm on which the family resides which exceeds twice the family's total income; to the Committee on Labor and Human Resources.

By Mr. RIEGLE:

S. 1120. A bill to provide for a demonstration project to examine whether having a respiratory care practitioner available to provide assistance in a home setting would reduce the overall costs under medicare of providing care to pulmonary disease patients by decreasing hospitalization rates for such patients; to the Committee on Finance.

By Mr. WARNER (for himself, Mr. KASTEN, Mr. LUGAR, Mr. MACK, Mr. COATS, Mr. SANFORD, Mr. BOREN, Mr. NICKLES, Mr. ROBB, and Mr. KOHL):

S. 1121. A bill to authorize funds for construction of highways for highway safety programs, for mass transportation programs, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BRYAN:

S.J. Res. 148. A joint resolution designating October 8, 1991, as "National Firefighters Day"; 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. PELL (for himself and Mr. DOLE):

S. Res. 129. Resolution regarding the recent parliamentary elections in Albania; to the Committee on Foreign Relations.

By Mr. BURDICK:

S. Res. 130. Resolution authorizing the use of the Hart Building atrium for a concert by the Congressional Chorus; considered and agreed to.

By Mr. MITCHELL (for himself, Mr. DOLE, Mr. PELL, Mr. MOYNIHAN, Mr. HATFIELD, Mr. ADAMS, Mr. AKAKA, Mr. BAUCUS, Mr. BENTSEN, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mr. BOREN, Mr. BRADLEY, Mr. BREAUX, Mr. BROWN, Mr. BRYAN, Mr. BUMPERS, Mr. BURDICK, Mr. BURNS, Mr. BYRD, Mr. CHAFEE, Mr. COATS, Mr. COCHRAN, Mr. COHEN, Mr. CONRAD, Mr. CRAIG, Mr. CRANSTON, Mr. D'AMATO, Mr. DANFORTH, Mr. DASCHLE, Mr. DECONCINI, Mr. DIXON, Mr. DODD, Mr. DOMENICI, Mr. DURENBERGER, Mr. EXON, Mr. FORD, Mr. FOWLER, Mr. GARN, Mr. GLENN, Mr. GORE, Mr. GORTON, Mr. GRAHAM, Mr. GRAMM, Mr. GRASSLEY, Mr. HARKIN, Mr. HATCH, Mr. HEFLIN, Mr. HELMS, Mr. HOLLINGS, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KASTEN, Mr.

KENNEDY, Mr. KERREY, Mr. KERRY, Mr. KOHL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. LOTT, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Mr. MCCONNELL, Mr. METZENBAUM, Ms. MIKULSKI, Mr. MURKOWSKI, Mr. NICKLES, Mr. NUNN, Mr. PACKWOOD, Mr. PRESSLER, Mr. PRYOR, Mr. REID, Mr. RIEGLE, Mr. ROBB, Mr. ROCKEFELLER, Mr. ROTH, Mr. RUDMAN, Mr. SANFORD, Mr. SARBANES, Mr. SASSER, Mr. SEYMOUR, Mr. SHELBY, Mr. SIMON, Mr. SIMPSON, Mr. SMITH, Mr. SPECTER, Mr. STEVENS, Mr. SYMMS, Mr. THURMOND, Mr. WALLOP, Mr. WARNER, Mr. WELLSTONE, Mr. WIRTH, and Mr. WOFFORD):

S. Res. 131. Resolution expressing the sense of the Senate over the assassination of Rajiv Gandhi, former Prime Minister of India; considered and agreed to.

By Mr. D'AMATO:

S. Con. Res. 40. Concurrent resolution expressing the sense of the Congress that the Federal Republic of Germany and the Republic of Austria should take all applicable steps to halt the distribution of neo-Nazi computer games and prosecute anyone found in possession of these materials to the full extent of the law; to the Committee on Foreign Relations.

By Mr. PELL (for himself, Mr. MOYNIHAN, Mr. HELMS, Mr. AKAKA, Mr. KENNEDY, Mr. JEFFORDS, Mr. D'AMATO, Mr. SARBANES, Mr. WALLOP, Mr. DIXON, Mr. ROBB, Mr. CRANSTON, Mr. BRADLEY, and Mr. HATFIELD):

S. Con. Res. 41. Concurrent resolution to express the sense of the Congress that Tibet, including those areas incorporated into the Chinese provinces of Sichuan Yunnan Gansu, and Qinghai that have historically been a part of Tibet, is an occupied country under established principles of international law whose true representatives are the Dalai Lama and the Tibetan government in exile as recognized by the Tibetan people; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HARKIN (for himself, Mr. DURENBERGER, Mr. KENNEDY, Mr. HATCH, Mr. SIMON, Mr. DODD, Mr. ADAMS, Mr. WELLSTONE, Mr. BINGAMAN, Mr. JEFFORDS, and Mr. COCHRAN):

S. 1106. A bill to amend the Individuals With Disabilities Education Act to strengthen such act, and for other purposes; to the Committee on Labor and Human Resources.

INDIVIDUALS WITH DISABILITIES EDUCATION ACT AMENDMENTS

• Mr. HARKIN. Mr. President, I rise today on behalf of myself, Mr. DURENBERGER, Mr. KENNEDY, Mr. HATCH, Mr. SIMON, Mr. WELLSTONE, Mr. DODD, Mr. ADAMS, Mr. BINGAMAN, Mr. JEFFORDS, and Mr. COCHRAN, to introduce the Individuals with Disabilities Education Act Amendments of 1991.

In 1986, Congress passed Public Law 99-547, landmark legislation which provides incentives to States to serve 3-to 5-year-old children with disabilities and created a new program, part H, which provides financial assistance to States to develop and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency program of early intervention services for infants and toddlers with disabilities and their families.

Under part H, States where given 3 years to plan and adopt policies establishing this system. In the fourth year, States are required to have the system in place and provide some but not all early intervention services. In the fifth year, States are expected to provide all early intervention to all eligible infants and toddlers and their families.

At our subcommittee hearing, Dr. Robert Davila, assistant secretary for special education and rehabilitative services testified, indicating the Department of Education's strong support for this program:

> We believe that this program can make a real difference in helping to meet the national goal of improving the school readiness of all young children, including young children with disabilities.
>
> This program was special in its design because it focused on the family's role of nurturing young children with disabilities. The legislation sought to support that role by drawing together an often fragmented system of services to meet the unique needs of infants with disabilities. It did this through a focus on interagency cooperation, service coordination, and case management.
>
> During the past 4 years, we have been impressed by the spirit with which the States have accepted the challenge of the part H program.

Likewise, families testified to the dramatic need for such coordinated comprehensive services, and the impact which they can have on preventing tragedies and improving outcomes for children and families.

Michelle Marlow, a single parent from Baltimore, said:

> The family is the natural caregiver and as we move forward with the implementation of part H, we must move with great care to guarantee that it does not become yet another specialized system of services which has the potential of being crippled by "administrative convenience". If the IFSP is individualized on paper only, we have lost. You have before you a program that is of critical importance to the lives of thousands of infants born each year with disabilities. Please make sure it works for them.

Diane Sanny, from Fairfield, IA, reported her family's experience:

> I cannot imagine what the quality of Gretchen's life would have been without the knowledge, direction and support we received.
>
> However, as our good fortune would have it, at this time, part H was being implemented in Iowa; and we became the first pilot family in our area to have an individualized family service plan done. The process itself, was extremely beneficial because having to explain to these professionals what I was feeling for the first time clarified why I was overwhelmed and exhausted by life. The results were immediate. . . . My life was saved.
>
> In closing, I cannot emphasize enough the impact that these services have had on our lives. For Gretchen, it means a brighter future than we ever imagined. There's little doubt that she'll be a self-sufficient, productive member of society due largely to very early and excellent care she received. As for Bob and myself, having a child with disabilities has been the greatest challenge of our lives and we have coped well with much thanks for the support we were given.

I am especially pleased to be sponsoring this legislation which reauthorizes these vital programs, because they represent exactly the kind of preventive approach needed which coordinates the efforts of education, health and human services agencies in serving these children and their families. This program represents the first and best chance to help the families of these infants and toddlers to optimize their potential and to reach our Nation's No. 1 educational goal: "By the year 2000, all children in America will begin school ready to learn."

With the skyrocketing costs associated with health care and the disturbing trends in our educational system, we simply cannot afford to fail these children. We need all the well-educated workers and productive citizens we can produce; and this includes children born with disabilities or at risk for developmental delays. That is why I was so pleased to note recently, the statement of the Committee for Economic Development, a group of 250 of our leading corporate executives and educators. Their report, "The Unfinished Agenda: A New Vision for Child Development and Education," recommends beginning with good prenatal care, good nutrition, and other preventive services, and emphasizes the importance of early childhood education to meet children's developmental needs. It is wonderful that they, too, focused on the need for family-centered and coordinated interagency programs.

Clearly, there is a strong link between health and education which we overlook only at our own peril. This point has recently been emphasized by the National Health/Education Consortium, a group of some 40 national health and education organizations concerned about the future of America's children:

> Early intervention makes a difference, but research shows that help must be made available as soon as possible after an insult has occurred.

It is clear that part H is leading the way in this national movement. In witness of this, Dr. Richard Nelson, president of the Association for Maternal and Child Health, testified at our subcommittee hearing that—

> Part H represents a critical national initiative for our Nation's youngest citizens. The legislation has the potential to be a template for all future health and human services legislation requiring the concerted efforts of multiple Federal programs to address the needs of a population. We commend the subcommittee's commitment to these most vulnerable children and families.

Other witnesses at our subcommittee hearing reported on the status of the part H program. Some States are on schedule—that is, they have submitted their fourth year application and plan on submitting their fifth year application on or after July 1, 1991, under which they will provide all early intervention services to all eligible infants and toddlers with disabilities and their families. Other States, which are currently operating a fourth year program, may not be able to continue in the program because their State's fiscal situation prevents them from making the full-service commitment.

Tom Gillung, representing the National Association of State Directors of Special Education, noted:

Part H created a vision that we can now say may serve as a model for future initiatives in the area of human service delivery, even beyond early childhood. * * *

In face of very difficult budget situations and competing demands for vital human services, advocacy for the funds needed to support full implementation of the part H program is still strong and will be important in efforts to maximize existing resources and to secure additional fiscal support in the future. However, during this reauthorization process we believe Congress must consider the fiscal and programmatic realities some states are facing in their efforts to implement comprehensive, interagency, statewide systems of early intervention services.

Our recommendations [are] * * * to maximize the investments made to date and support the continued development of statewide comprehensive systems of early intervention services in all States, it is important to institute measures that will enable States to continue in the program. * * * The experience of the States over the last 4 years confirm the critical importance of maintaining the flexibility necessary for States to fit program requirements to their special circumstances.

[And] * * * it will be important to minimize changes in the statute that may further impede the States' progress in reaching full implementation.

As we began to consider the need for reauthorization of this legislation, we had the assistance of many organizations, groups, and individuals. In particular, I want to express my gratitude to the Division of Early Childhood of the Council for Exceptional Children, the Consortium for Citizens with Disabilities, the Association of Maternal and Child Health, the National Association of State Directors of Special Education, and numerous State agency officials and private citizens whose thoughtful commentary and ideas have been so helpful in this process.

We also enjoyed the support and constructive guidance of not only the fine staff of the Department of Education, but of a number of my distinguished colleagues here in the Senate and of Members of the House of Representatives as well. I particularly want to thank Senators DURENBERGER, KENNEDY, and HATCH for their wisdom and counsel in this process.

Reading the comments and suggestions of the various groups and individuals made it clear to me that though there were challenges for State and Federal agencies to develop coordinated policies and new relationships to be established between health, social and education agencies, and families, the system is working.

Several principles guided us in the development of this legislation:

First, it became clear that any State which truly wants to participate should be given the opportunity to do so. We had to find a way to recognize the current serious fiscal realities in many States, while at the same time rewarding those States which have stayed on schedule.

Second, significant increases in funding are needed and appropriate, when related to increased direct provision of services.

Third, what the program needs now is fine tuning, not major structural changes. Furthermore, the program needs to remain family centered.

Finally, a way needed to be found which would ensure a smooth transition for children as they move through a continuum of programs from early intervention, to preschool, to elementary and secondary education, and beyond.

This bill reauthorizes part H of the Individuals with Disabilities Education Act [IDEA]—early intervention services for infants and toddlers—and amends both part H and other relevant sections of the act to improve the operation of the programs and services established. The major provisions of the bill are described below:

The bill includes several changes to parts B and H of the act designed to provide a smooth transition for children moving from early intervention programs under part H to preschool programs under part B and to encourage the delivery of developmentally appropriate services to children aged 3 to 5 years, inclusive, that recognize the critical role played by families.

Section 2 of the bill amends the definition of "children with disabilities" in section 602(a)(1) of the act to provide discretion to the States to include children, aged 3 to 5, who are experiencing more generic developmental delays in the areas of physical, cognitive, communication, social/emotional, or adaptive development, and who are in need of special education.

Sections 3 and 4 of the bill amend sections 613 and 614 of the act to permit local educational agencies and intermediate educational units to use individualized family service plans as described in part H, instead of individualized education plans, consistent with State policy and with the concurrence of the family. States are also required to create policies and procedures to assure a smooth transition from part H to part B for eligible children.

Section 5 of the bill amends section 619 of the act—preschool incentive grants—to allow part B funds to be used for children who will reach their third birthday during the school year, whether or not they were already receiving services under part H. However, it clarifies that this does not extend part H eligibility for services to children already receiving a free appropriate public education under part B. Comparable language to allow reciprocal usage of funds from part H to assure a smooth transition is included in section 13 of the bill. This section also raises the funding ceiling per child to $1,500.

Section 6 of the bill amends section 623 of the act—Early Education Demonstration Program—to authorize the use of funds for programs which focus on children from birth to age 2, inclusive, who are at risk of having substantial developmental delay if early intervention services are not provided. This section also authorizes the use of these funds to facilitate and improve outreach to low-income, minority, rural and other underserved populations, and to support statewide projects to change the delivery of early intervention and special education and related services from segregated to integrated environments.

Section 7 of the bill increases the authorization level for parent training centers to meet the expanded program needs.

Section 8 of the bill updates terminology used in part H—early intervention services for infants and toddlers—to currently accepted standards. For example, the bill retains the term "case management" in the definition section, but in subsequent sections uses the term "service coordination." This section also clarifies "early intervention services" to include vision, assistive devices and technology, and necessary transportation services. Furthermore, this section includes family therapists, orientation and mobility specialists, and pediatricians and other physicians under the definition of qualified personnel. These changes codify current Department of Education policy. Finally, this section places in statute the policy in current regulations that, to the maximum extent appropriate, infants and toddlers receive early intervention services in natural environments, including the home and nonsegregated day-care centers.

Section 9 of the bill creates a mechanism for continued participation in part H, by States facing serious fiscal problems. Criteria are established which States must satisfy in order to continue current levels of support for up to 2 additional years, before moving to Year 5 Program requirements under part H.

As I noted before, under part H, States were given 3 years to plan and adopt policies establishing this system.

In the fourth year, States are required to have the system in place and provide some but not all early intervention services. In the fifth year, States are expected to provide all early intervention services to all eligible infants and toddlers and their families.

For fiscal year 1990, Congress appropriated $79 million for the part H program. For fiscal year 1991, the appropriation level is $117 million. The 47-percent increase was included in anticipation of the fact that States were going to be moving from a planning to a service delivery mode. The part H program is forward funded; thus, the fiscal year 1991 funds become available after July 1, 1991.

The differential funding provision included in the bill provides rewards for those States that are on schedule and at the same time allows States that would have dropped out of the program, but for provisions in this bill, to stay in the program.

In general, those States that are on schedule will be eligible starting on July 1, 1991, to receive their full share of the fiscal year 1991 allocation—and subsequent year allocations—and a reallocation in an amount not to exceed 100 percent of the amount it would have otherwise received in the previous fiscal year.

Those States that have met their fourth-year requirements—the system is in effect and some but not all services are provided—but are unable to meet their fifth-year requirements at this time will be able to stay in the program if the Governor seeks, on behalf of the State, and the Secretary grants their request for extended participation. Two, 1-year requests may be granted.

These States will be eligible, starting on July 1, 1991, to submit their fifth-year application and, if their request for extended participation is granted, receive an amount equal to the amount they received in fiscal year 1990 and a reallocation in an amount not to exceed the amount they would have received under the fiscal year 1991 allotment if they had been in full compliance, but only if there are funds available after the full-compliance States have received their reallocation. The same policy would apply in subsequent years.

Those States that have met their third-year requirements—planning and policy development—but have not yet submitted their application for the fourth year of participation and are unable to meet the fourth-year requirements will be able to stay in the program if the Governors seeks, on behalf of the State, and the Secretary grants their request for extended participation. Again, two, 1-year extensions may be granted.

These States, which to date have held off submitting their fourth-year application, will be eligible to submit their fourth-year application and if their request for extended participation is granted, receive an allocation equal to the amount they received in fiscal year 1989. If they seek a similar extension from fourth-year requirements for the next fiscal year—any time after July 1, 1991—they will be eligible for an amount equal to the amount they would have been eligible to receive under the fiscal year 1990 level. These States seeking an extension from fourth-year requirements are not eligible for a reallocation.

Set out below is a description prepared by the Department of Education explaining this provision in more detail.

EXPLANATION OF DIFFERENTIAL FUNDING UNDER PART H

A. FISCAL YEAR 1990

("States" are defined to include the 50 States, the District of Columbia, Puerto Rico, the Department of the Interior, and the jurisdictions listed in section 684(a) of the Individuals with Disabilities Education Act.)

1. States meeting all fourth-year requirements receive their FY 1990 allotments plus their proportionate share of reallotted funds.

2. In order to receive an allotment for FY 1990, each State must have met all third-year requirements.

3. A State may receive an allotment for FY 1990 although it has not met fourth-year requirements if it submits an approvable request for extended participation by a date established by the Secretary.

4. A State that has received approval for extended participation for FY 1990 would receive the same allotment as it received for FY 1989.

5. Funds remaining after a date established by the Secretary would be reallotted. Funds available for reallotment would be the sum of funds remaining as a result of the difference between the allotments that extended participation States received for FY 1989 and the allotments they would have received for FY 1990 plus any funds not distributed because one or more States did not apply for an allotment for FY 1990. These funds would be reallotted to those States that have met all fourth-year requirements, based on each State's proportionate share of the total funds available for reallotment.

B. FISCAL YEARS 1991 AND 1992

("States" are defined to include the 50 States, the District of Columbia, Puerto Rico, the Department of the Interior, and the jurisdictions listed in section 684(a) of the Individuals with Disabilities Education Act.)

1. States meeting all fifth-year requirements receive their FY 1991 or 1992 allotments plus their proportionate share of reallotted funds.

2. The requirement in A.2. applies to FY 1991 and 1992 allotments.

3. A State may receive an allotment for FY 1991 or 1992 although it has not met all or some fourth-year requirements if it submits an approvable request for extended participation by a date established by the Secretary.

4. A State may receive an allotment for FY 1991 or 1992 although it has not met all or some fifth-year requirements if it submits an approvable request for extended participation by a date established by the Secretary.

5. States that have approved fourth-year or fifth-year extended participation requests would receive the same allotment for FY 1991 or 1992 that they either actually received for FY 1990 or they would have received if they had not requested extended participation for FY 1990 (and, as a result, received an allotment equal to their FY 1989 allotment), except that: beginning with fiscal year 1991, the 50 States, the District of Columbia, and Puerto Rico shall not receive less than $500,000.

6. Funds remaining from either the FY 1991 or FY 1992 appropriation after all allotments (including allotments based on extended participation requests) have been made would be reallotted to all States in the priority order given below:

a. (1) Funds remaining from either the FY 1991 or 1992 appropriation would first be reallotted to those States that have met all fifth-year requirements. Reallotment would be based on each State's proportionate share of the total funds available for reallotment.

(2) The sum of a State's allotment and proportionate share of reallotted funds would be capped at twice the amount the State received as its allotment for the previous fiscal year or twice the amount it would have received as its allotment for the previous fiscal year if it had not requested and received extended participation. Funds reallotted in the previous fiscal year would not be considered in determining the amount of the cap.

b. (1) Any funds remaining from either the FY 1991 or 1992 appropriation after 6.a. would then be reallotted to those States that have met all fourth-year requirements and have received extended participation because they have not met all fifth-year requirements. A State's reallotment would be based on its proportionate share of the total funds remaining available for reallotment after 6.a.

(2) The sum of a State's allotment and proportionate share of reallotted funds would be capped at the amount a State would have received for its allotment for the fiscal year in which it has been approved for extended participation (that is, in 1991, for example, a State could receive a sum equal to the total FY 1991 allotment it would have received if it had not requested and received extended participation).

c. Notwithstanding the limitation under 6.a., any funds remaining from either the FY 1991 or 1992 appropriation after 6.a. and 6.b. would then be reallotted to those States that have met all fifth-year requirements, based on each State's proportionate share of the total funds remaining available for reallotment after 6.a. and 6.b.

NOTE.—States cannot receive approval for extended participation more than two times.

Section 10 of the bill amends section 676 of the act to include training of paraprofessionals, and clarifies that the State comprehensive system of personnel development must be consistent with the part B system. The general administrative and supervisory roles of the lead agency with respect to programs and activities receiving assistance are clarified. This section of this bill, also amends section 678 of the act to authorize and clarify that the State assigns fiscal responsibilities for part H to the several agencies. The State lead agency is then charged with assuring compliance by all State agencies with their appropriate fiscal responsibilities under part H.

Section 11 of the bill amends section 677 of the act in several ways. A statement of the natural environments in which services are provided is required. Changes are also made to emphasize the central role of the parents in designing and implementing services. The phrase "strengths and needs"—of families—is replaced with "resources, priorities, and concerns" in accordance with the recommendations of parents. Furthermore, a new subsection (e) is added regarding parental consent. Finally, this section removes the requirement that the service coordinator be a person from "the profession most immediately relevant to the infant's, toddler's or parents' needs." This allows other qualified persons to function in this role.

Section 12 of the bill adds a new requirement under the State part H application process under section 678 of the act, by requiring a description of the policies and procedures used to ensure a smooth transition between part H and part B. A description of the process by which the lead agency notifies local educational agencies and intermediate educational units of a child's eligibility at least 90 days before part B services must begin, is also required, as are further assurances under section 678(b) of the act regarding policies and procedures adopted to ensure involvement of underserved groups and access to culturally competent services.

Section 14 of the bill amends section 680 of the act to clarify parental rights, including the right to decline any single or group of services without jeopardizing their access to other services. This policy is currently in the Department's regulations. The phrase "consistent with Federal and State law" is included to clarify that this section does not supersede existing valid statutes, such as child abuse reporting.

Section 15 of the bill modifies the number of members and composition of the State Interagency Coordinating Council under section 682 of the act, selection of the chairperson, and the functions of and allowable expenditures—explicitly including child care costs for parent representatives—by the Council.

Section 16 of the bill ensures that each State receives at least $500,000 under section 684(c) of the act.

Section 17 of the bill extends the program for 3 years to put this part on the same time track as the discretionary programs under IDEA. This section also authorizes $220 million for fiscal year 1992 and such sums thereafter.

Section 18 of the bill is a new section which places in statute, the current Department of Education policy of utilizing an Interagency Coordinating Council similar to those required at the State level. The composition and major functions and responsibilities of the Council are specified.

Section 19 of the bill is a new section which requires the Secretary to carry out a study of alternative funding formulas for allocating funds under part H of IDEA. The study is to be completed in time for the next reauthorization cycle.

Sections 20 and 21 of the bill amend respectively, section 6 of Public Law 81-874 (20 U.S.C. 241 (a))—Impact Aid—and section 1409 of the Defense Dependents Education Act of 1978 (20 U.S.C. 927) to assure the availability of early intervention services for infants and toddlers with disabilities and of a free appropriate public education for preschool children with disabilities comparable to those available under parts B and H of the act for military dependents.●

● Mr. DURENBERGER. Mr. President, 5 years ago we took an important step forward in enriching the lives of thousands of young children with disabilities by establishing the framework for a comprehensive, statewide system of early intervention services for infants and toddlers with disabilities and their families.

Earlier this year before the Subcommittee on Disability Policy we saw first hand what this program means to a little girl named, Gretchen and her family. Gretchen had intestinal problems at birth and had several stomach surgeries. Gretchen's mother described it this way, "Gretchen was being fed through a feeding tube inserted into her nose; her arms and hands hung lifelessly at her sides; and her legs were casted up to her hips. No one could tell us if or when she would be able to eat, speak, walk or move her arms and hands." Three years later Gretchen is still fed through a tube, but as she showed all of us, she is a delightful, happy, active little girl.

I have heard similar success stories from my own State, Mr. President. Nicole Anderson was born 2 months premature and was diagnosed with cerebral palsy. Shortly afterward, she began receiving speech and language services under part H. She began with a photo system that allowed her to point to different pictures. She then progressed to an electronic system. Finally, she progressed to a verbal communications system. Today, Nicole is 6 years old, she has graduated from early intervention services and is going to school full time—half day in regular education and half day in special education. She is able to speak four to six word sentences, and has developed important friendships with her classmates. Her mother, Marie, said "For Nicole, early intervention services have helped her to become as independent as she can be, and for me—I have learned the team process and how to make it work for both of us. It has given us confidence for the future."

Mr. President, these are just two examples of the many miracles that are occurring because of the part H program. So I am pleased to join with my colleague from Iowa in introducing the reauthorization of part H of the Individuals With Disabilities Act.

The task within this reauthorization is not an easy one. Even with the clear evidence of success of the part H program, many States are struggling to implement it, and will need additional help if they are to stay in the program. It has become evident in the review of this program that the 5-year implementation period established in 1986 may not have been long enough for some States to develop the kind of comprehensive systems envisioned under this act. In addition, the States are experiencing severe budget shortfalls that could not have been foreseen in 1986. This becomes especially important in our deliberations as the Federal Government only supplies between 3 to 14 percent of the total funding of this program.

At the same time, we needed to recognize that several States have made the tough decisions and financial commitments and have already moved forward and are on track for full implementation of this program. This reauthorization should not in any way penalize them for doing what we asked.

Finally, we are under severe time constraints. State applications are due July 1, 1991. Without a clear sense of direction from Congress, many States are holding back on their applications and their decision to proceed with the program.

The bill we are introducing today attempts to deal with these problems in several ways. The most important of which is a new system of differential funding. In an effort to reward those States who are on schedule while encouraging those States who need a little extra time to stay in the program, we have created a new differential funding mechanism. This change will give States up to an additional 2 years to reach full implementation.

Currently, all States have completed year 3 requirements. Some States have already made fourth-year applications. The bill before us will allow States who are not ready to make fourth-year applications to receive two 1-year extensions at which time they would continue to receive planning money set at 1989 funding levels the first year and 1990 levels the second year. In 1990, States who are on schedule applying for the fourth year will receive their share of 1990 funds, plus any reallotment from remaining moneys from States not on schedule.

In 1991 and 1992, States fully on schedule will receive their 1991 funding allocations plus up to 100 percent their previous year's allocation. States who have proceeded to the fourth year will receive their 1990 level of funding plus a reallotment of funds left over from States on schedule. States who are still

unable to make fourth-year requirements the second year will receive their 1990 funding level but will be ineligible for any reallotment.

Because of the critical timing of this new funding formula, Mr. President, we are hoping to pull this section of the bill out and pass it separately later this week.

In addition, this legislation makes several other important changes to the part H program. The bill would eliminate the current disruption of services for children turning 3 years of age during the school year by making several changes that will provide a smooth transition between the H program and the section 619 preschool program. The bill modifies the number of members and composition of the State interagency coordinating council, and the functions of and allowable expenditures by the council. The bill places in statute the current Federal Interagency Coordinating Council. In addition, it amends the definition of "children with disabilities" to provide States with discretion to include children experiencing developmental delays.

Mr. President, we have seen how this program can do wonders for these young children. I urge your suppport of this important legislation.●

● Mr. KENNEDY. Mr. President, I strongly support the Individuals with Disabilities Education Act Amendments of 1991. I am proud to be a cosponsor of a bill that is designed to continue improving the early intervention services for infants, toddlers and children with disabilities. This bill reauthorizes part H of the Individuals with Disabilities Education Act [IDEA]—Early Intervention Services for Infants and Toddlers—and amends both part H and other relevant sections of the act to improve the operation of the programs and services established.

School readiness is the first of six national education goals set forth by the President and the Governors over a year ago. If children are not ready to learn, the other goals become meaningless. For children with disabilities, the provision of early intervention services and a smooth transition to preschool programs is the first step toward readiness. There is no doubt that an investment in early childhood education is critical to the prevention of later educational failure for children with disabilities. In 1986, Congress committed itself to making this population ready for school by authorizing early intervention programs under part H of the Individuals with Disabilities Education Act. The bill introduced today reinforces that commitment.

Part H is an impressive and ambitious law that has done more than provide a planning framework through which the States can provide comprehensive services to infants and toddlers with developmental delays and their families. The law has encouraged major reforms in the human service delivery systems in the states. These reforms include coordination of funding sources, cross-discipline cooperation, family empowerment policies, the development of statewide systems of personnel preparation, and many other long delayed actions. Part H has indeed the potential to serve as model for comprehensive service delivery to other target populations.

However, the consequence of all these requirements for new policies is that the States have been faced with an enormous agenda for the establishment of coordinated programs. Instead of minor changes in existing programs, they often have had to generate new policies that have few precedents. As a consequence of this unique set of tasks, the 5-year implementation deadline within the Federal part H legislation has been hard to meet at a time when the majority of States have been facing serious financial shortfalls. Another barrier to a speedy growth of services has been the national and regional shortage of qualified staff, particularly speech, occupational and physical therapists. Despite these factors, a number of studies clearly indicate a good faith effort on the part of most of the States. Yet even States with a strong commitment to serving all eligible infants and toddlers, such as Massachusetts, shown by 4 years of full compliance with all aspects of part H, are having difficulties as they near full implementation requirements.

The Individuals With Disabilities Education Act Amendments of 1991 recognize the difficulties these States are facing during the final phase of part H implementation. Section 9 of the bill creates a mechanism for continued participation in part H by States which are facing serious fiscal problems and are therefore unable to comply in full with the Federal timetable. Criteria are established which States must satisfy in order to continue current levels of support for up to 2 additional years, before moving to Year 5 program requirements; that is, providing full services for all handicapped infants and toddlers in compliance with federally prescribed service components. The mechanism of differential participation in part H grants full Federal funding to the States furthest along in implementation and allows those States which are 1 or 2 years behind in the implementation process to retain their last year's allotment and to receive an additional share from what is left over from the allotment of the increased appropriation.

Some States have chosen to include children who are at risk of developmental delay in the services they provide under part H. Including at risk infants and toddlers greatly increases the number of children to be served and, thus, provides a far greater financial challenge to any State deciding to do so. I commend States such as Massachusetts for serving the full range of potentially eligible children. The differential funding provision ensures that those States are able to continue their commitment to early intervention services within the part H framework.

I therefore strongly support the authorization of the use of funds for early education demonstration training programs which focus on children from birth to age 2, inclusive, who are at risk of having substantial developmental delay if early intervention services are not provided. I also commend the drafters of the bill for authorizing the use of these funds to facilitate and improve outreach to low-income, minority, rural, and other underserved populations, and to support statewide projects to change the delivery of early intervention and special education and related services from segregated to integrated environments.●

By Mr. WIRTH:

S. 1108. A bill to require a 2-year moratorium on the burning of hazardous wastes in cement kilns, and to provide for a study by the Administrator of the Environmental Protection Agency; to the Committee on Environment and Public Works.

MORATORIUM ON THE BURNING OF HAZARDOUS WASTES

Mr. WIRTH. Mr. President, today I am introducing a bill that will put a 2-year moratorium on the burning of hazardous waste in cement kilns. The bill also directs the Administrator of the EPA to conduct a study of the health and safety effects of burning hazardous wastes in cement kilns, and report to this body before the end of the 2-year moratorium.

The bill is necessary because there are a significant number of cement kilns that are currently burning or planning to burn hazardous wastes as an alternative fuel. The EPA has published new regulations to expand controls on hazardous waste in cement kilns. The new regulations take effect August 21, 1991.

My concern is that these cement kilns are typically located adjacent to densely populated areas. For example, in Colorado there are cement kilns in Lyons, Laporte, and Florence. I have been contacted not only by people from these cities, but from the adjacent cities and a coalition of people representing nine Colorado counties. they want to see the issues examined more closely before cement kilns are allowed to burn hazardous wastes adjacent to these cities.

Before we give full license to these facilities, we need to take a long and hard look at the health and safety effects of implementing the boiler and industrial furnace rules as they apply

to cement kilns. This is the intent of the bill I am introducing today.

By Mr. GORE (for himself, Mr. SASSER, Mr. BOREN, and Mr. NICKLES):

S. 1109. A bill to amend section 547 of title 11, United States Code, to provide that certain withdrawal transactions made by depositors from certain financial institutions not be avoided as preferential transfers; to the Committee on Banking, Housing, and Urban Affairs.

IMPROVING THE FAIRNESS OF THE BANKRUPTCY CODE

• Mr. GORE. Mr. President, today I am reintroducing legislation that seeks to ensure the fairness and the spirit of our Bankruptcy Code. I am pleased that Senators SASSER, BOREN, and NICKLES are again joining me in cosponsoring this important legislation.

A tragic application of a little-known provision of the Federal Bankruptcy Code has victimized many former depositors of the Southern Industrial Banking Corporation [SIBC] in Tennessee. These good faith depositors accepted the risk of losing their money because the institution in which they kept it was not a federally insured bank. However, they never imagined that by withdrawing their money at the wrong time they could be sued as preferred creditors. These individuals did not realize that the SIBC was going to declare backruptcy within the next 90 days. The SIBC's catastrophe has brought to light a grave unfairness in the preference language of the Bankruptcy Code—a loophole that allows the possibility of depositors being sued as the equivalent of preferred trade or business creditors in the event that an uninsured financial institution declares bankruptcy.

Under U.S. bankruptcy law, a preferred payment is one made to a creditor by a debtor during the 90 days before the debtor filing for bankruptcy. Preferred payments are subject to repayment to the general pool of recovered funds which are then used to pay creditors on a percentage basis in a bankruptcy case. Congress drafted section 547 of the Bankruptcy Code with a view toward preventing a debtor from unjustly favoring certain of its creditors prior to bankruptcy.

But Congress also had the foresight to carve out specific exceptions to these preference laws. Among these, Congress exempted one class of businesses able to file bankruptcy. This special group is comprised of banks, savings and loans, and virtually all depository institutions. Congress exempted these institutions for good reason: A person's relationship with a depository institution is not a debtor-creditor relationship but rather a fiduciary relationship.

The goal of our bill is to close an unintended and unjust loophole in the bankruptcy law by clarifying the concept of preferred creditors. The legislation would exempt from this preference language withdrawals from an entity that is in the business of accepting deposits but is a debtor eligible to file bankruptcy. Such withdrawals must have been made without insider knowledge of the financial condition of the business or its impending bankruptcy.

These former SIBC depositors were not insiders. They withdrew their money during the ordinary course of business and during the ordinary course of day-to-day life. They withdrew their money to pay hospital bills, put a down payment on a house, and to send their children to college. After 7 years of court battles, many of these hardworking people and retirees are losing their life savings, their homes, or their children's opportunity to attend college. Congress never intended the preferred creditor provisions in its bankruptcy laws to apply to the type of uninsured financial institutions that are now subject to its harsh effects.

I ask my colleagues to help restore the spirit and the credibility of our bankruptcy laws by joining me in support of this legislation.

I ask unanimous consent that the text of this bill be printed at the conclusion of my remarks.

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

S. 1109

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 547(c) of title 11, United States Code, is amended by—

(1) striking out "or" at the end of paragraph (6);

(2) striking out the period at the end of paragraph (7) and inserting in lieu thereof "; or"; and

(3) adding at the end thereof the following:

"(8) to the extent that such transfer was made—

"(A) to or for the benefit of a depositor, investor or other person who was not an insider and who owned or held any deposit, passbook, savings, time, checking or similar account, savings obligation, thrift or investment certificate, thrift note, certificate of indebtedness or other evidence of indebtedness representing the unpaid balance received or held by an industrial loan and thrift company, finance company, trust company, investment company or other financial institution whose usual course of business includes the acceptance and repayment of such accounts or similar evidences of indebtedness; and

"(B) in connection with the withdrawal by such depositor, investor, or other person, of all or any part of any such funds, including interest thereon, from such account or with respect to such evidence of indebtedness.".

(b) The amendments made by subsection (a) shall apply to cases under title 11, United States Code, filed on or after March 9, 1983, and to all proceedings, actions or controversies arising out of, or in or related to such cases.•

By Mr. KASTEN:

S. 1110. A bill to amend the Federal Food, Drug, and Cosmetic Act to require that standards of identity for milk include certain minimum standards regarding milk solids, and for other purposes; to the Committee on Labor and Human Resources.

HEALTHIER MILK ACT

• Mr. KASTEN. Mr. President, I rise today to introduce legislation that will raise the minimum milk solids.

Specifically, my bill will bring the Federal standards for total solids basically up to the levels for total solids now in effect in California.

My bill will increase the protein, calcium, and other nutritional components in milk to the standard used by California for the past 25 years. By increasing these standards, all types of milk—including skim milk—will have a richer, better taste, as well as have a higher nutritional value.

Mr. President, simply put, my bill will increase consumer demand, thereby helping the much needed dairy farmers. This bill will not increase the amount of milk fat; it will only increase the minimum milk solids.

In the past 6 years, several important reports have been issued that recommend increased consumption of foods high in calcium as part of a healthy diet for adolescents and young adults, and to help decrease the risk of osteoporosis. Osteoporosis afflicts 24 million Americans, half of which are women over 45 years of age.

This bill will go a long way in helping Americans combat osteoporosis, and will help provide a healthier diet for America.

Mr. President, dairy farmers in Wisconsin and all over America are asking for congressional help, as they struggle to cope with the lowest prices for their milk in more than a decade. This bill is not a short-term fix; it is a long-term fix.

My bill commands the support of both producers and consumers. One of the great advantages of this bill is that it will bring consumers a more nutritious product and will bring higher prices to dairy farmers.

I hope my colleagues will join me in supporting this much needed legislation.•

By Mr. MITCHELL (for himself, Mr. COHEN, Mr. D'AMATO, Mr. AKAKA, Mr. KERREY, Mr. LIEBERMAN, Mr. RIEGLE, Mr. DURENBERGER, Mr. METZENBAUM, Mr. KENNEDY, Mr. EXON, and Mr. BROWN):

S. 1111. A bill to protect the public from health risks from radiation exposure from low-level radioactive waste, and for other purposes; to the Committee on Environment and Public Works.

RADIATION PROTECTION ACT

Mr. MITCHELL. Mr. President, today I am introducing legislation to assure that the public health is adequately protected from the risks of low-level radioactive waste. Last year, the Nu-

clear Regulatory Commission [NRC] issued an ill-founded policy deregulating low-level radioactive waste. This is the Agency's policy on below regulatory concern, or BRC.

The policy was substantively flawed. It provided for inadequate protection of public health and the environment by permitting radiation exposure levels higher than those endorsed by the Environmental Protection Agency, the National Council on Radiation Protection, the International Atomic Energy Agency, Canada, Finland, Japan, and the United Kingdom. In addition, up to 30 percent of this Nation's low-level waste could have been sent to sanitary landfills rather than in more protective low-level waste repositories. The legislation I am introducing today revokes this policy.

In addition, the policy was announced with no prior notice and comment. The legislation I am introducing today provides that the NRC must provide notice and comment or an adjudicatory hearing before establishing a new low-level radioactive waste deregulation policy.

Five States, including the State of Maine, have adopted State statutes prohibiting the disposal of low-level waste in sanitary landfills. The 1990 BRC policy would have preempted States from enacting or enforcing such restrictions on low-level waste disposal. This is not the correct policy. States should have the right to protect their citizens from the risks of radiation exposure, even if State action is more restrictive than Federal standards. This is the basis for our system of government.

The legislation I am introducing today reaffirm the rights of States to be more protective than the Federal Government in the diposal of low-level radioactive waste and prohibits the NRC from preempting the States in this regard.

The legislation also clarifies that Federal facilities must pay fees associated with the siting, construction and operation of low-level waste respositories to which they will be sending their waste. Without this provision, non-Federal entities will pay more than their fair share.

Recently, the NRC announced is "concensus-building" approach to BRC. Today, a report was issued to the Commission on the consensus approach. I hope that in response to the report, the Commission will revoke the BRC policy. I recommend that the Commission will publicly commit to reproposing only a nonpreemptive policy that will have full notice and comment so that the public is kept fully informed and is protected from the risks of radiation exposure.

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. 1111

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 "Radiation Protection Act of 1991".

SEC. 2. STATE AUTHORITY FOR FEES OR CHARGES FOR WASTE STORAGE AND DISPOSAL FACILITIES.

(a) Section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2011) is amended by inserting at the end thereof the following new subsection:

"p. STATE AUTHORITY FOR WASTE STORAGE AND DISPOSAL FEES.—(1) In addition to the provisions of section 4(b)(1)(B) of the Low-Level Radioactive Waste Policy Act Amendments of 1985 (42 U.S.C. 2021D), each department, agency, and instrumentality of the United States shall be subject to and comply with all Federal, State, and local requirements, both substantive and procedural, concerning the imposition of fees or charges for the storage or disposal of low-level radioactive waste, including but not limited to, such fees or charges as may be imposed prior to storage or disposal to recover costs for the planning, construction, licensing, or operation of any facility for the storage or disposal of such waste, in the same manner and to the same extent as any non-governmental entity.".

"(2) Nothing in this subsection expands, diminishes, or otherwise affects State authority over any non-government entity.

"(3) Each term used in this subsection that is also used in the Low-Level Radioactive Waste Policy Act shall have the meaning given such term in section 2 of such Act.".

(b) Section 4(b)(1)(B) of the Low-Level Radioactive Waste Policy Act Amendments of 1985 (42 U.S.C. 2021d) is amended to read as follows:

"(B) FEDERAL LOW LEVEL RADIOACTIVE WASTE DISPOSED OF OR STORED AT NON-FEDERAL FACILITIES.—Low-level radioactive waste owned or generated by the Federal government that is stored or disposed of or will be stored or disposed of in the future at a regional disposal or storage facility or non-Federal disposal or storage facility within a State that is not a member of a compact shall be subject to the same conditions, regulations, requirements, fees, taxes, and surcharges imposed by the compact commission, and by the State in which such facility is located, in the same manner and to the same extent as any low-level radioactive waste not generated by the Federal government.

SEC. 3. STATE AUTHORITY TO REGULATE DISPOSAL OF LOW-LEVEL RADIOACTIVE WASTE.

"(a) STATE AUTHORITY.—

"(1) IN GENERAL.—The Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) is amended by inserting after section 275 the following new section:

"SEC. 276. STATE AUTHORITY TO REGULATE DISPOSAL OF LOW-LEVEL RADIOACTIVE WASTE.

"(a) IN GENERAL.—

"(1) BELOW REGULATORY CONCERN OF COMMISSION.—No provisions of this Act, or of any other Federal law, may be construed to prohibit or otherwise restrict the authority of any State to regulate, on the basis of radiological hazard, the disposal of low-level radioactive waste designated a State responsibility for which the Commission does not require disposal in a low-level radioactive waste disposal facility licensed by the Commission or by an Agreement State.

"(2) STATE AUTHORITY.—No provision of this Act, or of any other Federal law, may be construed to preclude or otherwise restrict the authority of any State to impose standards for the protection from radiological hazards more stringent than the Commission for the disposal of low-level radioactive waste in a low-level radioactive waste disposal facility.

"(b) DEFINITIONS.—For purposes of this section:

"(1) LOW-LEVEL RADIOACTIVE WASTE.—The term 'low-level radioactive waste' has the meaning given such term in section 2 of the Low-Level Radio Waste Policy Act.

"(2) LOW-LEVEL RADIOACTIVE WASTE DESIGNATED A STATE REESPONSIBILITY.—The term 'low-level radioactive waste designated a state responsibility' means low-level radioactive waste for which the states are responsible for providing for disposal pursuant to section 3 of the Low-Level Radioactive Waste Policy Act.

"(3) LOW-LEVEL RADIOACTIVE WASTE DISPOSAL FACILITY.—The term 'low-level radioactive waste disposal facility' means a facility for the disposal, as defined in section 2 of the Low-Level Radioactive Waste Policy Act, of low-level radioactive waste.

"(4) STATE.—The term 'State' has the meaning given such term in section 274 n.

"(5) AGREEMENT STATE.—The term 'Agreement State' has the meaning given such term in section 2 of the Low-Level Radioactive Waste Policy Act.".

(2) CONFORMING AMENDMENT.—The table of contents of the Atomic Energy Act of 1954 (42 U.S.C. 2011 prec.) is amended by inserting after the item relating to section 275 the following new item:

"Sec. 276. State authority to regulate disposal of low-level radioactive waste.".

(b) REVOCATION OF RELATED NRC POLICIES.—The following policy statements of the Nuclear Regulatory Commission, relating to radioactive waste below regulatory concern, shall have no effect after the date of enactment of this Act:

(1) The policy statement published in the Federal Register of July 3, 1990 (55 Fed. Reg. 27522).

(2) The policy statement published in the Federal Register on August 29, 1986 (55 Fed. Reg. 30839).

(c) PUBLIC NOTICE AND COMMENT.—Neither the Commission nor the Administrator of the Environmental Protection Agency may issue policies providing for the exemption of, or application for the exemption of, radioactive materials or practices from regulation, in whole or in part, unless there is advance notice of the proposed regulatory action in the Federal Register and the public is provided an opportunity to comment in accordance with 5 U.S.C. section 553(c) or provided the right to participate in an adjudicatory hearing in accordance with 5 U.S.C. sections 554, 556 and 557.

Mr. COHEN. Mr. President, I am pleased to be joining my colleague from Maine, Senator MITCHELL, and several other Senators, in reintroducing legislation we first proposed in the 101st Congress to ensure that States will have the authority to set adequate standards for the disposal of low-level radioactive waste.

Our legislation is necessary because last year the Nuclear Regulatory Commission announced a policy which states that some low-level waste could be found to be "below regulatory concern" and thus exempt from low-level waste disposal regulations. This label demonstrates great insensitivity on the part of the Commission to public concerns about the difficulty of disposing of hazardous wastes properly.

I do not think that this issue will ever be below the concern of the citizens of Maine. When we are trying to deal with the solid waste disposal problem nationally, adding levels of radioactive waste that are below regulatory concern does not make sense. I would note that, in some areas, wastes disposed of in incinerators and landfills already pose a threat to human health and the environment. The NRC's decision would aggravate the problem while heightening citizen concern. Our bill prohibits the NRC from implementing the policy it issued on July 3, 1990.

I am also particularly concerned about indications that the NRC will assert Federal preemption over State regulation of this type of waste. The State of Maine was one of the first in the Nation to enact legislation prohibiting low-level radioactive waste from being disposed of in any facility not licensed by the NRC. Several other States have also passed similar laws.

In preparing to introduce this legislation last year, I reviewed a copy of NRC Chairman Carr's response to Commissioner Curtiss' view that State regulation of low-level waste should not be subject to the requirement of strict compatibility with Federal laws, and I was extremely concerned about the direction in which the Commission seems to be headed.

In addition, I have seen a copy of an abstract written by Donald J. Silverman of the firm Newman & Holtzinger, which was in the possession of the NRC. This abstract, on the limits of State and local authority to regulate low-level waste, states that a Maine law prohibiting the disposal of this waste in ordinary landfills is unconstitutional.

There is certainly nothing in the Constitution that prohibits a State from acting to ensure the safety of public health. In fact, most of our major environmental laws allow States to regulate threats to public health with standards stricter than Federal ones. I would like to inform the NRC that we have not had to amend the Constitution to achieve this goal.

Since the States are held responsible for the disposal of waste, they ought to be able to set the minimum levels of safety that are necessary to protect public health. I think the NRC is completely wrong, if the signals that are being sent are accurate indications of the Commission's intentions. If States want to insist upon more rigid, stringent controls, they ought to be able to do so. The legislative we are introducing today would achieve that goal.

We also added a provision that was not in last year's bill that provides all Federal facilities with the authority to pay fees assessed by a State for the search for an construction of a low-level wastesite. Under current law, Federal facilities such as a naval base only have the authority to pay assessments when the low-level waste it generates is actually being disposed of. Under this scenario, then, Federal facilities that will use a State-owned and operated low-level waste disposal facility do not help pay for any costs associated with siting and construction of a waste disposal facility. That burden is borne solely by the private sector and the State. To rectify this situation, the bill we are introducing today provides that all low-level waste generated at Federal facilities will be subject to the same requirements as non-Federal facilities and authorizes Federal agencies to pay any fees or charges that recover the cost of planning, construction, licensing, or operation of a low-level waste disposal facility.

This provision should alleviate concerns on the part of many States as they proceed through the low-level waste facility siting process.

I hope that this legislation will be supported by my colleagues, as it is necessary to ensure the continued protection of public and environmental health from radiation hazards. I am looking forward to working with my Senate colleagues to see that the bill is considered by the Senate.

Mr. D'AMATO. Mr. President, I rise today to join with Senators MITCHELL, COHEN, and others in introducing the Radiation Protection Act of 1991. This legislation would protect the right of State and local governments to prohibit the disposal of radioactive waste in ordinary landfills, and overturn the Nuclear Regulatory Commission's below regulatory concern [BRC] policy.

Last year the NRC announced its BRC policy which effectively deregulates certain low-level radioactive wastes [LLW] and permits them to be disposed of in ordinary landfills and incinerators instead of in licensed low-level waste repositories. In other words, these wastes would be mixed in with common household garbage and deposited in the local landfill. Under this policy, up to 30 percent of radioactive waste could be deregulated. There are many aspects of this policy that are troubling to me.

First, under this policy, the NRC claims it has the authority to force this policy on States and local governments. If the BRC policy is not repealed, LLW could go into landfills and incinerators over the objections of State and local governments.

Second, the BRC policy would permit exposure levels that are significantly higher than those endorsed by the EPA, the National Council of Radiation Protection, and the International Atomic Energy Agency. The NRC has proposed a 10 millirem per year individual dose limit. To compare the leniency of the BRC policy, the EPA recommends no more than a 4 millirem per person exposure.

Third, since disposal costs are higher for LLW sent to licensed repositories, there is an incentive for unscrupulous operators to use the policy as a cover to dispose of extremely dangerous radioactive wastes into landfills.

Last, the BRC policy has the potential to make it impossible for local governments to site desperately needed new landfills and incinerators due to intense opposition likely to be mounted by communities. Municipalities are having a difficult time as it is trying to site new landfills and incinerators to cope with our growing garbage crisis. The BRC policy does not make the siting process any easier. What community would allow a landfill to be built knowing it will be a dumping ground for radioactive waste?

Clearly, the new BRC policy is disturbing. We cannot rely on the whims of the NRC to protect the public. Remember, this is the same Commission that licensed the Shoreham nuclear powerplant over the vigorous objections and concerns raised by the surrounding communities and the State of New York related to safety.

We need legislation which will allow States and localities to be able to set minimum levels of safety that are necessary to protect public health. The legislation we are introducing today does just that. In addition, our legislation also prohibits the NRC from implementing this ill-conceived policy.

I urge my colleagues to act on this important legislation.

By Mr. HOLLINGS (for himself, Mr. MITCHELL, Mr. MCCAIN, Mr. WIRTH, Mr. KOHL, Mr. D'AMATO, Mr. LUGAR, Mr. BRYAN, Mr. ROBB, Mr. COHEN, Mr. INOUYE, Mr. HEFLIN, Mr. BURNS, Mr. CHAFEE, and Mrs. KASSEBAUM):

S. 1112. A bill to establish a commission to advise the President on proposals for national commemorative events; to the Committee on the Judiciary.

NATIONAL COMMEMORATIVE EVENTS ADVISORY ACT

• Mr. HOLLINGS. Mr. President, I rise today to introduce legislation that will help get Congress back in business. This legislation will save hundreds of thousands of dollars in printing costs and staff time by creating a President's Advisory Commission on National Commemorative Events. The Commission would review the hundreds of congressionally sponsored commemorative

resolutions which recognize particular days, weeks, or months through Presidential proclamation.

Somewhere along the way, we've let our zeal for commemoration get out of hand. During the 101st Congress, over 600 commemorative bills were introduced in the House and Senate, and 182 became law. That means over 25 percent of all laws passed during the last Congress were commemoratives.

The bottom line is that the commemorative process is consuming too much time. The process of obtaining cosponsors and getting these laws passed is preventing legislators and staff from devoting valuable time to more important issues. I want us to get out of the commemorative business and into the business of doing some real work here.

The Commission on National Commemorative Events would be comprised of 11 members: 2 appointed by the House, 2 appointed by the Senate, and 7 appointed by the President. Their job would be to review all commemorative proposals and make recommendations to the President for approval or disapproval. The Commission would not mean another layer of bureaucracy, since the bill does not create salaried support staff for the Commission. Appointed Commission members would receive per diem expenses, but staffing requirements would be met by the adminstration.

I know that sponsoring commemorative legislation on behalf of worthy causes and special interests of constitutents is important to Members of Congress. In the past, I have sponsored a yearly resolution to honor our Nation's law enforcement personnel. However, I am willing to save Congress time and money by having a Commission take a hard look at these observances.

Representative DAVE MCCURDY has already introduced a bill in the House to create a similar Commission, as has Representative SHERWOOD BOEHLERT. One hundred and seventy House Members have expressed their dissatisfaction with the current commemorative process by joining as cosponsors of these bills.

I urge my colleagues to support the creation of a Commission on National Commemorative Events. We should honor our constituents not by passing commemorative after commemorative but by spending our time working on legislation that will make a real difference in their lives.●

By Mr. PELL (by request):

S. 1113. A bill to amend the Peace Corps Act to provide authorization of appropriations for the Peace Corp of the United States for fiscal years 1992 and 1993; to the Committee on Foreign Relations.

PEACE CORPS ACT AMENDMENTS OF 1991

● Mr. PELL. Mr. President, by request, I introduce for appropriate reference a bill to provide authorizations of appropriations for the Peace Corps of the United States for fiscal years 1992 and 1993.

This proposed legislation has been requested by the Peace Corps, and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the section-by-section analysis and the letter from the Director of the Peace Corps to the President of the Senate, which was received on May 8, 1991.

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

S. 1113

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 "Peace Corps Act Amendments of 1991".

SEC. 2. AUTHORIZATION FOR APPROPRIATIONS.

Section 3(b) of the Peace Corps Act (hereinafter the "Act") is amended by striking out the first sentence thereof, and by inserting in lieu thereof the following:

"There are authorized to be appropriated to carry out the purposes of this Act $200,000,000 for fiscal year 1992, to remain available until September 30, 1993, and such sums as may be necessary for fiscal year 1993, consistent with the Budget Enforcement Act of 1990 (P.L. 101-508), to remain available until September 30, 1994."

SECTION-BY-SECTION ANALYSIS

Section 1 provides a short title for the bill, the "Peace Corps Act Amendments of 1991."

Section 2 amends Section 3 of the Peace Corps Act (hereinafter the Act) to authorize the appropriation of $200,000,000 to support the activities authorized by the Act in fiscal year 1992, and such sums as may be necessary for fiscal year 1993. The Peace Corps is also requesting that the funds authorized remain available for a two year period. Because Volunteers are usually enrolled for two years of service, we believe that two-year funding will permit longer-range planning in meeting new and continuing host country requests for Volunteers.

THE DIRECTOR OF THE
U.S. PEACE CORPS,
Washington, DC, April 29, 1991.

Hon. DAN QUAYLE,
President, U.S. Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is proposed legislation authorizing the activities of the Peace Corps of the United States during fiscal years 1992 and 1993. This legislation is needed to carry out the President's fiscal year 1992 budget proposal, to permit Volunteers to continue to serve in countries throughout the world where they now serve, and to support new programs of the Peace Corps of the United States in countries in Eastern Europe and elsewhere in response to requests from these countries for Peace Corps Volunteers.

The bill would authorize appropriation of $200,000,000, as requested by the President, to support activities under the Peace Corps Act in fiscal year 1992 and such sums as may be necessary to support such activities in fiscal year 1993. I believe that having two year funding will enable us to better plan our programs in consultation with host countries and better support our Volunteers, who are normally overseas for two-year periods of service.

On behalf of the Administration, I respectfully urge prompt enactment of this necessary legislation.

The Office of Management and Budget advises that there is no objection to the presentation of this proposal to Congress and that its enactment would be in accord with the program of the President.

Sincerely,

PAUL D. COVERDELL.●

By Mrs. KASSEBAUM (for herself, Mr. DOLE, and Mr. BOREN):

S. 1114. A bill to amend the National Trails System Act to designate the Frontier Military Road for study for potential addition to the National Trails System; to the Committee on Energy and Natural Resources.

FRONTIER MILITARY ROAD STUDY ACT

● Mrs. KASSEBAUM. Mr. President, today I am introducing legislation to make a ribbon of our frontier heritage more accessible and more understandable to many Americans.

On behalf of myself and two cosponsors, I am pleased to introduce the Frontier Military Road Study Act of 1991, which will direct the National Park Service to study the feasibility of creating a historical corridor stretching from Minnesota to Louisiana, marking the western boundary of the United States during the mid-19th century. During that period, that path was known as the Frontier Military Road, which connected a series of frontier forts. This route extended from Fort Snelling in Minnesota, through Fort Leavenworth and Fort Scott in Kansas, through Fort Wayne, OK, Fort Smith, AR, and Fort Towson, OK, to Fort Jesup in Louisiana. Soldiers, traders, merchants, and pioneers moved along this frontier highway, typifying much of the activity of the American West.

In later years, when the frontier had pushed further west, this route was used as a post road and then as a telegraph road. Therefore, it reflects the history of much of the central United States for more than half a century.

This legislation proposes two initiatives. First, designating the historical route of the Frontier Military Road as a national historical trail. I believe this important transportation corridor deserves to take its place as part of our national trail system.

This historic route often does not correspond with the location of surfaced modern roads. Much of it lies on

private property, cutting through fields, across meadows, and over streams where no bridge remains. It is not accessible to the public. However, I believe we must not force private property owners to open their lands to the public. And the Government certainly must not acquire private lands for this project.

Therefore, I propose to study a second initiative, to determine and mark a route along existing highways that parallels the historic route. This effort would fully protect the rights of landowners and still would provide the public with the benefits of this historic corridor. The State of Kansas already has taken this action within its borders, designating much of U.S. 69 as the Frontier Military Highway. Important sites along this route include the Shawnee Methodist Mission, the Marias Des Cygnes Massacre, the Civil War battle of Mine Creek, and the giant steam shovel Big Brutus. By extending Kansas' efforts along the entire length of the military road, we can create an opportunity for Americans to rediscover a piece of their frontier past.

By marking points of historical interest near existing roads, those traveling this corridor could see Civil War battlefields, historic ferry crossings, American Indian trails and sites, cattle drive sites, and areas representing the western mining heritage from early this century, as well as the historic forts themselves. And, of course, throughout the trip, Americans could rediscover the beauty and value of contemporary life in rural America.

This project will provide a rare, low-cost opportunity to present a comprehensive view of a past era—to unite the fragments that we have preserved. All Americans, rural and urban, eastern and western, will benefit from this historical transportation corridor. I urge my colleagues to join with me in this effort.

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

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

S. 1114

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 "Frontier Military Road Study Act of 1991."

SEC. 2. FINDINGS.

Congress finds that—

(1)(A) The Frontier Military Road connecting Fort Snelling, Minnesota, with Fort Jesup, Louisiana, linked a series of frontier outposts and, for a period in the mid-19th century, marked the western frontier of the United States;

(B) The Frontier Military Road was later used as a post road and as a telegraph road, spanning several important historical periods of 19th- and 20th-century United States history;

(C) Among historic attractions that lie along the Frontier Military Road are Civil War battle sites, American Indian sites, historic ferry river crossings, and historic mining sites;

(2) The designation of the Frontier Military Road as a national historic trail will appropriately mark the road in the history of the United States, reminding citizens of their frontier past; and

(3) Development of a designated route on public roads near the Frontier Military Road will permit American motorists better access to their frontier heritage.

SEC. 3. DESIGNATION OF TRAIL FOR STUDY.

Section 5(c) of the National Trails System Act (16 U.S.C. 1244(c)) is amended by adding at the end the following new paragraph:

"(34)(A) Frontier Military Road, connecting Fort Snelling, Minnesota; Fort Leavenworth, Kansas; Fort Scott, Kansas; Fort Wayne, Oklahoma; Fort Gibson, Oklahoma; Fort Smith, Arkansas; Fort Towson, Oklahoma; and Fort Jesup, Louisiana.

"(B) In conducting the study under this paragraph, the Secretary shall—

"(i) make recommendations for the integration of the individual historic sites and other sites of interest along the Frontier Military Road into a comprehensive presentation of the road to visitors;

"(ii) in coordination with Secretary of Transportation, determine the feasibility of designating a historic route on existing public roads that parallels the Frontier Military Road; and

"(iii) recommend an appropriate designation for the route and appropriate markers along the route to indicate the presence and significance of the route and of the historic sites along the route.

"(C) Notwithstanding subsection (b), the study shall be completed and submitted to Congress not later than one year after the date of enactment of this paragraph."

SEC. 4. APPROPRIATION AUTHORIZATION.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this act.●

By Mrs. KASSEBAUM (for herself, Mr. DOLE, and Mr. BOREN):

S. 1115. A bill to amend the National Trails System Act to designate certain cattle trails and overland stage trails for study for potential addition to the National Trails System; to the Committee on Energy and Natural Resources.

OLD WEST TRAILS ACT OF 1991: CATTLE DRIVE AND OVERLAND STAGE TRAILS

● Mrs. KASSEBAUM. Mr. President, on behalf of myself and two cosponsors, I am introducing a second bill today, Old West Trails Act of 1991: Cattle Drive and Overland Stage Trails. This bill directs the National Park Service to study three famous cattle-drive trails and two historic overland routes that are integral parts of our Nation's frontier history. They are the Chisholm, Ellsworth, and Western cattle-drive trails and the overland trails of the Smoky Hill River Valley, particularly the famous route of the Butterfield Overland Dispatch.

For decades these cattle trails have been the subject of songs, folklore, movies, novels, and television westerns. We all are familiar with colorful accounts of cowboys driving their Texas herds north to the railroad shipping yards in Kansas. Life on a cattle drive was fraught with such hazards as stampedes, rattlesnakes, quicksand, cattle rustlers, and turbulent weather.

However, the trails of the Old West should be remembered for more than just cowboys' adventures. The massive movement of longhorn cattle along the trails stocked ranches in the northern parts of the Great Plains; spurred railroad construction; relieved the beef shortage in the East; sped the development of refrigeration for the transportation of meat; and gave rise to meatpacking industries in Chicago, Kansas City, and elsewhere. In short, these trails helped create interstate commerce on the frontier.

Of all the Old West cattle trails, none is better known than the Chisholm Trail. The title of several songs and a John Wayne movie, the Chisholm Trail came into use in 1867. It started in Texas and ran through Indian territory, which is now Oklahoma, then into the notorious cowtowns in Kansas. The trail first terminated at the railroad shipping yards in Abilene, KS. Before becoming famous as the birthplace of President Dwight Eisenhower, Abilene was famous as the "end of the trail." Wild Bill Hickok served as the town's sheriff, trying to maintain control of trail-worn cowboys anxious to celebrate the completion of a long, hot, and dangerous trip. As railroad construction continued, the Chisholm Trail would end in other, more southern Kansas towns. These included Newton, Wichita, and eventually Caldwell.

The Ellsworth Trail began in 1873 when the Kansas Pacific Railroad surveyed for a new cattle trail to shorten the distance cowboys would have to drive their cattle to reach a railhead. This trail split from the original Chisholm Trail in Oklahoma and went west through the Kansas towns of Kingman, Ellinwood, and Lyons before coming to an end in Ellsworth.

The Western Trail, or Dodge City Trail, began in 1875 when the trails to the East became blocked by farms and Government regulations. The railhead in Dodge City gave cattlemen an opportunity to either terminate their drive and ship the cattle East or continue driving their cattle on to new ranches in the northern regions of the Great Plains. Regardless of the choice, few cowhands would forget Dodge City and its legendary sheriffs, Wyatt Earp, "Bat" Masterson, and "Doc" Holliday.

These three trails are a significant part of our frontier heritage. I firmly believe that they should be studied and preserved.

The east-west overland trails also were key transportation routes in the 19th century. The Smoky Hill River Trail was made famous by David Butterfield, who originally settled in Manhattan, KS, and was anxious to de-

velop a direct freight and stage trail between the Missouri River port cities of Atchison and Leavenworth, KS, and the booming city of Denver, CO. He established the Butterfield Overland Dispatch Freight and Stage Company over a 588-mile trail, which roughly followed the Smoky Hill River. Commercial travel on the Butterfield Overland Dispatch trail began on June 24, 1865, through what was largely unmapped buffalo territory broken only by a sporadic cavalry outpost.

The first Butterfield Overland Dispatch stage left Atchison on September 11, 1865, and arrived in Denver on September 23. The coach was a bright red Concord pulled by four horses—a color and design now synonymous with the Old West. The experience of traveling the Butterfield Stage was made popular by frontier reporter and artist Theodore R. Davis. Davis' articles and sketches of his trip on the Butterfield Stage were published in Harper's Weekly in 1867.

To service the stage and ox teams, Butterfield established stage stations along the trail at roughly 15-mile intervals. The stations varied from simple barns for a change of animals to complete towns that offered meals and overnight accommodations. These stations and frontier towns attracted some of the most famous characters of the Old West. Although many of the original stations carry names that no longer can be found on a modern map, many railroad construction camps sprang up in the immediate vicinity of the old Butterfield stations along the route of the Kansas Pacific—now Union Pacific—railroad that followed or paralleled the Butterfield Overland Route.

These construction camps made the transition from trail communities to railroad settlements and now are towns and cities that share the rich heritage of the Smoky Hill and Butterfield Trail. These include Junction City, Chapman, Abilene, Solomon, Salina, Brookville, Carneiro, Fort Harker—Kanopolis—Ellsworth, Black Wolf, Dorrance, Fossil Creek—Russell—Hays, Antonino, Ellis, Ogallah, WaKeeney, Collyer, Gove, Russell Springs, Wallace, and Sharon Springs. The Butterfield Overland Dispatch was sold to the Wells Fargo Co. in 1866. Wells Fargo operated the line until completion of passenger railroad service to Denver in 1870. Today, U.S. Highway 40 and Interstate 70 follow or closely parallel the Butterfield Trail.

I believe it is important that we continue to increase understanding of the relics of our frontier past. By properly designating these historic transportation routes, I believe we can more completely integrate the individual stories of trappers, traders, Native Americans, and soldiers. In short, we can better preserve and present our Old West history.

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

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

S. 1115

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 "Old West Trails Act of 1991: Cattle Drive and Overland Stages Trails."

SEC. 2. FINDINGS.

Congress finds that—

(1)(A) The historic cattle drive and overland stage trails of the Old West significantly contributed to the development of the American Frontier, including the facilitation of interstate commerce and the establishment of frontier communities;

(B) These trails and their colorful, as well as turbulent, histories have been made famous by songs, folklore, stories, movies, and long-standing television shows giving them national as well as international recognition;

(C) Many interstate highways follow or parallel these historic Old West trails;

(2) The designation of these famous Old West trails will appropriately recognize their rich contributions to our frontier past; and

(3) Development of a designated route on public roads near the trails will permit American motorists better access and a more comprehensive understanding of their frontier heritage.

SEC. 3. DESIGNATION OF TRAIL FOR STUDY.

Section 5(c) of the National Trails System Act (16 U.S.C. 1244(c)) is amended by adding at the end the following new paragraphs:

"(34)(A)(i) The Chisholm Cattle Drive Trail, beginning in Texas and running through Oklahoma and ending, respectively, in Abilene, Newton, Wichita, and Caldwell, Kansas;

(ii) The Ellsworth Cattle Drive Trail, beginning in Texas and running through Oklahoma; Kingman, Kansas; Ellingwood, Kansas; and ending in Ellsworth, Kansas;

(iii) The Dodge City or Western Cattle Drive Trail, beginning in Texas and running through Oklahoma; Dodge City, Kansas; and ending in Nebraska;

(iv) The Smoky Hill/David Butterfield Overland Dispatch Stage Trail beginning in Atchison and Leavenworth, Kansas, and ending in Denver, Colorado;

"(B) In conducting the study under this paragraph, the Secretary shall—

"(i) Make recommendations for the integration of the individual historic sites, and other sites of interest along the respective Old West trails into a comprehensive presentation of the trail to visitors;

"(ii) In coordination with the Secretary of Transportation, determine the feasibility of designating an historic route on existing public roads that parallel the respective Old West trails; and

"(iii) Recommend an appropriate designation for the Old West trails and appropriate markers along the public routes to indicate the presence and significance of the trails and of the historic sites along the trails.

"(iv) Consider feasibility of establishing collective tours which may encompass common themes and link appropriate sites; and

"(v) Such other information as the Secretary may deem necessary.

"(C) Notwithstanding subsection (b), the study shall be completed and submitted to Congress not later than one year after the date of enactment of this paragraph."

SECTION 4. APPROPRIATION AUTHORIZATION.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this act.●

By Mrs. KASSEBAUM:

S. 1116. A bill to allow certain insured depository institutions to forgo their insured status and engage in a broad range of restricted financial service activities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

DEPOSIT INSURANCE OPTION ACT

● Mrs. KASSEBAUM. Mr. President, the Senate in the near future will consider legislation to revise substantially the way in which financial service providers are regulated. Among other things, we will focus on whether banking should be mixed with commerce and other financial services.

Mr. President, I have no problem mixing banking and commerce. Indeed, there are numerous examples within the financial service industry where this has already occurred. However, I am concerned about mixing commerce and diversified financial services with Federal deposit insurance.

This is what makes this issue so difficult. For too long we have approached it from the wrong perspective. Rather than asking whether banking and commerce should be separated, we should be asking whether Federal deposit insurance should be separated from diversified banking.

We need to move toward a two-tier banking system of insured traditional banks and uninsured diversified banks. Most banks today want to stay in the business of making traditional loans funded through federally insured retail deposits. In short, most banks want to stay within the Federal deposit safety net and are willing to accept the product and service restrictions that go with it.

However, I believe there are a small number of very large banks which would welcome the opportunity to forgo Federal deposit insurance in order to diversify into restricted financial products and services. If such banks are indeed willing to give up Federal deposit insurance, then they should be able to diversify into restricted products and services.

Such a two-tier structure should be elective. Since at this time most depositors expect and demand Federal deposit insurance protection, only a small number of so-called wholesale banks are likely to be interested in such an election. Such wholesale banks typically are those large institutions which serve as bankers' banks. They characteristically have few retail mom-and-pop depositors. Instead, they raise their funds through sophisticated foreign and institutional depositors. As such, these wholesale banks do not believe Federal deposit insurance is an

essential requirement to their customer base. In fact, they may even want to look to the securities markets to meet their funding needs.

Although the number of such wholesale banks is small, they control a significant amount of the Nation's banking assets. Thus, by allowing these wholesale banks to forgo Federal deposit insurance, we will be significantly shrinking the implicit Federal insurance safety net. As we have learned from the savings and loan fiasco, the Federal insurance safety net is ultimately underwritten by the American taxpayers. The more we shrink the Federal safety net the less risk it poses to the Nation's taxpayers. (To illustrate this point, it should be noted that as of June 30, 1990, 46 percent of the Nation's bank assets were concentrated in 9 percent of the Nation's banks.)

Accordingly, Mr. President, I am introducing legislation allowing wholesale banks to keep their banking charter and Federal Reserve membership but forgo FDIC insurance. In return for moving out of the FDIC safety net, such uninsured banks would be free to engage in a variety of currently prohibited activities.

The uninsured classification would only relate to Federal insurance coverage. Uninsured banks would be free to develop their own private insurance and even offer retail deposits, provided they clearly state that they are in no way insured by the Federal Government. In keeping their charter, uninsured banks would continue to be subject to safety and soundness examinations and oversight of the appropriate banking regulators.

Mr. President, this proposal has several advantages. First, it is simple. If wholesale banks want to diversify into restricted products and services, they simply forgo the FDIC safety net. There would be minimal disruption to the current structure of banking regulation.

Second, the decision is elective. Banks can decide for themselves whether giving up FDIC insurance is in their own best interest. No one is forcing them to make a decision.

Third, it allows banks to diversify without implicitly extending the Federal deposit safety net to activities currently restricted. Thus, it addresses the concerns of the traditional opponents to diversification that FDIC insurance gives banks an unfair competitive advantage.

Fourth, it allows the Federal Reserve to maintain control over the Nation's monetary policy by allowing uninsured diversified banks to continue their membership in the Federal Reserve.

Fifth, the proposal addresses the current inequity of foreign deposits being implicitly guaranteed—as was demonstrated in the National Bank of Washington bailout—but not assessed. The banks which are most likely to avail themselves of this option have the greatest concentration of foreign deposits. Therefore, the revenue loss to the FDIC's bank insurance fund [BIF] would be minimal, while a large implicit liability would be eliminated.

The proposal, likewise, addresses the too-big-to-fail issue by eliminating any temptation regulators may have to use BIF assets if a large uninsured bank fails. Being outside the FDIC safety net, BIF funds could not be used to pay off any depositors or creditors of the uninsured bank. Uninsured banks would continue to enjoy Federal Reserve membership and, thus, could look to the Federal Reserve to meet short-term liquidity needs. Such liquidity, however, would not prevent failure in the event of insolvency. Action to keep an insolvent uninsured bank from failing would, like any other corporate or uninsured financial entity, require a congressional appropriation.

Mr. President, banking reform is a pressing issue. I look forward to this proposal being considered by the full Senate as we move forward on this matter.•

By Mr. BINGAMAN:

S. 1117. A bill to establish the Bureau of Land Management Foundation; to the Committee on Energy and Natural Resources.

BUREAU OF LAND MANAGEMENT FOUNDATION ACT

• Mr. BINGAMAN. Mr. President, I rise today to introduce legislation to establish the Bureau of Land Management Foundation. This foundation would encourage, accept, and administer private gifts to further the purposes of the Bureau of Land Management.

Other agencies such as the USDA Forest Service, U.S. Fish and Wildlife Service, and the National Park Service have foundations established by law that allow individuals and organizations to donate money and resources directly to the agency. The Bureau of Land Management deserves no less.

I urge my colleagues to join me in supporting this legislation to assist a hard-working, land management agency in accomplishing its mission.

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

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

S. 1117

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 "Bureau of Land Management Foundation Act".

SEC. 2. ESTABLISHMENT AND PURPOSES OF FOUNDATION.

(a) ESTABLISHMENT.—There is established the Bureau of Land Management Foundation (hereinafter referred to as the "Foundation") as a charitable and nonprofit corporation domiciled in the District of Columbia.

(b) PURPOSES.—The purposes of the Foundation are to—

(1) encourage, accept, and administer private gifts of money and real and personal property for the benefit of, or in connection with, the activities and services of the Bureau of Land Management of the Department of Interior;

(2) undertake and conduct activities that further the purposes of the Bureau of Land Management;

(3) undertake, conduct, and encourage educational, technical, and other assistance, and other activities that support the programs, functions, and activities administered by the Bureau of Land Management; and

(4) promote cooperation among the Bureau of Land Management, the private sector, and other governmental and educational agencies and institutions.

SEC. 3. BOARD OF DIRECTORS OF THE FOUNDATION.

(a) ESTABLISHMENT AND MEMBERSHIP.—The Foundation shall have a governing Board of Directors (hereinafter referred to as the "Board"), which shall consist of fifteen Directors, each of whom shall be a United States citizen. At all times, a majority of members of the Board shall be knowledgeable regarding natural or cultural resource management, law, or research. To the extent practicable, members of the Board shall represent diverse points of view relating to public land management and natural and cultural resource issues. The Director of the Bureau of Land Management shall be an ex officio nonvoting member of the Board. Appointment to the Board shall not constitute employment by, or the holding of an office of, the United States for the purposes of any Federal law.

(b) APPOINTMENT AND TERMS.—Within one year from the date of enactment of this Act, the Secretary of Interior (hereinafter referred to as the "Secretary") shall appoint the Directors of the Board. Directors shall be appointed for terms of six years; except that the Secretary, in making the initial appointments to the Board, shall appoint one-third each of the Directors to terms of two, four, and six years respectively. A vacancy on the Board shall be filled within sixty days of such vacancy in the manner in which the original appointment was made. No individual may serve more than twelve consecutive years as a Director.

(c) CHAIRMAN.—The Chairman shall be elected by the Board from its members. A chairman shall serve for a two-year term, and may be re-elected to the post during his or her tenure as a Director.

(d) QUORUM.—A majority of the current voting membership of the Board shall constitute a quorum for the transaction of business.

(e) MEETINGS.—The Board shall meet at the call of the Chairman at least once a year. If a Director misses three consecutive regularly scheduled meetings, that individual may be removed from the Board by majority vote of the Board of Directors and that vacancy filled in accordance with subsection (b) of this section.

(f) REIMBURSEMENT OF EXPENSES.—Voting members of the Board shall serve without pay, but may be reimbursed for the actual and necessary traveling and subsistence expenses incurred by them in the performance of their duties for the Foundation. Such reimbursement may not exceed such amount as would be authorized under section 5703 of title 5, United States Code, for the payment

of expenses and allowances for individuals employed intermittently in the Federal Government service.

(g) GENERAL POWERS.—The Board may complete the organization of the Foundation by appointing officers and employees, adopting a constitution and bylaws consistent with the purposes of the Foundation and the provisions of this Act, and undertaking other such activities as may be necessary to function and to carry out the provisions of this Act.

(h) OFFICERS AND EMPLOYEES.—(1) Officers and employees may not be appointed until the Foundation has sufficient funds to pay for their services. No individual so appointed may receive pay in excess of the rate of basic pay payable for level IV of the Executive Schedule for Federal employees.

(2) The Board shall appoint a chief executive officer who shall serve at the direction of the Board and who shall have demonstrated knowledge and experience in matters relating to natural and cultural resource conservation, land management, law, or research.

SEC. 4. CORPORATE POWERS AND OBLIGATIONS.

(a) IN GENERAL.—The Foundation—

(1) shall have perpetual succession;

(2) may conduct business throughout the several States, territories, and possessions of the United States and in foreign countries commensurate with and in support of international activities which the Secretary is authorized to carry out pursuant to other laws;

(3) shall have its principal offices in the Washington, D.C. metropolitan area; and

(4) shall at all times maintain a designated agent in the District of Columbia authorized to accept service of process for the Foundation.

(b) NOTICE AND SERVICE OF PROCESS.—The serving of notice to, or service of process upon, the agent required under this paragraph, or mailed to the business address of such agent, shall be deemed as service upon or notice to the Foundation.

(c) SEAL.—The Foundation shall have an official seal selected by the Board which shall be judicially noticed.

(d) POWERS.—To carry out its purposes under section 2, the Foundation shall have, in addition to powers otherwise authorized under this Act, the usual powers of a corporation in the District of Columbia, including the power to—

(1) accept, receive, solicit, hold, administer and use any gift, devise, or bequest, either absolutely or in trust, or real or personal property or any income therefrom or other interest therein;

(2) acquire by donation, gift, devise, purchase, or exchange any real or personal property or interest therein;

(3) unless otherwise required by the instrument of transfer, sell, donate, lease, invest, reinvest, retain, or otherwise dispose of any property or income therefrom;

(4) borrow money and issue bonds, debentures, or other debt instruments;

(5) sue and be sued, and complain and defend itself in any court of competent jurisdiction (except that the Directors of the Board shall not be personally liable, except for gross negligence);

(6) enter into contracts or other arrangements with public agencies, private organizations, and persons and to make such payments as may be necessary to carry out the purposes thereof;

(7) lease space for the conduct of its activities in the District of Columbia or elsewhere; and

(8) do any and all acts necessary and proper to carry out the purposes of the Foundation.

(d) PROPERTY.—(1) The Foundation may acquire, hold and dispose of lands, waters, or other interests in real property by donation, gift, devise, purchase, or exchange. For the purposes of this Act, an interest in real property shall include mineral and water rights, rights of way, and easements appurtenant or in gross. A gift, devise, or bequest may be accepted by the Foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons if any current or future interest therein is for the benefit of the Foundation.

(2) The Foundation and any income or property received or owned by it, and all transactions relating to such income or property, shall be exempt from all Federal, State, and local taxation with respect thereto.

(3) Contributions, gifts, and other transfers made to or for the use of the Foundation shall be treated as contributions, gifts, or transfers to an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986.

SEC. 5. ADMINISTRATIVE SERVICES AND SUPPORT.

(a) STARTUP FUNDS.—For purposes of assisting the Foundation in establishing an office and meeting initial administrative and other startup expenses, the Secretary is authorized to provide the Foundation $500,000, from funds appropriated pursuant to section 10(a), per year for the two years following the date of enactment of this Act.

(b) MATCHING FUNDS.—In addition to the startup funds provided under subsection (a) of this section, for a period of five years from the date of enactment of this Act, the Secretary is authorized to provide matching funds for administrative expenses incurred by the Foundation as authorized by section 10 of this Act including reimbursement of expenses under section 3, not to exceed then current Federal Government per diem rates.

(c) ADMINISTRATIVE EXPENSES.—At any time, the Secretary may provide the Foundation use of Department of Interior personnel, facilities, and equipment, with partial or no reimbursement, with such limitations and on such terms and conditions as the Secretary shall establish.

SEC. 6. VOLUNTEERS.

The Secretary may accept, without regard to the civil service classification laws, rules and regulations, any director, officer, employee or agent of the Foundation as a volunteer.

SEC. 7. AUDITS AND REPORT REQUIREMENTS.

(a) AUDITS.—For purposes of the Act entitled "An Act for audit of accounts of private corporations established under Federal law," approved August 30, 1964 (36 U.S.C. 1101 through 1103; Public Law 88-504) the Foundation shall be treated as a private corporation established under Federal law.

(b) ANNUAL REPORTS.—The Foundation shall, transmit each year to Congress a report of its proceedings and activities of the previous year, including a full and complete statement of its receipts, expenditures, and investments.

SEC. 8. UNITED STATES RELEASE FROM LIABILITY.

The United States shall not be liable for any debts, defaults, acts or omissions of the Foundation nor shall the full faith and credit of the United States extend to any obligations of the Foundation. The Foundation is not an agency or establishment of the United States.

SEC. 9. AMENDMENT AND REPEAL.

The Congress expressly reserves the right to repeal or amend this Act at any time.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

(a) START-UP FUNDS.—For the purposes of section 5(a) of this Act, there are authorized to be appropriated $1,000,000.

(b) MATCHING FUNDS.—For the purposes of section 5(b) of this Act, during the five-year period following enactment of this Act, there are authorized to be appropriated $1,000,000 annually to the Secretary of Interior to be made available to the Foundation to match, on a one-for-one basis, private contributions made to the Foundation.●

By Mr. ADAMS:

S. 1118. A bill to authorize highway projects capable of achieving a reduction in single occupancy vehicle miles traveled and volatile organic emissions; to the Committee on Environment and Public Works.

HOV FACILITY IMPROVEMENT ACT OF 1991

● Mr. ADAMS. Mr. President, I rise today to introduce the HOV Facility Improvement Act of 1991. This legislation authorizes a new high-occupancy vehicle [HOV] program for those major metropolitan areas which have failed to meet the Clean Air Act national ambient air quality standards. I will work with Senator BURDICK and Senator MOYNIHAN to incorporate this bill into the surface transportation act, which will be reauthorized this year.

My bill is not just a transportation bill, it's an environmental bill. The program proposed by the HOV Facility Improvement Act is designed to improve air quality. Its also structured to decongest commuter highways as well as to reduce our national dependence on foreign oil by encouraging more energy efficient transportation habits.

Unfortunately, the administration's transportation proposal shortchanges the highway trust fund and would seriously underfund our Nation's transportation and other infrastructure project that are vital to our international competitiveness and our economic well being. To this end, I will work with my colleagues to increase funding for the highway trust fund over the $16.5 billion proposed by the Bush administration.

Even if we get that increase, Congress must develop a Federal transportation program that most wisely and economically addresses our transportation needs. That program must also plan for the future and deal with pressing environmental concerns. Highway construction for single occupancy vehicles may have contributed to economic growth in the 1950's and 1960's, but it will aggravate problems of cost and conservation that plague us now and that will worsen in the next century. For this reason, my bill, by planning for an expanded and more extensive HOV program, will help create better transportation systems that are both more economical and more environmentally sound.

The people of Washington State, particularly those in the Seattle metropolitan area, are painfully aware that highway construction of single occupant vehicle lanes alone is not the solution to their transportation problems. Federal Highway Administration studies show that during rush hour in the Seattle metropolitan area HOV lanes now handle four to five times the passenger volume of normal lanes. Yet, while the demand for HOV lanes rises, funds for the program are in short supply. To address this need, my bill creates a funding incentive for the construction or conversion of normal highway lanes to HOV lanes.

Currently, there are just over 340 miles of HOV lanes in 20 urban areas in operation throughout the United States. The Texas Transportation Institute, in a report issued last year, estimated that if projects on the drawing board were fully implemented, there could be 850 miles of HOV lanes in place by the year 2000. By 2010, the total could approach 1,500 miles. There could be even more HOV lanes if communities took the bold step of converting existing unrestricted lanes into HOV lanes.

Two other factors have made HOV lanes the most efficient, economical and most environmentally sound solution to the transportation problems of our major metropolitan areas. First, our cities simply lack the space for new highway construction. Second, the Clean Air Act mandated that urban areas which fail to meet national ambient air quality standards develop comprehensive plans to reduce emissions and pollution.

For major metropolitan areas, HOV lanes offer a low-cost and relatively quick method of expanding the passenger carrying capacity of their freeways by encouraging commuters to share rides to work, either by bus, carpool or vanpool. As Washington State statistics prove, many HOV facilities can carry two to five times more people than a normal freeway lane, with a shorter travel time to the destination.

My bill authorizes $1 billion annually from the highway trust fund from fiscal year 1992 to fiscal year 1996 for multimodal projects in nonattainment areas above 1 million population, the severity of their air quality, and as an incentive, the number of HOV lanes and miles in operation. This program is similar to that contained in S. 965, a surface transportation reauthorization bill sponsored by Senator MOYNIHAN, the distinguished chairman of the Transportation Subcommittee of the Committee on Environment and Public Works.

My legislation also expands current law by broadening the definition of high occupancy vehicle lane to include a unified system. Parking and loading areas, ramps, interchanges, and marketing and information programs would be eligible for funding—and any future preferential match—when packaged as a projector system with lane construction. The lanes would have to be wide enough for buses, because they are the original high occupant vehicles.

In addition, the Federal Highway Administration would issue within 6 months minimum design guidelines for HOV facilities, including a standard lane width to accommodate all sizes of automobiles, vans, transit vehicles, and intercity buses. The intent of these provisions is to encourage State DOT's and transit agencies to fund jointly and work together on HOV projects, maximizing the benefits and availability of these facilities for transit riders as well as carpool and vanpool users.

Mr. President, HOV facilities have demonstrated the capability to greatly improve the capacity of highway systems in congested urban areas, often within existing rights-of-way. When connected with a transit terminal or park and ride lot, they encourage large numbers of people to use the bus, and other shared ride means to get to work. HOV facilities discourage the use of single passenger automobiles and reduce mobile source air emissions.

My bill promotes the advantages of HOV facilities by expanding their role and eligibility in the Federal-aid Highway Program. I urge my colleagues to join me in cosponsoring this bill, and ask that the full text of the bill be printed in the CONGRESSIONAL RECORD.

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

S. 1118

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

SECTION 1. SHORT TITLE; REFERENCES IN LAW.

(a) This Act may be cited as the "HOV Facility Improvement Act of 1991".

(b) Except as specifically provided in this Act, whenever in this Act an amendment or repeal is expressed as an amendment to or repeal of a provision, the reference shall be deemed to be made to title 23, United States Code.

SEC. 2. FINDINGS.

The Congress finds that—

(1) more than one-half of the United States population now resides in urban areas over 1,000,000 population;

(2) this level of growth and density can impact in a negative way levels of traffic congestion and air quality;

(3) the use of the single occupant automobile during rush hour is a principle contributor to such congestion and air pollution;

(4) Federal surface transportation funding in large urban areas should encourage highway projects for the exclusive use of multi-occupant automobiles and buses during rush hour; and

(5) high occupancy vehicle (HOV) facilities are a cost-effective method of reducing single occupant vehicle miles traveled and mobile source emissions in large urban areas.

SEC. 3. DEFINITION.

Section 101 is amended by inserting after the paragraph defining the term "forest highway" the following new undesignated paragraph:

"The term 'high occupancy vehicle facility' means any existing or new freeway lane which is dedicated exclusively to usage by automobiles, vans, public and private transit vehicles, including intercity buses with multiple occupants during peak rush hour periods, connecting ramps, interchanges, and parking lots and loading areas, and motorist and passenger information programs.".

SEC. 4. AUTHORIZATION OF PROJECTS.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by inserting at the end thereof the following new section:

"§ 159. Projects for the reduction of single occupant vehicle miles traveled and mobile source emissions

"The Secretary, with the approval of the Administrator of the Environmental Protection Agency, may approve for Federal financial assistance from funds apportioned under section 104(b)(7) of this title projects designed to demonstrate the capability of achieving a reduction in single occupant vehicle miles and a reduction in the mobile source emissions, including projects for the construction of high occupancy vehicle facilities.".

(b) CONFORMING AMENDMENT.—The table of sections of chapter 1 of title 23, United States Code, is amended by inserting at the end thereof the following new item:

"159. Projects for the reduction of single occupant vehicle miles traveled and mobile source emissions.".

SEC. 5. APPORTIONMENT.

Section 104(b) is amended by adding at the end thereof the following new paragraph:

"(7) For metropolitan planning organizations (MPOs) projects determined, with the concurrence of the local transit operator and the States highway department, by MPOs responsible for a population in urban areas of more than one million inhabitants and which are in nonattainment (within the meaning of section 107(d)(4) of the Clean Air Act) for either ozone or carbon monoxide: "One-third in the ratio which the population of an eligible urbanized area bears to the total population of all eligible urbanized areas in a fiscal year. One-third based on a State's severity of air quality nonattainment, as determined on an index where extreme severity is designated as one and marginal severity is designated as five. One-third based on a State's number of freeway lanes and miles dedicated to the usage of high occupancy vehicle lanes during peak rush hours.".

SEC. 6. FEDERAL SHARE.

Section 120 is amended by inserting at the end thereof the following new subsection:

"(o) The Federal share payable for the costs of the projects described in section 104(b)(7) shall not exceed 80 percent.".

SEC. 7 AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) $1,000,000,000 for each of the fiscal year 1992, 1993, 1994, 1995, and 1996 to carry out section 159 of title 23, United States Code, as added by this Act.

(b) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to subsection (a) are authorized to remain available until expended.

(c) WAIVER OF OBLIGATION LIMITATION.—Funds made available under this section shall not be subject to any obligation limitation.

SEC. 8 HOV PROJECT GUIDELINES.

Not later than 6 months after the date of enactment of this Act, the Federal Highway Administration shall issue minimum design criteria for high occupancy vehicle facilities which specifies a standard lane width to accommodate automobiles and transit vehicles, including intercity buses. The guidelines would also require that new high occupancy vehicles facilities contain ramps and interchanges, or the capability for such, for connection with existing or planned transit commuter parking and loading areas. When part of a high occupancy vehicle facility project, as defined in section 101 of title 23, United States Code, ramps, interchanges, and parking and loading areas would also qualify for any preferential match accorded high occupancy vehicle facilities in title 23, United States Code.

SEC. 9. SHARED RIDE PROJECTS.

Section 146(a) is amended—

(1) by striking out "carpools and vanpools. (As used hereafter in this section, the term 'carpool' includes a vanpool.)" and inserting in lieu thereof "shared rides."; and

(2) in the last sentence thereof—

(A) by striking out "carpooling" and inserting in lieu thereof "shared ride";

(B) by striking out "carpool" and inserting in lieu thereof "share ride"; and

(C) by striking out "carpools" and inserting in lieu thereof "shared rides".•

By Mr. ADAMS (for himself and Mr. KENNEDY):

S. 1119. A bill to amend part F of title IV of the Higher Education Act of 1965 regarding the computation of the expected family contribution to exclude the portion of the current market value of a family's principal place of residence or farm on which the family resides which exceeds twice the family's total income; to the Committee on Labor and Human Resources.

HOMEOWNERS HIGHER EDUCATION STUDENT ASSISTANCE RELIEF ACT OF 1991

• Mr. ADAMS. Mr. President, I rise today to introduce the Homeowners Higher Education Student Assistance Relief Act of 1991. This legislation will make it possible for lower and middle-income homeowner families to receive Federal financial assistance to defray the cost of higher education for their children by placing a cap on the net worth of a family residence for purposes of calculating a family's need for Federal student financial assistance. As the Congress reauthorizes the Higher Education Act of 1965, I will work to include this bill as an amendment to reinstate fairness into the system of providing Federal student assistance for higher education.

Millions of American parents are now sitting down with higher education financial aid forms and calculating how they can pay for their children's college education. The Higher Education Act of 1965 was intended to assist lower and middle-income families fulfill the American dream of sending their children to college. But unfortunately, as families—particularly middle-income families—complete financial aid forms, they are discovering that they are ineligible for Federal student aid.

During the last decade, my State of Washington, as well as other areas of the country, experienced a dramatic housing price boom. Family incomes, however, did not undergo the same significant increase. It is not unusual to find a family which purchased a home 15 years ago for $60,000 that is now valued at $250,000 due to an escalated housing market. As a result, many middle- and lower income families who bought a home 20 years ago could not afford to buy that same house today.

Nevertheless, the current law treats home value as a predictor of a family's ability to pay for college. Families are not considered eligible for Federal student financial assistance because the law expects them to either sell the home or take out a second mortgage. Neither of these is a reasonable or fair option for many middle-income families. They cannot afford a new home in the same area nor are they able to qualify, because of income, for a second mortgage. For these families, home equity is just paper wealth.

As a result, many families will face the hard choice not of which college their children will attend, but whether they will be able to attend college in the first place.

My bill addresses this critical problem by adjusting the need analysis that middle- and lower income homeowner families whose home equity has outstripped family income. This proposal by putting a cap on home value—no more than two times the family's income—will protect families whose home values have significantly exceeded their incomes.

This bill will make it possible for lower and middle-income homeowner families to send their children to college. It will assist families whose home value is not reflective of family income. As a result, it will bring fairness into the calculation of eligibility for Federal student loan assistance.

I urge my colleagues to join me in cosponsoring this important legislation, which will return fairness to middle-income families who face the ever-rising costs of college.

I ask unanimous consent that the full text of the bill be printed in the RECORD, as follows:

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

S. 1119

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 "Homeowners Higher Education Student Assistance Relief Act of 1991".

SEC. 2. FAMILY CONTRIBUTION FOR DEPENDENT STUDENTS.

Subparagraph (B) of section 475(d)(2) of the Higher Education Act of 1965 (20 U.S.C. 1087oo(d)(2)(B)) (hereafter in this Act referred to as the "Act") is amended by striking all beginning with "except" through "Act)" and inserting "except that such net value shall not include that portion of current market value of a family's principal place of residence or a farm on which the family resides which exceeds twice the family's total income as defined in section 480(a)".

Section 475(h) of the Higher Education Act of 1965 (20 U.S.C. 108700(h)) is amended by striking all beginning with "except" through "zero." and inserting "except that such net value shall not include that portion of current market value of a family's principal place of residence or a farm on which the family resides which exceeds twice the family's total income as defined in section 480(a)".

SEC. 3. FAMILY CONTRIBUTION FOR INDEPENDENT STUDENTS WITHOUT DEPENDENTS.

Subparagraph (B) of section 476(c)(2) of the Act (20 U.S.C. 1087pp(c)(2)(B)) is amended by striking all beginning with "except" through "Act)" and inserting "except that such net value shall not include that portion of current market value of the principal place of residence or a farm on which the family resides which exceeds twice the family's total income as defined in section 480(a)".

SEC. 4. FAMILY CONTRIBUTION FOR INDEPENDENT STUDENTS WITH DEPENDENTS.

Subparagraph (B) of section 477(c)(2) of the Act (20 U.S.C. 1087qq(c)(2)(B)) is amended by striking all beginning with "except" through "Act)" and inserting "except that such net value shall not include that portion of current market value of a family's principal place of residence or a farm on which the family resides which exceeds twice the family's total income as defined in section 480(a)".•

By Mr. RIEGLE:

S. 1120. A bill to provide for a demonstration project to examine whether having a respiratory care practitioner available to provide assistance in a home setting would reduce the overall costs under Medicare of providing care to pulmonary disease patients by decreasing hospitalization rates for such patients; to the Committee on Finance.

DEMONSTRATION FOR HOME RESPIRATORY CARE SERVICES UNDER MEDICARE

• Mr. RIEGLE. Mr. President, today I am pleased to introduce a bill, S. 1120, the Medicare Home Respiratory Care Act of 1991, that will take a first step toward recognizing the important role of respiratory therapy in the care of our Nation's elderly. Under this bill, the Department of Health and Human Services would undertake a demonstration project to allow respiratory patients to receive care at home. In addition to the benefits to individuals of being able to remain at home, this demonstration may eventually reduce costs to the Medicare Program.

In late 1988, a national conference, called Problems Associated with the Introduction of Respiratory Care Equipment in the Home, was convened to discuss the problems faced by oxygen dependent, ventilator-dependent, and other respiratory care patients. Over 40 national organizations representing all aspects of home health care, including the Federal Government, participated in discussions. One

critical recommendation that emerged from the conference was that reimbursement policies should be put in place to allow these patients to receive needed respiratory care services at home.

Mr. President, some evidence already exists that shows that when respiratory home care patients receive hands-on care from a qualified respiratory care practitioner, the number of hospital readmissions drops. For example, in one project, respiratory care professionals were reimbursed for services performed at home to patients suffering from chronic lung disease. Hospital readmissions for patients in the study group declined from 1.28 readmissions per patient per year to 0.55 readmissions per year. The number of days in the hospital decreased from 18.2 days prior to respiratory therapy intervention to 5.7 days. Savings from this single study totaled over $1 million for all patients for 1 year. Similarly, a study of ventilator-dependent patients by the American Association for Respiratory Care showed a total savings of a quarter of a million dollars per patient per year when they are cared for at home instead of in the more expensive acute care setting.

This demonstration project will help us document on a larger scale the high quality of care and cost savings of respiratory care delivered at home. In a study of 1,000 Medicare beneficiaries authorized by this legislation, patients will have access to care provided by respiratory therapists at home. This legislation is in line with what Congress has been trying to do recently, that is, to provide incentives to provide more home care and less costly insitutional care.

The Medicare Home Respiratory Care Act is supported by the American Association for Respiratory Care [AARC]. As I mentioned earlier, the bill was developed on the basis of recommendations from a conference on home respiratory care equipment hosted by AARC and the Food and Drug Administration and the Health Resources and Services Administration.

My home State of Michigan has over 3,500 respiratory care practitioners. The president of the Michigan Society of Respiratory Care recently sent me a letter strongly supporting this bill. With such a strongly qualified group in Michigan, I believe Michigan would be an excellent choice for one of the demonstration projects.

Mr. President, the need for alternatives to institutional settings for health care services is very clear. Medicare patients are being discharged back into the home with more critical care needs. The elderly population is growing and many patients are afflicted with respiratory disease. This project may demonstrate significant cost savings for Medicare not only now but for the future.

We have the opportunity to satisfy a number of important goals with this project. We can enable hundreds of patients to receive better care while staying at home, and provide the data needed to support a change in the Medicare Program to improve the potential quality of life for millions of people, and save money in the process.

Mr. President, I ask unanimous consent that the bill be printed in full in the RECORD at this point.

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

S. 1120

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

SECTION 1. MEDICARE IN HOME RESPIRATORY CARE PRACTITIONER DEMONSTRATION PROJECT.

(a) IN GENERAL.—(1) The Secretary of Health and Human Services shall conduct a demonstration project examining whether—

(A) providing for the services of respiratory care practitioners (hereinafter referred to as "RCPs") in home settings will improve the quality of care of Medicare patients using respiratory home care equipment; and

(B) utilizing the skills of RCPs to monitor, evaluate, and recommend appropriate therapies will reduce the costs under Parts A and B of Medicare for treating Medicare patients who use respiratory home care equipment.

(2) The demonstration project shall provide for the comparison of total Medicare Part A and Part B costs for respiratory care services for patients participating in the demonstration project to total costs for respiratory care services under such part for patients in a selected study group.

(b) DATA COLLECTION AND DISSEMINATION.—The Secretary shall collect and disseminate such information on medicare patients receiving respiratory care services as is necessary to allow the demonstration project to provide for a clinical and economical comparison of providing for RCPs in the home and the effects of providing such services on—

(1) hospital length of stay;

(2) hospital admissions;

(3) hospital readmissions; and

(4) medicare beneficiary utilization of Part B benefits (including home medical equipment and oxygen).

(c) SCOPE OF DEMONSTRATION. —The demonstration project shall be conducted in three separate Health Care Financing Administration regions with the regions selected according to 1 having a higher than average, 1 an average, and 1 a lower than average home medical equipment per medicare beneficiary expenditure level.

(d) QUALIFYING CARE PROVIDERS AND ENTITIES.—(1) For purposes of the demonstration project in order to qualify as a respiratory care practitioner an individual must—

(A) possess a Certified Respiratory Therapy Technician or Registered Respiratory Therapist credential from the National Board for Respiratory Care; or

(B) be a respiratory care practitioner licensed by the State in which such practitioner will be providing services; and

(C) be employed by a Medicare provider of services which is accredited as a hospital or a home medical equipment supplier which has been accredited as a clinical respiratory services provider by the Joint Commission on Accreditation of Healthcare Organizations and which meets the requirements of paragraph (2).

(2) In order to participate in the demonstration project provided for under this section, a hospital or other provider described in paragraph (1) shall submit an application to the Secretary which provides—

(A) that a respiratory care practitioner employed by the provider and providing services in the home under this section shall be provided with all necessary equipment and supplies which are reasonable and necessary for the care and evaluation of the patient.

(B) the identity of the medical director of the respiratory care component of the provider and the credentials of such director; and

(C) that the participating hospitals have no financial interest in any home medical equipment provider or entity.

(e) LIMITATIONS ON REIMBURSEMENT AND STUDY POPULATIONS.—(1) The number of home visits permitted by RCPs under the project shall not exceed a level that results in direct costs greater than $750 per patient per year. Payments for the services of RCPs provided under the project shall be made to providers of services employing such RCPs.

(2) No more than 1,500 beneficiaries who are eligible for respiratory care services under Medicare shall participate in the demonstration project provided for under this section.

(3) The 1,500 beneficiaries participating in the study shall be divided as follows: 500 will receive respiratory services from hospital based RCP's; 500 will receive such services from RCP's employed by the JCAHO accredited clinical respiratory services provider; and 500 will act as a control group and receive no additional respiratory care services other than what is currently provided.

(f) DURATION OF PROJECT.—The demonstration project conducted in the 3 regions selected shall be conducted for a period of 3 years.

(g) STUDY AND REPORT.—The Secretary shall submit an interim report, summarizing the findings of the project (including medicare costs for both respiratory care practitioner services and home medical equipment costs and comparison of costs associated with each control group and matched patients by regions), to the appropriate committees of Congress within 6 months after the close of each project year. The Secretary shall submit a final report summarizing and analyzing the findings of the project to the appropriate committees of Congress no later than 12 months after the expiration of the final year of the project.

(h) EFFECTIVE DATE.—The demonstration project provided for under this section shall commence on January 1, 1992.

(i) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of making payments to carry out the purposes of this section, there are authorized to be appropriated from the Federal Supplementary Medical Insurance Trust Fund $830,000 for fiscal years 1992, 1993, and 1994.●

By Mr. WARNER (for himself, Mr. KASTEN, Mr. LUGAR, Mr. MACK, Mr. COATS, Mr. SANFORD, Mr. BOREN, Mr. NICKLES, Mr. ROBB, and Mr. KOHL):

S. 1121. A bill to authorize funds for construction of highways, for highway safety programs, for mass transportation programs, and for other pur-

poses; to the Committee on Environment and Public Works.

FEDERAL AID SURFACE TRANSPORTATION ACT

Mr. WARNER. Mr. President, I rise today to introduce the Federal Aid Surface Transportation Act of 1991 or as it is commonly referred to—the "FAST" bill.

I am pleased to have join me as cosponsors Senators KASTEN, LUGAR, MACK, COATS, SANFORD, BOREN, NICKLES, ROBB, and KOHL.

The basics of the legislation I am introducing today have been worked on for some time by transportation experts and office holders from many States. Senators joining me have worked closely with our individual State departments of transportation with the goal of bringing equity into the apportionment of Federal highway trust funds.

The Senate this year must pass legislation to reauthorize our Nation's surface transportation programs.

With the near completion of one of this Nation's most successful public works projects, the Interstate System, this legislation will serve as the framework for transportation initiatives and infrastructure improvements into the 21st century.

This legislation will define a new vision for the coming generation of surface transportation—a vision that must meet the evolving mobility challenges of the next century.

We concur with several principles incorporated in the legislation before the Senate Environment and Public Works Committee which:

First, reduce the Federal share per project;

Second, expand research and development opportunities;

Third, increase the possibilities for private sector initiatives and investments; and

Fourth, include provisions which parallel and support the Clean Air Act.

We laud these objectives and believe they are essential proposals which must be the foundation of any highway legislation.

With respect to other provisions, we offer a different approach which achieves a more equitable distribution of trust fund moneys.

Our proposal:

First, retains a greater degree of partnership between the Federal Government and States using the concept of a national highway system;

Second, increases the flexibility given to the States to direct their share of trust funds to their most urgent needs—be they rural, urban, bridge or interstate improvements;

Third, achieves a more equitable distribution among the several States of trust fund apportionments. We propose an apportionment which is more directly correlated between the total amount annually collected from a State's users and the amount apportioned to that State.

In a few words we ask that fairness be the guiding principle which shapes the Senate's bill.

This bill does not provide for a 100-percent return to States based on their gas tax contributions to the trust fund.

We recognize that there will always be States contributing more into the trust fund than they receive back in apportionments.

We accept this fact.

The bill we are introducing today, however, recognizes the inequities and corrects the imbalance in the present law, a formula which is basically continued in S. 965, used to determine each State's share of the trust fund.

We propose a fairer correlation between the amount paid into the trust fund and the amount returned to the States.

How do we achieve this? Our option is to devise an apportionment based on lane miles and vehicle miles traveled in rural and urban areas, and diesel fuel consumption.

This bill also provides for a minimum allocation of 90 percent, versus the current 85 percent, to each State of its percentage of payments into the highway trust fund.

Mr. President, I ask unanimous consent that the full 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. 1121

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Federal Aid Surface Transportation Act of 1991".

(b) TABLE OF CONTENTS.—

Sec. 1. Short Title; Table of Contents.
Sec. 2. Secretary Defined.
Sec. 3. Buy America.
Sec. 4. Disadvantaged Business Enterprises.
TITLE I—FEDERAL-AID HIGHWAY ACT OF 1991
Sec. 101. Short Title.
Sec. 102. Authorization of Appropriations.
Sec. 103. Unobligated Balances.
Sec. 104. Interstate Construction.
Sec. 105. Interstate Substitution.
Sec. 106. Obligation Ceiling.
Sec. 107. National Highway and Bridge System.
Sec. 108. Urban and Rural Highway and Bridge Program.
Sec. 109. Toll Roads, Bridges, Tunnels and Ferries.
Sec. 110. National Maximum Speed Limit.
Sec. 111. Minimum Allocation.
Sec. 112. Urbanized Area Planning.
Sec. 113. Research, Statewide Planning and Data Collection.
Sec. 114. Management Systems; Traffic Monitoring System.
Sec. 115. Acquisition of Rights-of-Way.
Sec. 116. Private, State and Local Donations.
Sec. 117. Wetlands.
Sec. 118. Access to Rights-of-Way.
Sec. 119. Definitions and Declaration of Policy.
Sec. 120. Federal-Aid Systems.
Sec. 121. Apportionment.
Sec. 122. Project Agreements and Obligation of Funds.
Sec. 123. Availability of Funds.
Sec. 124. Federal Share Payable.
Sec. 125. Project Litigation Expenses.
Sec. 126. Allocation of Federal Lands Highway Funds.
Sec. 127. Administration of Federal Lands Highways Funds.
Sec. 128. Federal Lands Highways Program.
Sec. 129. Bicycle Transportation and Pedestrian Walkways.
Sec. 130. Education and Training Program.
Sec. 131. International Highway Transportation Outreach Program.
Sec. 132. Temporary Matching Fund Waiver.
Sec. 133. Innovation Projects.
Sec. 134. Functional Reclassification.
Sec. 135. Transit Projects.
Sec. 136. Recodification.
Sec. 137. Amendments to Adjust, Clarify, Conform, Repeal, Restate, and Simplify.
Sec. 138. Effective Date.

SEC. 2. SECRETARY DEFINED.

As used in this Act, the term "Secretary" means the Secretary of Transportation.

SEC. 3. BUY AMERICA.

Section 165 of the Surface Transportation Assistance Act of 1982 is amended by deleting from the beginning of section 165: "Notwithstanding any other provision of law" and by adding at the end the following: "The President may waive, in whole or in part, the provisons of this section pursuant to the authority provided in section 301 of the Trade Agreement Act of 1979, 19 U.S.C. 2511.".

SEC. 4. DISADVANTAGED BUSINESS ENTERPRISES.

(a) GENERAL RULE.—Except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts authorized to be appropriated under title I of this Act or obligated under titles I and III of the Surface Transportation and Uniform Relocation Assistance Act of 1987, and titles I, II, and III (other than section 203) of the Surface Transportation Assistance Act of 1982 after the date of the enactment of this Act shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals.

(b) DEFINITIONS.—For purposes of this section—

(1) SMALL BUSINESS CONCERN.—The term "small business concern" has the meaning the term has under section 3 of the Small Business Act (15 U.S.C. 632); except that the term shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has average annual gross receipts over the preceding three fiscal years in excess of $15,370,000, as adjusted by the Secretary for inflation.

(2) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term "socially and economically disadvantaged individuals" has the meaning that term has under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations promulgated pursuant thereto; except that women shall be presumed to be socially and economically disadvantaged individuals for purposes of this section.

(c) ANNUAL LISTING OF DISADVANTAGED BUSINESS ENTERPRISES.—Each State shall annually survey and compile a list of the small business concerns referred to in (a) and the location of these concerns in the State.

(d) UNIFORM CERTIFICATION.—The Secretary has established minimum uniform cri-

teria for State governments to use in certifying whether a concern qualifies as a disadvantaged business enterprise. Minimum uniform criteria include but are not limited to on-site visits, personal interviews, licenses, analysis of stock ownership, listing of work completed, resume of principal owners, financial capacity, and type of work preferred.

(e) APPLICABILITY.—Section 105(f) of the Surface Transportation Assistance Act of 1982 shall not apply to amounts authorized under that Act and obligated after April 2, 1987, and section 106(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 shall not apply to amounts authorized under that Act and obligated after the date of enactment of this Act.

TITLE I—FEDERAL-AID HIGHWAY ACT OF 1991

SEC. 101. SHORT TITLE.

This title may be cited as the "Federal-Aid Highway Act of 1991".

SEC. 102. AUTHORIZATION OF APPROPRIATIONS.

The following sums are authorized to be appropriated out of the Highway Account of the Highway Trust Fund:

(a) NATIONAL HIGHWAY AND BRIDGE SYSTEM.—For the National Highway and Bridge System $6,600,000,000 for the fiscal year 1992, $6,900,000,000 for the fiscal year 1993, $7,300,000,000 for the fiscal year 1994, $8,100,000,000 for the fiscal year 1995, and $9,800,000,000 for the fiscal year 1996.

(b) URBAN AND RURAL HIGHWAY AND BRIDGE PROGRAM.—For the Urban and Rural Highway and Bridge Program $6,600,000,000 for the fiscal year 1992, $6,900,000,000 for the fiscal year 1993, $7,300,000,000 for the fiscal year 1994, $8,100,000,000 for the fiscal year 1995, and $9,800,000,000 for the fiscal year 1996.

(c) EMERGENCY RELIEF.—For Emergency Relief $200,000,000 per fiscal year for each of the fiscal years 1992, 1993, 1994, 1995, and 1996.

(d) FEDERAL LANDS HIGHWAYS PROGRAM.—

(1) FOREST HIGHWAYS.—For Forest Highways $100,000,000 for the fiscal year 1992, $102,000,000 for the fiscal year 1993, $105,000,000 for the fiscal year 1994, $114,000,000 for the fiscal year 1995, and $127,000,000 for the fiscal year 1996.

(2) PARK ROADS AND PARKWAYS.—For Park Roads and Parkways $95,000,000 for the fiscal year 1992, $97,000,000 for the fiscal year 1993, $100,000,000 for the fiscal year 1994; $109,000,000 for the fiscal year 1995, and $121,000,000 for the fiscal year 1996.

(3) INDIAN RESERVATION ROADS.—For Indian Reservation Roads $95,000,000 for the fiscal year 1992, $97,000,000 for the fiscal year 1993, $100,000,000 for the fiscal year 1994, $109,000,000 for the fiscal year 1995 and $121,000,000 for the fiscal year 1996.

(e) UNIVERSITY TRANSPORTATION CENTERS PROGRAM.—For carrying out the University Transportation Centers Program under the Urban Mass Transportation Act of 1964, as amended, $7,000,000 per fiscal year for each of the fiscal years 1992, 1993, 1994, 1995 and 1996: *Provided*, That these sums shall be available as provided in appropriation acts.

(f) RIGHT-OF-WAY REVOLVING FUND.—For the Right of Way Revolving Fund such sums as may be necessary for the fiscal years 1993, 1994, 1995 and 1996: *Provided*, That these sums shall be available for obligation as provided in appropriation Acts.

(g) TERRITORIAL HIGHWAY PROGRAM.—For the territorial highway program $ per fiscal year for each of the fiscal years 1992, 1993, 1994, 1995 and 1996.

SEC. 103. UNOBLIGATED BALANCES.

Unobligated balances of funds apportioned or allocated to a State under title 23, United States Code, before October 1, 1991, shall be available for obligation in that State under the law, regulations, policies and procedures relating to the obligation and expenditure of those funds in effect on September 30, 1991, except that (1) unobligated balances of primary and Interstate 4R funds may be transferred to the National Highway and Bridge System; (2) other unobligated balances may be transferred to the Urban and Rural Highway and Bridge Program; (3) transferred funds are subject to the law, regulations, policies and procedures relating to the category to which transferred, (4) transfers will be allowed on a one time per year basis, and (5) this section does not apply to unobligated balances of Interstate construction or Interstate substitution funds.

SEC. 104. INTERSTATE CONSTRUCTION.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) REPEAL OF FISCAL YEAR 1993 AUTHORIZATION.—Section 108(b) of the Federal-Aid Highway Act of 1956 is amended by (A) inserting "and" after "1991", (B) striking the comma after "1992" and inserting in its place a period and (C) striking "and the additional sum of $1,400,000,000 for the fiscal year ending September 30, 1991".

(2) AUTHORIZATION.—There is authorized to be appropriated for Interstate construction to complete the Interstate System out of the Highway Account of the Highway Trust Fund $1,800,000,000 per fiscal year for each of the fiscal years 1992, 1993, 1994 and 1995.

(b) MASSACHUSETTS.—

(1) ALLOCATION.—Massachusetts shall be allocated $100,000,000 for the fiscal year 1992, $800,000,000 for the fiscal year 1993, $800,000,000 for the fiscal year 1994 and $850,000,000 for the fiscal year 1995 from the sums authorized in (a)(2).

(2) AVAILABILITY.—Unobligated balances of Interstate construction funds previously apportioned or allocated to Massachusetts and sums allocated to Massachusetts under (b)(1) shall remain available for obligation in that State until expended under laws, regulations, policies and procedures relating to the obligation and expenditure of Interstate construction funds in effect on September 30, 1991.

(c) APPORTIONMENT.—On October 1, of each of the fiscal years 1992, 1993, 1994 and 1995, or as soon thereafter as is practicable, after making the deductions authorized by 23 U.S.C. 104(a) and (b) and the allocation authorized by (b), the Secretary shall apportion the sums authorized in (a)(2) for that fiscal year among the States, except Massachusetts, as States is defined in 23 U.S.C. 101, in the ratio in which the Federal share of the estimated cost of completing the Interstate System in a State bears to the Federal share of the sum of the estimated cost of completing the Interstate system in all of the States, except Massachusetts, as shown by the Interstate Cost Estimate required to be sent to the Congress within 10 days subsequent to January 2, 1991 adjusted to reflect (1) all previous credits, apportionments of Interstate construction funds and lapses of previous apportionments of Interstate construction funds, (2) previous withdrawals of Interstate segments, (3) previous allocations of Interstate discretionary funds, and (4) transfers of Interstate construction funds.

(d) AVAILABILITY.—

(1) UNOBLIGATED BALANCES.—Unobligated balances of Interstate construction funds previously apportioned or allocated to a State, except the sums apportioned or allocated to Massachusetts, shall remain available for obligation in that State until September 30, 1992, under the laws, regulations, policies and procedures relating to the obligation and expenditure of Interstate construction funds in effect on September 30, 1991.

(2) FISCAL YEAR 1992, 1993 AND 1994 FUNDS.—Sums apportioned to a State under (c) for fiscal years 1992, 1993 and 1994 shall remain available for obligation in that State until the close of the fiscal year in which they were apportioned, under the laws, regulations, policies and procedures relating to the obligation and expenditure of Interstate construction funds in effect on September 30, 1991.

(3) FISCAL YEAR 1995 FUNDS.—Sums apportioned to a State under (c) for fiscal year 1995 shall remain available for obligation in that State until expended under laws, regulations, policies and procedures relating to the obligation and expenditure of Interstate construction funds in effect on September 30, 1991.

(4) LAPSED FUNDS.—Sums which lapse in accordance with (d)(1) and (d)(2) shall be allocated to other States with remaining Interstate construction needs at the discretion of the Secretary. *Provided*, That lapsed funds shall not be allocated to Massachusetts and *Provided further* That lapsed funds shall be allocated for ready to go projects and *Provided further* That lapsed funds shall not be allocated to any State that transfers Interstate apportionments under (e) during that fiscal year.

(e) TRANSFER OF APPORTIONMENTS.—A State may transfer Interstate construction apportionments to its National Highway and Bridge Program apportionments in amounts equal to or less than the costs for additional work on sections of the Interstate System that have been built with Interstate construction funds and that are open to traffic as shown in the 1991 Interstate Cost Estimate.

SEC. 105 INTERSTATE SUBSTITUTION.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Account of the Highway Trust Fund for highway projects for the Interstate Substitution Program $240,000,000 per fiscal year for each of the fiscal years 1992, 1993, 1994 and 1995.

(b) APPORTIONMENT.—On October 1 of each fiscal year, or as soon thereafter as is practicable, after making the deduction authorized by 23 U.S.C. 104(a), the Secretary shall apportion the sums authorized in (a) among the States, as States is defined in 23 U.S.C. 101, in the ratio that the remaining withdrawal value for Interstate substitute highway projects in that State was to the nationwide remaining withdrawal value for highway projects on June 30 of the preceding fiscal year.

(c) AVAILABILITY.—Sums apportioned to a State under (b) and unobligated balances of Interstate substitution funds available to a State on September 30, 1991, shall be available for obligation in that State until expended under the laws, regulations, policies and procedures relating to the obligation and expenditure of Interstate substitution funds in effect on September 30, 1991.

SEC. 106. OBLIGATION CEILING.

(a) GENERAL LIMITATION.—Notwithstanding any other provision of law the total of all obligations for Federal-aid highway programs shall not exceed—

(1) $15,722,000,000 for fiscal year 1992;
(2) $15,999,000,000 for fiscal year 1993;
(3) $16,549,000,000 for fiscal year 1994;
(4) $18,000,000,000 for fiscal year 1995; and
(5) $20,000,000,000 for fiscal year 1996.

(b) EXCEPTIONS.—The limitations under (a) shall not apply to obligations—

(1) For unobligated balances of minimum allocation funds,

(2) For emergency relief, or

(3) For unobligated balances of earthquake disaster assistance.

(c) DISTRIBUTION OF OBLIGATION AUTHORITY.—For each of fiscal years 1992, 1993, 1994, 1995 and 1996 the Secretary shall distribute the limitation imposed by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways that are apportioned or allocated to each State for each fiscal year bears to the total of the sums authorized to be appropriated for Federal-aid highways that are apportioned or allocated to all the States for each fiscal year *Provided*, That the Secretary shall not distribute amounts authorized for administrative expenses and the Federal lands highways programs and not distribute amounts necessary to carry out Metropolitan and Rural Innovative Bonus Projects.

(d) LIMITATION ON OBLIGATION AUTHORITY.—

(1) During the period October 1 through December 31 of each of fiscal years 1992, 1993, and 1994 no state shall obligate more than 35 percent of the amount distributed to that State under (c) for the fiscal year, and the total of all State obligations during the period shall not exceed 25 percent of the total amount distributed to all States under (c) for the fiscal year.

(2) During the period October 1 through December 31 of each of fiscal years 1995 and 1996, no State shall obligate more than 30 percent of the amount distributed to that State under (c) for that fiscal year, and the total of all State obligations during the period shall not exceed 20 percent of the total amount distributed to all States under (c) for the fiscal year.

(e) REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.—Notwithstanding (c) and (d) the Secretary shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction which have been apportioned or allocated to a State, and may

(2) After August 1 of each of the fiscal years 1992, 1993, 1994, 1995 and 1996, revise a distribution of the funds made available under (c) for that fiscal year if a State will not obligate the amount distributed during that fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year giving priority to those States having large unobligated balances of funds apportioned under title 23, United States Code.

SEC. 107. NATIONAL HIGHWAY AND BRIDGE SYSTEM.

(a) Section 102 of title 23, United States Code, is amended to read as follows:

"102. National Highway and Bridge System.

"(a) The Congress hereby finds and declares—

"(1) National resources should be focused upon the important goals of preserving the nation's investment in its interstate systems and ensuring that these systems continue to actively support interstate commerce, national defense, and linkage of major urban areas.

"(2) Broad national defense, economic, safety, and international policy goals are advanced by efficient transportation systems which ensure free movement of people, goods, and information.

"(3) National transportation investments should increasingly encourage domestic and international commerce and trade.

"(4) Based on congressionally established national transportation policy and objectives, a new Federal high priority highway network, a National Highway and Bridge System should be designated from the most vital elements of the current network.

"(b) ESTABLISHMENT.—The National Highway and Bridge System shall be established to provide an interconnected system of principal arterial routes which will serve major population centers, ports, airports and international border crossings; meet national defense requirements; and serve interstate and interregional travel. The National Highway and Bridge System shall consist of all currently designated Interstate highways, an appropriate portion of the rural and urban principal arterial routes, including toll facilities, and national defense highways. In addition other routes which meet the following criteria are eligible for inclusion.

(1) Nationally significant truck routes.

(2) Routes that provide nationally significant commodities with access to markets.

(3) Access points to significant national parks, international border crossings, ports and airports and to major regions in the States.

(4) Facilities that will provide logical connection between major population centers and the National Highway and Bridge System.

(6) Major urban corridors.".

"(c) DESIGNATION.—Each State, in consultation with regional and local officials, shall designate the National Highway System, with the approval of the Secretary. The National Highway System shall be based on a functional reclassification of roads and streets in each State which should be designated by September 30, 1992 and shall be designated not later than September 30, 1993 in accordance with guidelines issued by the Secretary which provide for an equitable allocation of mileage among the States. The Secretary may add segments to the National Highway System as may be necessary to meet National Highway Program objectives. For the first fiscal year 1992 and, if necessary, fiscal year 1993, States may use National Highway Program funds on the preliminary National Highway System designated by the State and approved by the Secretary as of September 30, 1991.

"(d) The Secretary shall establish criteria for reviewing projects to be funded as part of the National Highway and Bridge System. The criteria shall define eligible projects to include rehabilitation, resurfacing, restoration, capacity expansion, operational improvement, safety, and new highway construction. The criteria shall ensure as a first priority for the use of available funds the adequate preservation and protection of investments made in the Interstate highways in each State, and the provision of suitable traveling quality by the Interstate highways. The criteria shall permit funding in urbanized areas to be used to improve highway and transit systems, where it can be shown that the improvement will provide an increase in the level of service within the corridor of the National Highway and Bridge System. The criteria will also permit the use of such funds for intercity rail projects and projects for access to ports, airports and related facilities.

"(e) DISCHARGE OF RESPONSIBILITIES.—The Secretary may discharge responsibilities under this title relative to any National Highway and Bridge System project:

"(1) meeting the categorical exclusion criteria, as defined in 23 CFR 771 and having an estimated cost of construction of less than $5,000,000 upon the request of any State, by accepting a certification by the State transportation or highway department that these projects will be developed, let to contract and constructed in the same manner as other National Highway and Bridge System projects;

"(2) meeting the categorical exclusion criteria, as defined in 23 CFR 771, costing over $5,000,000 selected in accordance with criteria established by the Secretary, by accepting a certification by the State transportation or highway department that these projects will be developed, let to contract and constructed in the same manner as other National Highway and Bridge System projects.

"(f) PROCEDURES AFTER FISCAL YEAR 1995.—After the fiscal year 1995, the Secretary shall discharge responsibilities for the National Highway and Bridge System projects described in (c)(1) by the certification process. The Secretary will, after fiscal year 1995, rescind project approval if a satisfactory certification is not present by the State.".

SEC. 108. URBAN AND RURAL HIGHWAY BRIDGE PROGRAM.

Section 105 of title 23, United States Code, is amended to read as follows:

"SEC. 105. URBAN AND RURAL HIGHWAY AND BRIDGE PROGRAM.

"(a) ESTABLISHMENT.—The Secretary shall establish an Urban and Rural Highway and Bridge Program to provide a category of funds that minimizes Federal requirements, and to provide flexibility in the use of available funds for either highway or transit projects. The Urban and Rural Highway and Bridge program shall consist of all public highways (including bridges) functionally classified as arterials, urban collectors, and rural collectors other than those designated as part of the National Highway and Bridge System. Each State, in cooperation with its regional and local agencies, shall establish guidelines for implementing this program. The guidelines shall: (1) Include criteria for setting priorities and encouraging regional intermodal solutions, where appropriate. (2) Ensure administrative costs are minimized through simplification of processes and application of controls that ensure accountability for both funds and projects. (3) Ensure that each agency has flexibility to use funds for transportation solutions that bring most efficient mobility increase and best address regional and local land use, air quality, and economic development issues.

"(b) ELIGIBLE HIGHWAYS.—Highway projects may be funded on public roads except roads on the National Highway and Bridge System, roads functionally classified as local, or roads functionally classified as rural minor collector: *Provided*, That not to exceed 5 percent of a State's annual urban and rural highway and bridge program apportionment may be expended for highway safety improvements or eliminating rail-highway crossing hazards on public roads functionally classified as local or as rural minor collector and: *Provided*, That projects under (d) may be on the National Highway and Bridge System.

"(c) ELIGIBLE PROJECTS.—Eligible projects include construction; operational improvements; highway safety improvements; highway research and development; transportation planning; capital transit projects like the construction, reconstruction, and improvement of fixed rail facilities, including purchase of rolling stock for fixed rail; the

purchase of buses and support facilities; capital projects to improve access and coordination between intercity and rural bus service; technology transfer projects; startup costs for traffic management and control projects; bicycle and pedestrian projects; projects to develop and improve scenic byways; projects to enhance rural and urban accessibility and mobility; the acquisition of outdoor advertising signs and the sites on which those signs are located; removal or screening of junkyards, and projects eligible under sections 124, 137, 217, and 319.

"(d) METROPOLITAN AND RURAL INNOVATIVE BONUS PROJECTS.—

"(1) The Secretary may approve innovative highway-related and transit-related immediate action, noncapital intensive projects to help relieve congestion and transportation related air quality problems in urbanized areas of more than 200,000 population, or projects in rural areas that respond to rural transportation problems through innovative approaches and strategies.

"(2) Approval of projects shall be limited to those for which there is evidence that (A) the project can be implemented in a short time period; (B) there is a private sector commitment to and support for the project; (C) there is State and local support for the project including a commitment to operate and maintain the project after completion; (D) the project is noncapital intensive and cost effective; (E) in the case of rural projects, the project will demonstrate innovation and prototypicality for resolving rural transportation problems; (F) in the case of metropolitan projects, the project incorporates demand management as well as supply improvement; and (G), in the case of metropolitan projects, the project will contribute to achieving National Ambient Air Quality standards and/or reduce congestion.

"(3) Eligible activities for projects under this subsection will be those in (c) that comply with (2).

"(e) REQUIREMENTS.—

"(1) COMPLIANCE WITH STATE REQUIREMENTS.—Projects must be designed, constructed, operated, and maintained in accordance with State laws, regulations, directives, safety standards, design standards and construction standards.

"(2) COMPLIANCE WITH FEDERAL REQUIREMENTS.—

"(A) IN GENERAL.—Each State shall comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended by the Uniform Relocation Act Amendments of 1987, the Single Audit Act of 1984, the Civil Rights Act of 1964, the Clean Air Act, the National Environmental Policy Act of 1969, the applicable requirements of title 23, United States Code, and other applicable Federal Laws, Regulations, and Executive Orders.

"(B) DELEGATIONS.—The Secretary, in lieu of the Federal environmental review procedures otherwise applicable under the National Environmental Policy Act of 1969 (NEPA) may, under regulations, provide for the approval of projects by recipients of assistance under this section who may assume all of the responsibilities for environmental review, decisionmaking, and action pursuant to that Act, and other provisions of law that would apply to the Secretary if the projects were undertaken as Federal projects. The Secretary shall issue regulations to carry out this paragraph only after consultation with the Council on Environmental quality.

"(C) CERTIFICATION.—Each State or recipient assuming responsibilities for the Secretary shall submit an annual certification under the regulations authorized by (B). The certification shall—

"(i) be in a form acceptable to the Secretary,

"(ii) be executed by the chief executive officer or other officer of the recipient of assistance under this section qualified under the regulations authorized by (B),

"(iii) specify that the recipient of assistance under this section will fully carry out its responsibilities as described under the regulations authorized by (B),

"(iv) specify that the certifying officer (I) consents to assume the status of a responsble Federal official under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) (NEPA) and each provision of law specified in regulations issued by the Secretary insofar as the provisions of NEPA or other provisions of law apply under the regulations authorized by (A) or (B) and (II) is authorized and consents on behalf of the recipient of assistance under this section and the certifying officer to accept the jurisdiction of the Federal courts for the purpose of enforcement of the certifying officer's responsibilities, and

"(v) agrees that the Secretary's approval of any certification shall be deemed to satisfy the Secretary's responsibilities under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the approval of projects by recipients under this section.

"(3) BRIDGE INSPECTION AND INVENTORY SYSTEM.—The States must have an ongoing bridge inspection and inventory system.

"(4) CONSULTATION.—Consultation with local officials and Indian tribal officials (where a tribe has jurisdiction or is affected by the project) on projects in rural and urban areas under 50,000 population is required.

"(5) COOPERATON IN URBANIZED AREAS.—In urbanized areas, projects shall be selected by the State in cooperation with local officials from a transportation improvement program developed under section 134.

"(6) DISTRIBUTION OF FUNDS.—The States shall develop a method to distribute apportionments within the State under this section fairly and equitably to rural areas, urban areas and urbanized areas of over 200,000 population.

"(7) COMPLIANCE.—If the Secretary determines that a State or local government has failed to comply substantially with any provision of this section, the Secretary shall notify the State that, if it fails to take corrective action within 60 days from the receipt of the notification, the Secretary will withhold future payments under this section until the Secretary is satisfied that appropriate corrective action has been taken.

"(f) OBLIGATION OF FUNDS AND METHOD OF PAYMENT.—

"(1) OBLIGATION OF FUNDS.—The Governor of each State shall certify prior to the beginning of each fiscal year that the State will meet all the requirements of (e) and shall notify the Secretary of the amount of obligations expected to be incurred for Urban and Rural Highway and Bridge program projects: *Provided*, That the State may request adjustment to the obligation amounts later in the fiscal year. Acceptance of the notification and certification shall be deemed a contractual obligation of the United States for the payment of the Urban and Rural Highway and Bridge funds expected to be obligated by the State in that fiscal year.

"(2) FUNDING FOR METROPOLITAN AND RURAL INNOVATIVE BONUS PROJECTS.—(A) The Secretary shall set aside from the obligation limitation established in section 106 of the Federal-Aid Highway Act of 1991 $100,000,000 for fiscal year 1992 and not to exceed $100,000,000 for the fiscal years 1993, 1994, 1995 and 1996 for Metropolitan and Rural Innovative Bonus Projects. (B) When a state wants to implement a project under (d) and qualify for bonus obligation authority, it must submit a request for approval of the project along with plans, specifications, and estimates of the cost of the project. Approval of the request will constitute a contractual obligation of the United States for payment and will be accompanied by bonus obligation authority from the set aside of obligation authority provided in (A).

"(3) METHOD OF PAYMENT.—The Secretary shall make payments to a State of costs incurred by it on the program. Payments shall not exceed the Federal share of costs incurred as of the date the State requests payment.

"(g) REVIEW AND REPORTS.—The Secretary may conduct reviews of State procedures and projects. The States shall report annually to the Secretary in accordance with guidelines under this section.".

SEC. 109. TOLL ROADS, BRIDGES, TUNNELS, AND FERRIES.

(a) Section 129 of title 23, United States Code, is amended to read as follows:

"SEC. 129. TOLL ROADS, BRIDGES, TUNNELS, AND FERRIES.

"(a) FEDERAL FUNDS.—

"(1) FREEDOM FROM TOLLS.—Except as otherwise provided in this title, Federal funds provided to carry out this title may not be obligated on existing toll facilities. A State may impose a toll for reconstruction of any segment of a public highway within its jurisdiction when such segment has exceeded its design life. Toll receipts received in excess of the cost of operation and maintenance of the facility may not be used for any purpose other than activities eligible under this title.

"(2) FEDERAL SHARE PAYABLE.—Notwithstanding any other provision of this title, the Federal share payable for any project under this section shall not exceed 35 percent of the cost of the project.

"(b) NATIONAL HIGHWAY AND BRIDGE SYSTEM FUNDS.—A State may impose tolls on any segment of its National Highway and Bridge System that is constructed subsequent to the effective date of this paragraph. The net revenue derived from such tolls must be used to rehabilitate such segment and any remaining revenue shall be used for construction and rehabilitation on the State's National Highway and Bridge System.

"(c) URBAN AND RURAL AND HIGHWAY BRIDGE PROGRAM FUNDS.—Urban and Rural Highway and Bridge Program funds may be obligated to construct new toll highways, bridges, and tunnels; improve existing toll highways, bridges and tunnels; and improve and convert free highways, bridges, and tunnels to toll facilities.

"(d) PAST FEDERAL FUNDING.—Projects constructed under this section shall not require any reimbursement of past Federal share funding.

"(e) PRIVATE OPERATION.—A State may lease any existing or planned facility to a private entity. The lease agreement shall require the lessee to maintain and operate the facility and set a toll sufficient to maintain and operate the facility, service debt and provide an adequate return on investment. All toll facilities shall be publicly owned and operated *Provided* that a State may contract

with a private firm to design, finance, construct and operate a toll facility, *Provided* further that the State shall be responsible for all requirements under this title and *Provided* further that there may be private participation in any State matching share for a project.

"(f) AGREEMENT WITH THE STATE.—For facilities constructed with funds derived from the Highway Trust Fund, the State highway department or departments must be a party or parties to an agreement with the Secretary in which it or they undertake performance of the following obligations:

"(1) All tolls received from the operation of the facility, less actual costs of operation and maintenance, shall be applied to the repayment, including debt service and reasonable return on investment, to the party financing the facility, except that part which was contributed by the United States.

"(2) Tolls may be continued after recovery of costs only to the extent that tolls received from the facility less the actual cost of operation and maintenance are used for a purpose eligible under this title.

"(g) FERRY APPROACHES.—The Secretary may permit Federal participation under this title in the construction of a project constituting an approach to a ferry subject to all of the conditions set forth in this section applicable to toll roads.

"(h) CONSTRUCTION OF FERRY BOATS.—The Secretary may permit Federal participation under this title in the construction of ferry boats, whether toll or free, subject to all of the conditions set forth in this section applicable to toll roads.".

(b) Toll facility agreements reached before October 1, 1991 under section 105 of the Federal-Aid Highway Act of 1978 or 23 U.S.C. 129 restricting the imposition of tolls on facilities constructed with Federal funds may be amended to continue tolls pursuant to 23 U.S.C. 129 (f).

SEC. 110. NATIONAL MAXIMUM SPEED LIMIT.

Section 154 of title 23, United States Code, is amended to read as follows:

"SEC. 154. NATIONAL MAXIMUM SPEED LIMIT.

"(a) SPEED LIMIT.—A State shall not have (1) a maximum speed limit on any public highway within its jurisdiction in excess of 55 miles per hour other than a highway on the Interstate System located outside of an urbanized area (2) a maximum speed limit on any highway within its jurisdiction on the Interstate System located outside of an urbanized area in excess of 65 miles per hour, (3) a maximum speed limit on any highway within its jurisdiction in excess of 65 miles per hour and located outside an urbanized area which is—(A) constructed to Interstate standards in accordance with section 109(b) of title 23, United States Code in effect on September 30, 1991 and connected to an Interstate highway posted at 65 miles per hour; (B) a divided 4-lane fully controlled access highway designed or constructed to connect to an Interstate highway posted at 65 miles per hour and constructed to design and construction standards as determined by the Secretary which provide a facility adequate for a speed limit of 65 miles per hour; or (C) constructed to the geometric and construction standards adequate for current and probable future traffic demands and for the needs of the locality and is designated by the Secretary as part of the Interstate System in accordance with section 139(c) of title 23, United States Code in effect on September 30, 1991, or (4) a speed limit on any other portion of a public highway within its jurisdiction which is not uniformly applicable to all types of motor vehicles using that portion of the highway, if on November 1, 1973, that portion of the highway had a speed limit which was uniformly applicable to all types of motor vehicles using it. A lower speed limit may be established for any vehicle operating under a special permit because of any weight or dimension of that vehicle including any load thereon. Clause (4) shall not apply to any portion of a highway, during the time the condition of the highway, weather, an accident, or other condition creates a temporary hazard to the safety of traffic on that portion of a highway.

"(b) MOTOR VEHICLE DEFINED.—As used in this section the term "motor vehicle" means any vehicle driven or drawn by mechanical power manufactured primarily for use on public highways, except any vehicle operated exclusively on a rail or rails.

"(c) CERTIFICATION.—Each State shall certify to the Secretary before January 1 of each year that it is enforcing all speed limits on public highways in accordance with this section. The Secretary shall not approve any project under section 110 in any State which has failed to certify in accordance with this subsection. In preparing a certification under this subsection, the State shall consider the speed-related data it submits to the Secretary.".

SEC. 111. MINIMUM ALLOCATION.

(1) 90% MINIMUM ALLOCATION.—Paragraph (a)(3)(A) of section 157 of title 23, United States Code, is amended to read as follows:

"(A) GENERAL RULE.—In each fiscal year, on October 1, or as soon as possible thereafter, the Secretary shall allocate among the States amounts sufficient to ensure that the total of apportionments and minimum allocation for each State in each such fiscal year shall not be less than 90 per centum of the percentage of estimated tax payments into the Highway Account of the Highway Trust Fund, attributable to highway users in the State (in the latest year for which such data are available) of total apportionments in each such fiscal year and allocations for the prior year (except allocations for emergency relief, forest highways, Indian reservation roads, parkways and park roads, nonconstruction safety grants authorized by sections 402, 406 and 408 of this title, and Bureau of Motor Carrier Safety Grants authorized by section 404 of the Surface Transportation Assistance Act of 1982).".

(b) HOLD HARMLESS.—Subsection (f) is added to section 157 of title 23, United States Code to read as follows:

"(f) HOLD HARMLESS.—In each fiscal year the Secretary shall allocate among the States amounts sufficient to ensure that each State's total apportionment from the Highway Account of the Highway Trust Fund for the year is not less than that made during the 1991 fiscal year (excluding any Interstate construction funds in excess of FY 92½% minimum, Interstate substitution, and amounts for demonstration or discretionary funding programs or projects."

(c) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 157 of title 23, United States Code is amended by striking "primary, secondary, Interstate, urban, bridge replacement and rehabilitation, hazard eliminations, and rail-highway crossings" and inserting in lieu thereof, "Interstate, National Highway and Bridge Program and Urban and Rural Highway and Bridge Program".

(2) Subsection (d) of said section is amended by striking "section 154(f) or 158(a) of this section or any other provision" and inserting in lieu thereof "a".

SEC. 112. URBANIZED AREA PLANNING.

(a) Section 134 of title 23, United States Code, is amended to read as follows:

"SEC. 134. URBANIZED AREA PLANNING

"(a) PLANNING; URBANIZED AREAS.—It is in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner that will serve the States and local communities efficiently and effectively. To accomplish this objective, the Secretary shall cooperate with State and local officials in urbanized areas in the development of transportation plans and programs which are formulated with due consideration to comprehensive long-range land use plans, development objectives, innovative financing mechanism including value capture, overall social, economic, environmental, system performance, and energy conservation goals and objectives; and with due consideration to their probable effect on the future development of the area. The process for developing plans and programs shall be coordinated with the process for development of the transportation measures of the State Implementation Plan required by the Clean Air Act, as amended. The transportation planning process as a minimum shall cover the existing urbanized area and the area expected to become urbanized within the forecast period, and many encompass the entire Metropolitan Statistical Area/Consolidated Metropolitan Statistical Area (MSA/CMSA) at the discretion of the Governor and the affected units of local government.

"(b) PLANNING; URBANIZED AREAS OF MORE THAN 200,000 POPULATION.—In urbanized areas of more than 200,000 population transportation plans and programs shall be based on a continuing transporation planning process carried out by a metropolitan planning organization in cooperation with the State and transit operators and shall be comprehensive to the degree appropriate based on the complexity of transportation problems in the area, including transportation related air quality problems. The process shall consider all modes of transportation, including intermodal connectivity, and the balance between future development and transportation needs including opportunities for corridor preservation and shall include the development of a transportation improvement program. The process shall also consider the impacts of land use decisions on transportation needs including opportunities for corridor preservation. In addition, the planning process shall include an area wide multimodal congestion management system appropriate for the size of the area and the complexity of transportation problems in the area, including transportation related air quality problems, that provides for effective management of new and existing transportation facilities through the use of travel demand reduction and operational management strategies. In non-attainment areas for transportation related pollutants the multimodal congestion management system shall address air quality considerations and shall be coordinated with the process for development of the transportation element of the State Implementation Plan required by the Clean Air Act. The costs and impacts of proposed action on both mobility and air quality shall be evaluated. No highway project in urbanized areas of more than 200,000 population that by reconstruction or new construction significantly increases the vehicle carrying capacity of a transportation corridor shall be approved by the Secretary unless the project is consistent with the congestion management system. The metropoli-

tan planning organization shall cooperate with the State in the development and implementation of a congestion management system, a bridge management system, a pavement management system, a safety management system and a traffic monitoring system as required under section 122.

"(c) METROPOLITAN PLANNING ORGANIZATION.—A metropolitan planning organization shall be designated in each urbanized area by agreement among the units of general purpose local government and the Governor to carry out the transportation planning process required by this section.

"(d) TRANSPORTATION IMPROVEMENT PROGRAM.—The metropolitan planning organization in cooperation with the State and transit operators shall develop a transportation improvement program that includes all projects proposed for funding within the study area under the National Highway and Bridge Program and the Urban and Rural Highway and Bridge Program. In urbanized areas of more than 200,000 population development of the transportation improvement program shall be based on a process consistent with (b).

"(e) PLANNING; URBANIZED AREAS OF 200,000 POPULATION OR LESS.—In urbanized areas of 200,000 population or less, the metropolitan planning organization, the State and transit operators shall, as a minimum, meet the requirements of this section by the development of a transportation improvement program that includes projects to be funded under the National Highway and Bridge Program and the Urban and Rural Highway and Bridge Program. The transportation improvement program shall fully consider transportation related air quality problems.".

(b) The analysis of chapter 1 of title 23, United States Code is amended by striking "134. Transportation planning in certain urban areas." and inserting in lieu thereof "134. Urbanized Area Planning.".

SEC. 113. RESEARCH, STATEWIDE PLANNING AND DATA COLLECTION.

(a) Section 307 of title 23 United States Code is amended as follows:

"(1) Subsection (b) is designated (b)(1), and the following new paragraphs are added thereafter:

"(2) The highway research program shall include a coordinated long term program of research on Intelligent Vehicle Highway Systems.

"(3) The highway research program shall include a coordinated long term program of research for the development, use and disseminaton of performance indicators to measure the performance of the surface transportation system, including indicators for productivity, efficiency, energy use, air quality, congestion, safety, maintenance, and other factors that reflect the overall performance of the surface transportation system.

"(4) The highway research program shall continue those portions of the work of the Strategic Highway Research Program that the Secretary deems to be important.

"(5) The Secretary shall create and administer a transportation research fellowship program to attract qualified students to fields of transportation engineering and research, which shall be known as the Dwight David Eisenhower Transportation Fellowship Program. No less than $2,000,000 per fiscal year of the funds set aside pursuant to section 307 shall be made available to carry out this paragraph.".

(2) Subsection (c) is amended to read as follows:

"(c) STATEWIDE TRANSPORTATION PLANNING AND RESEARCH PROGRAM.—

"(1) PLANNING.—It is in the national interest to encourage and promote the development of transportation systems in a manner that will serve the States and local communities efficiently and effectively. To accomplish this objective, the Secretary shall cooperate with the States in carrying out Statewide transportation planning to support transportation programs and projects funded under this title. Statewide transportation planning shall be carried out in coordination with transportation planning activities of local jurisdictions, including the development of the transportation portion of the State Implementation Plan required by the Clean Air Act, and shall be accomplished in concert with the requirements of section 134. The transportation planning process as a minimum shall cover the existing urbanized area and the area expected to become urbanized within the forecast period. Statewide transportation planning shall promote the coordination of various transportation modes with due consideration of national goals like system preservation, highway safety, and preservation of the environment. Statewide transportation planning shall support the development and implementation of the systems required under section .

"(2) RESEARCH.—It is in the national interest to encourage and promote highway research by the States to develop transportation systems that will serve the States and local communities efficiently and effectively. To accomplish this objective, the Secretary shall cooperate with the States in carrying out State highway research. Funds available to carry out this section shall be obligated for engineering and economic surveys and investigations; for studies of the economy, safety, and convenience of highway usage and the desirable regulation and equitable taxation of highway usage; for technology transfer activities; for studies of the effects of highway usage on the environment and the effectiveness of environmental mitigation measures; for research and development, necessary in connection with the planning, design, construction, operations, safety, rehabilitation and maintenance of highways and highway systems; and for study, research and training on engineering standards and construction materials, including evaluation and accreditation of inspection and testing, and the regulation and taxation of their use.

"(3) STATE SUPPLIED DATA.—The States and local units of government shall provide data as specified by the Secretary to support national studies, highway performance monitoring, and other activities established by this title.

"(4) EARMARKED FUNDS.—One and one-half percent of the sums apportioned to each State for each fiscal year for the National Highway and Bridge Program and the Urban and Rural Highway and Bridge Program shall be available only to carry out the requirements of (a), (b) and (c).

"(5) STATE MATCHING SHARE WAIVER.—Sums made available under (d) shall be matched by the State in accordance with section 120 unless the Secretary determines that the interest of the Federal highway program would be best served without matching.".

(3) Subsection (f) is amended to read as follows:

"(f) CONDITION, PERFORMANCE, NEEDS REPORT.—The Secretary shall report to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives in January 1993, and in January of every second year thereafter, the condition and performance of the existing system and estimates of the future highway and bridge needs of the Nation. Beginning with the report due in January 1995, the report shall include the results of studies of the air quality impacts of transportation programs including the air quality benefits realized from transportation control measure required under the Clean Air Act.".

(b) DATA COLLECTION AND ANALYSIS.—

(1) BUREAU OF TRANSPORTATION STATISTICS.—There is hereby established within the Department of Transportation a Bureau of Transportation Statistics. The Bureau shall be headed by a Director (hereafter referred to as 'the Director'), who shall be appointed by the President with the advice and consent of the Senate, and who shall be removable only for cause.

(2) NEW REQUIREMENTS.—Section 303 of title 23, United States Code, is amended to read as follows:

"Sec. 303. Data Collection and Analysis.

"(a) PROGRAM.—The Director of the Bureau of Transportation Statistics, in cooperation with the States, shall pursue a comprehensive, long-term program for the collection and analysis of data relating to the performance of the national transportation system. This effort shall—

"(1) be coordinated with the efforts undertaken pursuant to section 307(b)(3) to develop performance indicators for the national transportation system;

"(2) assure that data and other information is collected in a manner to maximize the ability to compare data from different regions and time periods; and

"(3) assure that data is quality controlled for accuracy and is disseminated to the States and other interested parties.

"(b) ESTIMATES.—The Director shall produce, on an annual basis, unbiased and comparable estimates of factors including but not limited to productivity in the various portions of the transportation sector, traffic flows, travel times, vehicle weights, variables influencing traveller behavior including choice of mode, travel costs of intracity commuting and intercity trips, frequency of vehicle and transportation facility repairs and other interruptions of service, accidents, collateral damage to the human and natural environment, and the condition of the transportation system, which estimates shall be suitable for conducting cost-benefit studies and other analysis necessary for prioritizing transportation system problems and analyzing proposed solutions.

"(c) REPORTS.—Beginning on October 1, 1992, and every twelve months thereafter, the Director shall submit to the Committee on Environment and Public Works of the Senate and Committee on Public Works and Transportation of the House of Representatives a report containing the estimates described in subsection (b) and otherwise describing the status of the transportation system in the United States.

"(d) COLLECTION OF DATA.—The Secretary may use any authority granted under this or any other title, or any Act to collect data the Secretary deems to be important in carrying out the provision of this section.".

(3) ANALYSIS—The analysis for chapter 3 of title 23, United States Code, is amended by striking "Sec. 303. [Repealed, Public Law 97-449]." and inserting in lieu thereof "Sec. 303. Data Collection and Analysis.".

(c) COLLABORATIVE RESEARCH AND DEVELOPMENT.—Section 307 of title 23, United

States Code, is amended by adding subsection (g) as follows:

"(g) COLLABORATIVE RESEARCH AND DEVELOPMENT.—For purposes of encouraging innovative solutions to highway problems, and stimulating the marketing of new technology by private industry, the Secretary is authorized to undertake on a cost-shared basis, collaborative research and development with non-Federal entities, including State and local governments, foreign governments, colleges and universities, corporations, institutions, partnerships, sole proprietorships, and trade associations which are incorporated or established under the laws of any of the States of the United States. In carrying out this section, the Secretary may enter into a cooperative research and development agreement, as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980, as amended (15 U.S.C. 3710a). The average Federal share in these agreements shall not exceed 50 percent except, where there is substantial public interest or benefit, the Secretary may approve a higher Federal level of participation. Cooperative research and development agreements shall recognize all directly related costs to the non-Federal partners including personnel, travel, hardware development, etc. The research, development, or utilization, of any technology pursuant to an agreement under the above provisions, including the terms under which technology may be licensed and the resulting royalties may be distributed, shall be subject to provisions of the Stevenson-Wydler Technology Innovation Act of 1980, as amended.".

SEC. 114. MANAGEMENT SYSTEMS; TRAFFIC MONITORING SYSTEM.

(a) Section 122 of title 23, United States Code, is amended to read as follows:

"SEC. 122. MANAGEMENT SYSTEMS; TRAFFIC MONITORING SYSTEM.

"(a) MANAGEMENT SYSTEMS.—Each State shall have a Bridge Management System, a Pavement Management System, a Safety Management System, and a Congestion Management System developed in accordance with regulations prescribed by the Secretary. Systems shall include inventories and use current condition data to identify needs. The Secretary may withhold project approvals on National Highway and Bridge Program projects for failure to have approved systems. The regulations shall provide for periodic Federal review of the Management Systems.

"(b) TRAFFIC MONITORING SYSTEM.—Each State shall have a Traffic Monitoring System to provide statistically based traffic data necessary for pavement management, bridge evaluation, safety management, congestion management, national studies, and other activities under this title. The Secretary shall establish guidelines and requirements for the Traffic Monitoring System.".

(b) The analysis of chapter 1 of title 23, United States Code, is amended by striking "122. Payment to the States for bond retirement." and inserting in lieu thereof "122. Management systems; Traffic Monitoring System.".

SEC. 115. ACQUISITION OF RIGHTS-OF-WAY.

(a) Section 108 of title 23, United States Code, is amended to read as follows:

"SEC. 108. ACQUISITION OF RIGHTS-OF-WAY.

"(a) ADVANCE ACQUISITIONS OF RIGHTS-OF-WAY.—

"(1) RIGHT-OF-WAY REVOLVING FUND.—There is hereby established in the Treasury of the United States a revolving fund to be known as the right-of-way revolving fund which shall be administered by the Secretary. Sums authorized to be appropriated to the right-of-way revolving fund shall be available for obligation without regard to the fiscal year for which the sums are authorized.

"(2) ADVANCES.—For the purpose of acquiring rights-of-way for future construction on the National Highway and Bridge System and for making payments for the moving or relocation of persons, businesses, farms and other existing uses of real property caused by the acquisition of rights-of-way, the Secretary, upon request of a State highway department, is authorized to advance funds to the States, at no interest, from amounts available in the right-of-way revolving fund. Funds advanced may be used to pay the entire cost of projects for the acquisition of rights-of-way, including the net cost to the State of property management, if any, and related moving and relocation payments. Interest paid by the State shall be credited to the Highway Account of the Highway Trust Fund.

"(3) CREDITS TO THE RIGHT-OF-WAY REVOLVING FUND.—Actual construction on rights-of-way shall be commenced within a period of not less than 2 years nor more than 20 years following the end of the fiscal year in which the Secretary approves the advance of funds, unless the Secretary shall provide for an earlier or later termination date. The State may retain the funds advanced until approval by the Secretary of the project agreement for the actual construction on rights-of-way with respect to advanced funds, or the end of the 20th fiscal year following the end of the fiscal year in which the Secretary approves the advance of funds, whichever shall occur first. The right-of-way revolving fund shall then be credited with an amount equal to the funds advanced as provided in section 104.

"(b) EARLY ACQUISITION OF RIGHTS-OF-WAY.—In addition to the authority provided in section 115(a), Federal funds may participate in the costs incurred by a State for the acquisition of rights-of-way, acquired in advance of any Federal approval or authorization, which are subsequently incorporated into a project on the National Highway and Bridge System and the costs incurred by a State for the acquisition of land necessary to preserve environmental and scenic values, acquired in advance of any Federal approval or authorization. The Federal share payable of the costs shall be eligible for reimbursement out of funds apportioned to the state for the National Highway and Bridge Program when the rights-of-way acquired are incorporated into a project eligible for National Highway and Bridge Program funds, *Provided*, That the State demonstrates to the Secretary that:

"(1)(A) Any land acquired and relocation assistance provided complied with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended.

"(B) Title VI of the Civil Rights Act of 1964 has been complied with,

"(C) The alternative for which the right-of-way was acquired was selected by the State pursuant to a State process which, under regulations to be issued by the Secretary, provides for the consideration of the environmental impacts of various alternatives, and the property acquired under this section did not influence the environmental assessment of the project, including the decision relative to the need to construct the project or the selection of the specific location, and

"(2) At the time that the cost incurred by a State is approved for Federal participation environmental compliance pursuant to National Environmental Policy Act has been completed for the alternative for which the right-of-way was acquired by the State and the acquisitions have been approved by the Secretary under section 316, 49 U.S.C. 303, section 7 of the Endangered Species Act, and other environmental laws as identified by the Secretary in regulations.".

(b) The analysis of chapter 1 of title 23, United States Code, is amended by striking "108. Advance Acquisition of rights-of-way." and inserting in lieu thereof "108. Acquisition of Rights-of-Way.

SEC. 116. PRIVATE, STATE AND LOCAL DONATIONS.

(a) SEC. 323 of title 23, United States Code, is amended to read as follows:

"SEC. 323. PRIVATE, STATE AND LOCAL DONATIONS.

"(a) DONATION OF PROPERTY BEING ACQUIRED.—Property being acquired for a project under this title may be donated to a Federal agency, a State agency or a political subdivision of a State after the owner or owners have been informed of the right to receive just compensation for the acquisition of the property.

"(b) DONATION OF PRIVATE FUNDS.—Interested persons may donate private funds for use on a project under this title. Private donated funds may be applied to the State matching share for the project.

"(c) CREDIT FOR DONATIONS.—

"(1) GENERAL RULE.—The State matching share for a project with respect to which Federal assistance is provided out of the Highway Account of the Highway Trust Fund may be credited with (A) the fair market value of land incorporated into the project and lawfully donated to the State after April 2, 1987, and (B) the fair market value of land owned by the State or a local government and incorporated into the project.

"(2) ESTABLISHMENT OF FAIR MARKET VALUE.—The fair market value of land incorporated into the project shall be established as determined by the Secretary. Fair market value shall not include increases and decreases in value caused by the project. For purposes of this subsection, the fair market value of donated land shall be established as of the date the donation becomes effective or when equitable title to the land vests in the State, whichever is earlier, and the fair market value of State or local land incorporated into the project shall be established as of the date of entering into an agreement establishing that the land is needed for the project.

"(3) LIMITATION ON AMOUNT OF CREDIT.—The credit received by a State pursuant to this subsection may not exceed the State's matching share for the project.

"(d) PROCEDURES.—A donation in accordance with (a) or (b) may be made at any time during the development of a project. Any document executed as part of a donation prior to the approval of an environmental document prepared pursuant to the National Environmental Policy Act of 1969 shall clearly indicate that—

"(1) all alternatives to a proposed alignment will be studied and considered pursuant to that Act; and

"(2) acquisition of property or acceptance of private funds under this section shall not influence the environmental assessment of a project including the decision relative to the need to construct the project or the selection of a specific location.".

(b) The analysis of chapter 3 of title 23, United States Code is amended by striking "323. Donations." and inserting in lieu there-

of "323. Private, State and Local Donations.".

SEC. 117. WETLANDS.

(a) Section 124 of title 23, United States Code, is amended to read as follows:

"SEC. 124. WETLANDS.

"National Highway and Bridge Program and Urban and Rural Highway and Bridge Program funds may be used either as part of a highway construction project or as a separate project to participate in wetland mitigation banks or to contribute to Statewide programs which comply with the requirements of the Secretary of the Army and the Administrator of the Environmental Protection Agency that create, conserve, or enhance wetland habitat. The programs may include the development of Statewide wetland mitigation plans, State or regional wetland conservation and enhancement banks, and other projects. Contributions toward these efforts may occur in advance of specific project activity to build up credit for future projects that may impact wetlands.".

(b) The analysis of chapter 1 of title 3, United States Code, is amended by striking "124. Advance to States." and inserting in lieu thereof "124. Wetlands.".

SEC. 118. ACCESS TO RIGHTS-OF-WAY.

Section 142 of title 23, United States Code, is amended to read as follows:

"SEC. 142. ACCESS TO RIGHTS-OF-WAY.

"(a) In any case where sufficient land exists within the publicly acquired rights-of-way of any highway, constructed in whole or in part with Federal-aid highway funds, to accommodate needed passenger or commuter rail, high speed ground transportation systems including magnetic levitation systems, highway and nonhighway public mass transit facilities the Secretary shall authorize a State to make such lands and rights-of-way available without charge to a publicly or privately owned authority or company for such purposes.".

(b) The analysis of chapter 1 of title 23, United States Code, is amended by striking "142. Public Transportation." and inserting in lieu thereof "142. Access to Rights of Way.".

SEC. 119. DEFINITIONS AND DECLARATION OF POLICY.

Section 101 of title 23, United States Code, is amended to read as follows:

"SEC. 101. DEFINITIONS AND DECLARATION OF POLICY.

"(a) DEFINITIONS.—As used in this title, unless the context requires otherwise:

"(1) CONSTRUCTION.—The term 'construction' means all activities typically preceding, reasonably necessary for, leading to and including, the actual construction, resurfacing, restoration, rehabilitation, or reconstruction of a highway or components of a highway which have served their useful service life, as determined by the Secretary.

"(2) COUNTY.—The term "county" includes corresponding units of government under any other name in States which do not have county organizations, and likewise in those States in which the county government does not have jurisdiction over highways it may be construed to mean any local government unit vested with jurisdiction over local highways.

"(3) FEDERAL LANDS HIGHWAYS.—The term "Federal lands highways" means forest highways, park roads, parkways, and Indian reservation roads which are public roads.

"(4) FOREST DEVELOPMENT ROADS AND TRAILS.—The term "forest development roads or trails" means forest roads or trails under the jurisdiction of the Forest Service.

"(5) FOREST HIGHWAY.—The term "forest highway" means a forest road under the jurisdiction of and maintained by a public authority and open to public travel.

"(6) FOREST ROAD OR TRAIL.—The term "forest road or trail" means a road or trail wholly or partially within, or adjacent to, and serving the National Forest system and which is necessary for the protection, administration, and utilization of the National Forest system and the use and development of its resources.

"(7) HIGHWAY.—The term "highway" includes roads, streets, and parkways, and also includes scenic easements, rights-of-way, bridges, railroad-highway crossings, tunnels, draining structures, signs, guardrails, and protective structures, in connection with highways. It further includes that portion of any interstate or international bridge or tunnel and the approaches thereto, the cost of which is assumed by a State highway department including such facilities as may be required by the United States Customs Service and the Immigration and Naturalization Service in connection with the operation of an international bridge or tunnel.

"(8) HIGHWAY SAFETY IMPROVEMENTS—The term "highway safety improvements" means highway improvements designed to eliminate or reduce existing and potential highway hazards or reduce crash severity.

"(9) INDIAN RESERVATION ROADS.—The term "Indian reservation roads" means public roads, including roads on the National Highway System that are located within or provide access to an Indian reservation or Indian trust land or restricted Indian land which is not subject to fee title alienation without the approval of the Federal Government or Indian and Alaska Native villages, groups, or communities in which Indians and Alaskan Natives reside, whom the Secretary of the Interior has determined are eligible for services generally available to Indians under Federal laws specifically applicable to Indians.

"(10) INTERSTATE SYSTEM.—The term "Interstate System" means the National System of Interstate and Defense Highways described in section 103.

"(11) MAINTENANCE.—The term "maintenance" means the preservation of the entire highway, including surface, shoulders, roadsides, structures, and traffic-control devices necessary for its safety and efficient utilization.

"(12) NATIONAL HIGHWAY AND BRIDGE SYSTEM.—The term "National Highway and Bridge System" means the National Highway and Bridge System described in section 103.

"(13) OPEN TO PUBLIC TRAVEL.—The term "open to public travel" means that the road section is available, except during scheduled periods, extreme weather or emergency conditions, passable by four-wheel standard passenger cars, and open to the general public for use without restrictive gates, prohibitive signs, or regulation other than restrictions based on size, weight, or class of registration. Toll plazas of public toll roads are not considered restrictive gates.

"(14) OPERATIONAL IMPROVEMENT.—The term "operational improvement" means a capital improvement other than a resurfacing restoring or rehabilitating improvement; additional lanes except high occupancy vehicle lanes; interchanges; grade separations; or the construction of a new facility on a new location. The term includes the installation of traffic surveillance and control equipment; computerized signal systems; motorist information systems, integrated traffic control systems; incident management programs; demand management strategies; high occupancy vehicle preferential treatments including the construction of high occupancy vehicle lanes; and spot geometric and traffic control modifications to alleviate specific bottlenecks and hazards.

"(15) PARK ROAD.—The term "park road" means a public road that is located within, or provides access to, an area in the national park system with title and maintenance responsibilities vested in the United States.

"(16) PARKWAY.—The term "parkway" means a parkway authorized by an Act of Congress on lands to which title is vested in the United States.

"(17) PROJECT AGREEMENT.—The term "project agreement" means the formal instrument to be executed under section 110.

"(18) PUBLIC AUTHORITY.—The term "public authority" means a Federal, State, county, town, or township, Indian tribe, municipal or other local government or instrumentality with authority to finance, build, operate or maintain toll or toll-free highway facilities.

"(19) PUBLIC LANDS DEVELOPMENT ROADS AND TRAILS.—The term "public lands development roads and trails" means those roads and trails under the jurisdiction of the Bureau of Land Management.

"(20) PUBLIC ROAD.—The term "public road" means any road or street under the jurisdiction of and maintained by a public authority and open to public travel.

"(21) RURAL AREAS.—The term "rural areas" means all areas of a State not included in urban areas.

"(22) SECRETARY.—The term "Secretary" means Secretary of Transportation.

"(23) STARTUP COSTS FOR TRAFFIC MANAGEMENT AND CONTROL.—The term "startup costs for traffic management and control" means initial costs, including labor, administration, utilities and rent, for integrated traffic control systems, incident management programs and traffic control centers.

"(24) STATE.—The term "State" means any one of the fifty States, the District of Columbia, or Puerto Rico.

"(25) STATE FUNDS.—The term "State funds" includes funds raised under the authority of the State or any political or other subdivision thereof and made available for expenditure under the direct control of the State transportation or highway department.

"(26) URBAN AREA.—The term "urban area" means an urbanized area or, in the case of an urbanized area encompassing more than one State that part of the urbanized area in each State, or urban place as designated by the Bureau of the Census having a population of five thousand or more and not within any urbanized area, within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary. Boundaries shall, as a minimum, encompass the entire urban place designated by the Bureau of the Census, except in the case of cities in the State of Maine and in the State of New Hampshire.

"(27) URBANIZED AREA.—The term "urbanized area" means an area with a population of 50,000 or more designated by the Bureau of the Census, within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary. Boundaries shall, as a minimum, encompass the entire urbanized area within a State as designated by the Bureau of the Census.

"(b) DECLARATION OF POLICY.—

"In general, the Congress of the United States finds that—

"(1) The United States is a nation of diverse metropolitan and rural regions with differing geographic, demographic, and economic characteristics. Changes in where and how we live, go to work, and send our goods to market, require new approaches in how we manage and fund future transportation programs.

"(2) Through past efforts, we have modern highways, transit systems and railroads that unite the nation, propel its economic progress and enhance its quality of life. These systems are our responsibility to manage and preserve and, as necessary, to expand. Changing conditions require new programs and policy initiatives.

"(3) The nation must redirect its collective efforts toward moving people, information, and goods rather than moving vehicles. The new federal program shall refocus national policies to respond to increasing inter-regional travel, relieving urban congestion, improving rural access, fostering intermodalism, enhancing air quality, conserving energy and giving priority to projects (regardless of mode) that offer the best solutions to the transportation problems and environmental considerations of each region.

"(4) The essential element for an effective future program is a new Federal, State and local partnership. One that provides more funding and greater program flexibility—with accountability to Congress of the achievement of national objectives; places greater program management and resource contribution responsibilities at State and local levels; permits use of creative means to finance total systems needs including more opportunities for private sector investment and management.

"(5) The United States needs a reauthorized surface transportation act that:—Encourages and assists State and local governments to exercise initiative and innovation in responding to intra-regional and intra-state transportation needs. Dedicates highway user fee revenues solely to transportation needs, keeping them exempt from non-transportation uses and available to the States at authorized levels each year; Provides full funding for the completion of the unfinished Interstate Construction Program including substitute projects; Takes a comprehensive approach to highway safety; Defines Federal program transportation responsibilities among the various levels of government; Encourages policies that will promote economic strength in regional markets; Promotes energy conservation; and Reconciles differences between environmental and transportation policies and makes these policies mutually reinforcing.".

SEC. 120. FEDERAL-AID SYSTEMS.

Section 103 of title 23, United States Code, is amended to read as follows:

"SEC. 103. FEDERAL-AID SYSTEMS.

"(a) INTERSTATE SYSTEM.—

"(1) DEFINED.—The Interstate System is a system located (1) to connect by routes, as direct as practicable, principal metropolitan areas, cities, and industrial centers, (2) to serve the national defense, and (3) to the greatest extent possible, to connect at suitable border points with routes of continental importance in Canada and Mexico. The Interstate System is that system designated under this title before the enactment of this section *Provided* that mileage designated in States that had no Interstate mileage until after December 29, 1981, must be classified as principal arterial to be included.

"(2) ADDITIONS TO THE INTERSTATE SYSTEM.—Upon application of a State and approval of the Secretary additions may be made to the Interstate System of, (1) existing or new toll or free mileage meeting Interstate standards that is connected to the Interstate System and (2) mileage designated in States that had no Interstate mileage until after December 29, 1981 meeting Interstate mileage until after December 29, 1981 meeting Interstate standards.

SEC. 121. APPORTIONMENT.

Sec. 104 of title 23, United States Code, is amended to read as follows:

"SEC. 104. APPORTIONMENT.

"(a) ADMINISTRATIVE, RESEARCH AND DATA COLLECTION DEDUCTION.—On October 1 of each fiscal year, or as soon thereafter as is practicable, the Secretary shall deduct not to exceed 3¾ percent of the sums authorized to be appropriated for expenditure for the National Highway and Bridge Program, the Interstate Construction Program, the Urban and Rural Highway and Bridge Program, and the Interstate Substitution Program for payment of the administrative expenses of the Federal Highway Administration and for carrying on the research, data collection and other programs authorized by sections 303 and 307 *Provided* that funds shall be available from the administrative deduction for Operation Lifesaver, a national public information program to educate the public of the inherent hazards at railway-highway crossings. In making a determination, the Secretary shall take into account the unexpended balance of any sums deducted in prior years. The sum deducted shall be available for expenditure until expended.

"(b) URBANIZED AREA PLANNING.—

"(1) DEDUCTION.—On October 1 of each fiscal year, or as soon thereafter as is practicable, the Secretary, after making the deduction authorized by (a) shall deduct 1/2 of 1 percent of the remaining funds authorized to be appropriated for the National Highway and Bridge Program, the Interstate Construction Program, the Urban and Rural Highway and Bridge Program for that fiscal year for the purpose of carrying out the objective of section 134.

"(2) APPORTIONMENT FORMULA.—Funds deducted under (1) shall be apportioned to the States in the ratio which the population in urbanized areas in each State bears to the total population in urbanized areas in all the States as shown by the latest available census, except that no State shall receive less than 1/2 of 1 percent of the amount apportioned.

"(3) AVAILABILITY WITHIN A STATE.—The funds apportioned to any State under (2) shall be made available by the State to metropolitan planning organizations designated as being responsible together with the State for carrying out the objective of section 134.

"(4) USE OF FUNDS OUTSIDE OF URBANIZED AREAS.—Upon an agreement of a State and a metropolitan planning organization that funds available to the metropolitan planning organization are in excess of its needs, the excess amount may be used to do transportation planning outside of urbanized areas. A State receiving the minimum apportionment under (2) may, subject to the approval of the Secretary, use the funds apportioned to finance transportation planning outside of urbanized areas.

"(5) FEDERAL SHARE PAYABLE.—The Federal share payable for the Urbanized Area Planning Funds provided by this subsection shall be as is provided in section 120 except where the secretary determines that the Federal interest will be best served without a State match.

"(6) APPORTIONMENT WITHIN A STATE.—The distribution within any State of the planning funds made available under (3) shall be by a formula developed by each State and approved by the Secretary, which considers population in and provides an appropriate distribution for all urbanized areas to carry out the processes described in section 134.

"(c) APPORTIONMENT.—On October 1 of each fiscal year, or as soon thereafter as is practicable, the Secretary after making the deductions authorized by (a) and (b) shall apportion sums authorized to be appropriated for that fiscal year for the National Highway and Bridge Program, and the Urban and Rural Highway and Bridge Program, among the several States in the following manner:

"(1) NATIONAL HIGHWAY AND BRIDGE PROGRAM.—

"(A) APPORTIONMENT FORMULA.—

For the National Highway and Bridge program—

1/9 in the ratio which the rural lane miles in each State bears to those of all States;

1/9 in the ratio which rural vehicle miles travelled in each State bears to those of all States;

2/9 in the ratio which the urban lane miles in each State bears to those of all States;

2/9 in the ratio which the urban lane miles in each State bears to those of all States; and

3/9 in the ratio which diesel fuel consumed in each State bears to that consumed in all States.

"(B) MINIMUM APPORTIONMENT.—No State shall receive less than 1/2 of 1 percent of each year's apportionment.

"(C) TRANSFER TO URBAN AND RURAL HIGHWAY AND BRIDGE PROGRAM.—A State may transfer up to 20 percent of its annual National Highway and Bridge Program apportionment to its Urban and Rural Highway and Bridge Program if the State and the Secretary agree that adequate Interstate System conditions exist and if the State meets criteria established by the Secretary.

"(2) URBAN AND RURAL HIGHWAY AND BRIDGE PROGRAM.—

"(A) APPORTIONMENT FORMULA.—The funds authorized to be appropriated for the Urban and Rural Highway and Bridge Program shall be apportioned in the ratio of attributable tax payments to the Highway Account of the Highway Trust Fund, attributable to the highway users of each State: *Provided*, That no State shall receive less than 1/2 of 1 percent of each years apportionment.

"(B) TRANSFER TO NATIONAL HIGHWAY AND BRIDGE PROGRAM.—

A state may transfer up to 20 percent of its annual Urban and Rural Highway and Bridge Program apportionment to its National Highway and Bridge Program.

"(d) NOTIFICATION TO THE STATES.—On October 1 of each fiscal year, or as soon thereafter as is practicable, the Secretary shall certify to each of the States the sums apportioned and deducted in that fiscal year under this section. The Secretary shall, if possible, advise each State of the amount that will be apportioned each year under this section not later than 90 days before the beginning of the fiscal year of apportionment.

"(e) HEAVY VEHICLE USE TAX.—The Secretary shall reduce the State's apportionment of National Highway and Bridge Program funds under (c)(1) in an amount up to 10 percent of the amount to be apportioned in any fiscal year during which heavy vehicles, subject to the use tax imposed by section 4481 of the Internal Revenue Code of 1986, may be lawfully registered in the State

without having presented proof of payment, in the form prescribed by the Secretary of the Treasury, of the use tax imposed by section 4481 of that Code. Amounts withheld from apportionment to a State under this subsection shall be apportioned immediately to the other States pursuant to (c)(1) and shall be available in the same manner and to the same extent as other National Highway and Bridge Program funds apportioned at the same time.

SEC. 122. PROJECT AGREEMENTS AND OBLIGATION OF FUNDS.

(a) Section 110 of title 23, United States Code, is amended to read as follows:

"SEC. 110. PROJECT AGREEMENTS AND OBLIGATION OF FUNDS.

"(a) SUBMISSION.—The State highway department shall submit to the Secretary a formal project agreement for each proposed project under this title other than an Urban and Rural Highway and Bridge Program project or a project administered under section 102(c).

"(b) OBLIGATION OF FUNDS.—The Secretary shall act upon the proposed formal project agreement as soon as is practicable. The action of the Secretary in entering into a project agreement creates a contractual obligation of the United States to pay its proportional contribution for that project.

"(c) STATE HIGHWAY OR TRANSPORTATION DEPARTMENT REPRESENTATIONS.—The Secretary may rely upon representations made by the State highway or transportation department with respect to the arrangements or agreements made by the State highway or transportation department and appropriate local officials where a part of the project is to be constructed at the expense of, or in cooperation with, local subdivisions of the State.

"(d) RIGHTS-OF-WAY PROJECT AGREEMENTS.—The agreement between the Secretary and the State highway or transportation department for the reimbursement of the cost of rights-of-way shall provide for the actual construction of a road on the rights-of-way within a period not exceeding 20 years following the fiscal year in which funds are made available unless a longer period is determined to be reasonable by the Secretary. If construction has not started or the period has not been extended, the Federal pro rata share of funds expended shall be repaid and credited to the State's unobligated balance of Federal highway funds as determined to be appropriate at the time of repayment.

"(e) PRELIMINARY ENGINEERING AGREEMENTS.—The State may enter into an annual agreement with the Secretary to perform preliminary engineering on a system-wide basis, in accordance with rules established by the Secretary. Preliminary engineering agreements may include project development for toll or other nontraditional public-private design, build, operate projects, in accordance with rules established by the Secretary. The Federal share for the preliminary engineering costs shall not exceed amounts authorized in this title.".

(b) The analysis of chapter 1 of title 23, United States Code is amended by striking "110. Project Agreements." and inserting in lieu thereof "110. Project Agreements and Obligations of Funds."

SEC. 123. AVAILABILITY OF FUNDS.

Section 118 of title 23, United States Code, is amended to read as follows:

"SEC. 108. AVAILABILITY OF FUNDS.

"(a) DATE AVAILABLE FOR OBLIGATION.—Except as otherwise specifically provided, authorizations to carry out this title and the Federal-aid Highway Act of 1991 from the Highway Account of the Highway Trust Fund shall be available for obligation on October 1 of the fiscal year for which they are authorized. The Secretary shall apportion, allocate, set aside or obligate those authorizations.

"(b) PERDIODS OF AVAILABILITY OF FUND.—

"(1) NATIONAL HIGHWAY AND BRIDGE PROGRAM, URBANIZED AREA PLANNING, AND STATEWIDE TRANSPORTATION PLANNING AND RESEARCH PROGRAM FUNDS.—

"(A) PERIOD OF AVAILABILITY.—Funds apportioned for the National Highway and Bridge Program, and the Urbanized Area Planning Program and funds earmarked for the Statewide Transportation Planning and Research Program in a State shall remain available for obligation in that State for a period of one year after the close of the fiscal year for which the funds are authorized: *Provided*, That funds apportioned for the National Highway and Bridge Program for the fiscal years 1992, 1993 and 1994 shall remain available for obligation in that State for a period of 3 years after the close of the fiscal year for which the funds are authorized.

"(B) REAPPORTIONMENT.—Funds, other than Statewide Transportation Planning and Research Program funds, not obligated within the period of availability of (A) shall be reapportioned among those States which have obligated their funds on the basis of the original apportionment.

"(2) EMERGENCY RELIEF AND URBAN AND RURAL HIGHWAY AND BRIDGE PROGRAM FUNDS.—

Emergency Relief and Urban and Rural Highway and Bridge Progam Funds shall remain available for obligation until expended.

"(3) TERRITORIAL HIGHWAY PROGRAM FUNDS.—

"(A) PERIOD OF AVAILABILITY.—Funds allocated to a territory for the Territorial Highway Program shall remain available for obligation in that territory for a period of 1 year after the close of the fiscal year in which they were allocated.

"(B) REALLOCATION.—Funds not obligated within the period of availability of (A) shall be returned to the Secretary for reallocation.

"(c) FUNDS DEEMED OBLIGATED; EFFECT OF RELEASE OF FUNDS.—Sums apportioned or allocated for a particular purpose for any fiscal year shall be deemed to be obligated if a sum equal to the total of the sums apportioned or allocated to the State for that purpose for that fiscal year and previous fiscal years is obligated. Any funds released by the payment of the final voucher or by the modification of the formal project agreement shall be (1) credited to the same class of funds previously apportioned or allocated to the State and be immediately available for obligation, or (2) if the program for which the funds were apportioned or allocated has been repealed and is inactive, credited to the State's National Highway and Bridge Program apportioned funds and be immediately available for obligation.

"(d) ALASKA; PUERTO RICO.—Funds made available to the State of Alaska and the Commonwealth of Puerto Rico under this title may be expended for construction of access and development roads that will serve resource development, recreational, residential, commercial, industrial, or other like purposes.".

SEC. 124. FEDERAL SHARE PAYABLE.

Section 120 of title 23, United States Code, is amended to read as follows:

"SEC. 120. FEDERAL SHARE PAYABLE.

"(a) NATIONAL HIGHWAY AND BRIDGE PROGRAM AND URBAN AND RURAL HIGHWAY AND BRIDGE PROGRAM PROJECTS.—Except as provided in section 129 the Federal share payable on account of National Highway and Bridge and Urban and Rural Highway and Bridge Program projects (other than certain resurfacing, restoring and rehabilitating projects and certain operational improvement projects) shall either (1) not exceed 85 percent of the cost, except that in the case of any State containing nontaxable Indian lands, individual and tribal, and public domain lands (both reserved and unreserved), exclusive of national forests and national parks and monuments, exceeding 5 percent of the total area of all lands in the State, the Federal share may be increased by a percentage of the remaining costs equal to the percentage that the area of all those lands in the State, is of its total area, or (2) not to exceed 85 percent of the cost, except that in the case of any State containing nontaxable Indian lands, individual and tribal, public domain lands (both reserved and unreserved), national forests, and national parks and monuments, the Federal share may be increased by a percentage of the remaining cost equal to the percentage that the area of all those lands in the State is of its total area, except that the Federal share payable on any project in a State under (1) or (2) shall not exceed 90 percent of the cost of the project. In any case where a State elects to have the Federal share provided in (2), the State must enter into an agreement with the Secretary covering a period of not less than 1 year, requiring the State to use solely for highway construction purposes (other than paying its share of projects approved under this title) during the period covered by the agreement the difference between the State's share as provided in (2) and what its share would be if it elected to pay the share provided in (1) for all projects subject to the agreement.

"(b) INTERSTATE SYSTEM RESURFACING, RESTORING AND REHABILITATING AND OPERATIONAL IMPROVEMENT PROJECTS.—Except as provided in section 129 the Federal share payable on account of any resurfacing, restoring and rehabilitating or operational improvements project on the Interstate System financed with National Highway and Bridge Program funds shall not exceed 90 percent of the cost, plus a percentage of the remaining 10 percent of the cost of any State containing unappropriated and unreserved public lands and nontaxable Indian lands, individual and tribal, exceeding 5 percent of the area of all lands therein, equal to the percentage that the area of the lands in the State is of its area, except that the Federal share payable on any project in any State shall not exceed 95 percent of the cost of the project.

"(c) SECRETARY OF THE INTERIOR STATEMENT.—The Secretary may rely on an annual statement to be provided by the Secretary of the Interior on the area of the lands referred to in (a) and (b).

(d) URBANIZED AREA PLANNING PROGRAM AND STATEWIDE TRANSPORTATION PLANNING AND RESEARCH PROGRAM.—Except as provided in section 129 of the Federal share payable on account of projects financed with Urbanized Area Planning, and Statewide Transportation Planning and Research funds shall not exceed 85 percent.

"(e) FEDERAL LANDS HIGHWAY PROGRAM AND PROJECTS IN THE TERRITORIES.—Except as provided in section 129 the Federal share payable on account of any project financed

with Federal Lands Highway Program funds and on account of any project in the Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands shall not exceed 100 percent of the cost.

"(f) UNIVERSITY TRANSPORTATION CENTER PROGRAM PROJECTS.—The Federal share payable on account of a project financed with University Transportation Centers program funds shall not exceed 50 percent of the costs.

"(g) EDUCATION AND TRAINING PROGRAM FUNDS.—The Federal share payable on account of training financed with Education and Training Program funds shall not exceed a percentage of the cost determined by the Secretary.

"(h) HIGHWAYS WITHIN DEPARTMENT OF THE INTERIOR LAND.—The Secretary is authorized to cooperate with the State transportation or highway departments and with the Department of the Interior in the construction of highways within Indian reservations and national parks and monuments under the jurisdiction of the Department of the Interior and to pay the amount assumed from the funds apportioned under section 104 to the State where the reservations and national parks and monuments are located.

"(i) INCREASED NON-FEDERAL SHARE.—A State may contribute an amount in excess of the share provided to this title for any title 23 project so as to decrease the Federal share payable on the project: *Provided*, That the use of this provision shall be subject to criteria established by the Secretary.

"(j) EMERGENCY RELIEF PROJECTS.—The Federal share payable on account of emergency relief projects shall not exceed the share provided in (a): *Provided*, That the Federal share payable on account of emergency relief projects on forest highways, park roads, parkways, Indian reservation roads, forest development roads and public lands development roads shall not exceed the share provided in (e): *Provided*, That the Federal share payable for eligible temporary and permanent work accomplished with emergency relief funds within 90 days after the actual occurrence of the national disaster or catastrophic failure may amount to 100 percent of the cost: *And Provided*, That the cost of an emergency relief project may not exceed the cost of repair or reconstruction of a comparable facility. As used in this section with respect to bridges, a comparable facility means a facility which meets the current geometric and construction standards required for the types and volume of traffic which the facility will carry over its design life.

"(k) CERTAIN INTERSTATE IMPROVEMENTS.—Notwithstanding any other provision of this section limiting the percentage of the costs of a project which are payable with Federal funds, the Federal Government may pay up to 90 percent of the costs of Interstate projects for the construction of high occupancy vehicle lands and for operational and safety improvement.".

SEC. 125. PROJECT LITIGATION EXPENSES.

(a) Section 126 of title 23, United States Code, is amended to read as follows:

"SEC. 126. PROJECT LITIGATION EXPENSES.

"The cost of the project under this title shall include the cost of attorney fees and other litigation expenses that are authorized by the Equal Access to Justice Act (28 U.S.C. 2412(d)) and imposed as a liability upon the Secretary in connection with the development of the project. The Federal share payable shall be 100 percent of cost.".

(b) The analysis of chapter 1 of title 23, United States Code, is amended by striking "126. Diversion." and inserting in lieu thereof "126. Project Litigation Expenses.".

SEC. 126. ALLOCATION OF FEDERAL LANDS HIGHWAY FUNDS.

(a) Section 202 of title 23, United States Code, is amended to read as follows:

"SEC. 202. ALLOCATION OF FEDERAL LANDS HIGHWAYS FUNDS.

"(a) ADMINISTRATIVE DEDUCTION.—On October 1 of each fiscal year before allocating any sums under this section the Secretary shall deduct not to exceed three and three-fourths percent of the sums authorized to be appropriated for forest highways, park roads and parkways, and Indian reservation roads for the purpose of administering the provisions of law to be financed from the authorizations. The sums deducted shall be available for obligation until expended.

"(b) FOREST HIGHWAYS.—On October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for that fiscal year for forest highways according to the relative needs of the various elements of the national forest system as determined by the Secretary, taking into consideration the need for access as identified by the Secretary of Agriculture through renewable resource and land use planning, and the impact of that planning on existing transportation facilities.

"(c) PARK ROADS AND PARKWAYS.—On October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for that fiscal year for park roads and parkways each according to the relative needs of the various elements of the national park system, taking into consideration the need for access as identified through land use planning and the impact of that planning on existing transportation facilities.

"(d) INDIAN RESERVATION ROADS.—On October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for that fiscal year for Indian reservation roads according to the relative needs of the various reservations as jointly identified by the Secretary and the Secretary of the Interior.".

(b) The analysis of chapter 2 of title 23, United States Code is amended by striking "202. Allocation" and inserting in lieu thereof "202. Allocation of Federal Lands Highways Funds.".

SEC. 127. ADMINISTRATION OF FEDERAL LANDS HIGHWAYS FUNDS.

(a) Section 203 of title 23, United States Code, is amended to read as follows:

"SEC. 203. ADMINISTRATION OF FEDERAL LANDS HIGHWAYS FUNDS

"(a) AVAILABILITY.—Funds authorized for forest highways, park roads and parkways, and Indian reservation roads shall be available for contract upon allocation, or on October 1, of the fiscal year for which authorized if no allocation is required.

"(b) LAPSE.—Any amount remaining unobligated for a period of 3 years after the close of the fiscal year for which authorized shall lapse.

"(c) OBLIGATION.—The Secretary of the Department charged with the administration of Federal Lands Highway funds is granted authority to enter into project agreements with other Federal, State or local agencies, approve projects, enter into contracts and incur obligations. Notwithstanding any other provision of law, entering into a project agreement with Federal, State or local agencies or entering into a contract shall create a contractual obligation of the United States for payment of the project costs.

"(d) FUNDS DEEMED TO BE OBLIGATED.—Any funds authorized for any fiscal year for forest highways, park roads and parkways, and Indian roads shall be deemed to have been obligated if a sum equal to the total of the sums authorized for that fiscal year and previous fiscal years since and including the fiscal year ending June 30, 1955, shall have been obligated.

"(e) RELEASED FUNDS.—Any funds released by payment of final voucher or modification of project authorizations shall be credited to the balance of unobligated authorizations and be immediately available for obligation.".

(b) The analysis of chapter 2 of title 23, United States Code, is amended by striking "203, Availability of funds" and inserting in lieu thereof "203. Administration of Federal Lands Highways Funds.".

SEC. 128. FEDERAL LANDS HIGHWAYS PROGRAM

Section 204 of title 23, United States Code, is amended to read as follows:

"SEC. 204. FEDERAL LANDS HIGHWAYS PROGRAM.

"(a) HIGHWAYS, ROADS AND WAYS INCLUDED.—Recognizing the need for all Federal roads which are public roads to be treated under the same uniform policies as roads which are on the National Highway and Bridge System there is established a coordinated Federal lands highways program which shall consist of forest highways, park roads and parkways, and Indian reservation roads.

"(b) PLANNING, RESEARCH, ENGINEERING AND CONSTRUCTION.—Funds available for forest highways shall be used by the Secretary to pay for the cost of planning, research, engineering and construction. Funds available for park roads and parkways, and Indian reservation roads shall be used by the Secretary or the Secretary of the Interior to pay for the cost of planning, research, engineering and construction. The Secretary and the Secretary of the Interior, as appropriate, may enter into construction contracts and other contracts with a State or civil subdivision or Indian tribe. In the case of Indian reservation roads. Indian labor may be employed under rules and regulations prescribed by the Secretary of the Interior. No ceiling on Federal employment shall be applicable to construction or improvement of Indian reservation roads.

"(c) INDIAN RESERVATION ROADS ON THE NATIONAL HIGHWAY AND BRIDGE SYSTEM.—Before approving a project as an Indian reservation road project on the National Highway and Bridge System, the Secretary must determine that the obligation of funds for that project is supplementary to and not in lieu of the obligation, for projects on Indian reservation roads, of a fair and equitable share of funds apportioned to the State for the National Highway and Bridge System.

"(d) CONTRIBUTION OF STATE AND LOCAL FUNDS.—Contributions of States, Indian tribes, counties, or other local subdivisions may be accepted for construction and improvement. Any funds received from a State, Indian tribe, county, or local subdivision shall be made available for use on the Federal lands highways to which the funds were contributed.

"(e) COMPETITIVE BIDDING.—Construction of each project shall be performed by contract awarded by competitive bidding, unless the Secretary or the Secretary of the Interior shall affirmatively find that, under the circumstances relating to a project, some other method is in the public interest. Notwithstanding the foregoing, the provisions of section 23 of the "Buy Indian" Act of June 25, 1910 (36 Stat. 861), and the provisions of

section 7(b) of the Indian Self Determination and Education Assistance Act (88 Stat. 2205) shall apply to all funds administered by the Secretary of the Interior which are authorized for Indian reservation roads.

"(f) REGULATIONS AND AGREEMENTS.—All authorizations for the construction and improvement of each class of Federal lands highways shall be administered in conformity with regulations and agreements approved by the Secretary and the Secretary of the appropriate Federal land managing agency.

"(g) FOREST SERVICE ADMINISTRATIVE EXPENSE.—The Secretary shall transfer to the Secretary of Agriculture from authorizations for forest highways amounts as may be needed to cover administrative expenses of the Forest Service for forest highways.

"(h) PARKING AREAS AND SCENIC EASEMENTS.—Funds available for each class of Federal Lands Highways shall be available for vehicular parking areas, scenic outlooks and scenic easements.".

SEC. 129. BICYCLE TRANSPORTATION AND PEDESTRIAN WALKWAYS.

Section 217 of title 23, United States Code, is amended to read as follows:

"SEC. 217. BICYCLE TRANSPORTATION AND PEDESTRIAN WALKWAYS.

"(a) PEDESTRIAN WALKWAY PROJECTS.—To encourage energy conservation and the multiple use of highway rights-of-way, including the development and improvement of pedestrian walkways on or in conjunction with highway rights-of-way, the States may, as title 23 projects, construct pedestrian walkways within those corridors. Funds from title 23 programs shall be available for pedestrian walkways authorized under this section. Projects shall be located and designed pursuant to an overall plan which will provide due consideration for safety and contiguous routes.

"(b) BICYCLE AND PEDESTRIAN PROJECTS.—

"(1) ELIGIBLE PROJECTS.—The States may construct as title 23 projects new or improved lanes, paths, or shoulders; traffic control devices, shelters for and parking facilities for bicycles and pedestrians within corridors, and carry out nonconstruction projects related to safe bicycle and pedestrian use. Funds from title 23 programs shall be available for bicycle and pedestrian projects. National Highway and Bridge Program and Urban and Rural Highway and Bridge Program funds may be used for this purpose at a 100 percent Federal share. Projects shall be located and designed pursuant to an overall plan which will provide due consideration for safety and contiguous routes. All bicycle and pedestrian projects authorized by this section shall be principally for transportation, rather than recreation purposes.

"(2) BRIDGES.—In any case where a highway bridge deck being replaced or rehabilitated with Federal financial participation is located on a highway, other than a fully access controlled highway, on which bicycles or pedestrians are permitted to operate at each end of the bridge, and the Secretary determines that the safe accommodation of bicycles or pedestrians can be provided at reasonable cost as part of replacement or rehabilitation, then the bridge shall be replaced or rehabilitated to provide safe accommodations.

"(c) FEDERAL LANDS HIGHWAYS FUNDS.—Funds authorized for forest highways, park roads and parkways and Indian reservation roads shall be available, at the discretion of the department charged with the administration of the funds, for the construction of pedestrian walkways and bicycle routes in conjunction with the roads, highways, and parkways.

"(d) MOTORIZED VEHICLES.—No motorized vehicles shall be permitted on trails and walkways authorized under this section except for maintenance purposes and, when snow conditions and State or local regulations permit, snowmobiles.

"(e) URBAN AND RURAL HIGHWAY AND BRIDGE PROGRAM FUNDS.—A State may expend Urban and Rural Highway and Bridge Program funds for the construction of pedestrian walkways and bicycle routes other than for walkways and routes on National Highway and Bridge System facilities or on roads functionally classified as local or rural minor collector.".

SEC. 130. EDUCATION AND TRAINING PROGRAM.

(a) Section 301 of title 23, United States Code, is amended to read as follows:

"SEC. 301. EDUCATION AND TRAINING PROGRAM.

"(a) AUTHORITY.—The Secretary is authorized to carry out a transportation assistance program that will provide highway and transportation agencies, in (1) urbanized areas of 50,000 to 1,000,000 population and (2) rural areas, access to modern highway technology.

"(b) GRANTS AND CONTRACTS.—The Secretary may make grants and enter into direct contracts for education and training, technical assistance and related support services that will—(1) assist rural local transportation agencies to develop and expand their expertise in road and transportation areas; improve roads and bridges; enhance programs for the movement of passengers and freight; and deal effectively with specific road related problems by preparing and providing training packages, manuals, guidelines and technical resource materials; (2) identify, package and deliver usable highway technology to local jurisdictions to assist urban transportation agencies in developing and expanding their ability to deal effectively with road related problems; and (3) establish, in cooperation with State transportation or highway departments and universities (A) urban technical assistance program centers in States with two or more urbanized areas of 50,000 to 1,000,000 population and (B) rural technical assistance program centers. The Secretary shall provide technical and financial support for the centers.".

(b) The analysis for chapter 3 of title 23, United States Code is amended by striking "301. Education and Training Program."

SEC. 131. INTERNATIONAL HIGHWAY TRANSPORTATION OUTREACH PROGRAM.

(a) Section 306 of title 23, United States Code, is amended to read as follows:

SEC. 306. INTERNATIONAL HIGHWAY TRANSPORTATION OUTREACH PROGRAM.

"(a) ACTIVITIES.—The Secretary is authorized to engage in activities to inform the domestic highway community of technological innovations abroad that could significantly improve highway transportation in the United States, to promote United States highway transportation expertise internationally, and to increase transfers of United States highway transportation technology to foreign countries. Such activities may include:

"(1) develop, monitor, assess, and domestically disseminate information about foreign highway transportation innovations that could significantly improve highway transportation in the United States.

"(2) research, development, demonstration, training, and other forms of technology transfer and exchange.

"(3) inform other countries about the technical quality of American highway transportation goods and services through participation in trade shows, seminars, expositions and other such activities.

"(4) offer those Federal Highway Administration technical services which cannot be readily obtained from the United States private sector to be incorporated into the proposals of United States firms undertaking foreign highway transportation projects. The costs for assistance shall be recovered under the terms of each project.

"(5) conduct studies to assess the need for or feasibility of highway transportation improvements in countries that are not members of the Organization for Economic Cooperation and Development as of the date of enactment, and in Greece and Turkey.

"(b) COOPERATION.—The Secretary may carry out the authority granted hereby, either independently, or in cooperation with any other branch of the United States Government, State or local agency, authority, association, institution, corporation (profit or nonprofit), foreign government, multinational institution, or any other organization or person.

"(c) FUNDS.—The funds available to carry out the provisions of this section shall include funds deposited in a special account with the Secretary of the Treasury for such purposes by any cooperating organization or person. The funds shall be available for promotional materials, travel, reception and representation expenses necessary to carry out the activities authorized by this section. Reimbursements for services provided under this section shall be credited to the appropriation concerned.".

(b) The analysis for chapter 3 of title 23, United States Code, is amended by striking "306. Mapping." and inserting in lieu thereof "306. International Highway Transportation Outreach Program.".

SEC. 132. TEMPORARY MATCHING FUND WAIVER.

(a) WAIVER OF MATCHING SHARE.—Notwithstanding any other provision of law, the Federal share of any qualifying project approved by the Secretary under title 23, United States Code, and of any qualifying project for which the United States becomes obligated to pay under title 23, United States Code, during the period beginning on October 1, 1991 and ending September 30, 1993, shall be the percentage of the construction cost as the State transportation or highway department requests, up to and including 100 percent. The total amount of increased Federal share per fiscal year which may be obligated for qualifying projects in any State under (a) shall not be greater than 25 percent of the total amounts apportioned for the National Highway and Bridge and, Urban and Rural Highway and Bridge Programs in FY 1992.

(b) QUALIFYING PROJECT.—For purposes of this section, the term "qualifying project" means a project approved by the Secretary after the enactment of the Federal-Aid Highway Act of 1991, or a project for which the United States becomes obligated to pay after that enactment, and for which the Governor of the State submitting the project has certified, in accordance with regulations established by the Secretary, that sufficient funds are not available to pay the cost of the non-Federal share of the project.

(c) REPAYMENT.—The total amount of increases in the Federal share made pursuant to (a) for any State shall be repaid to the United States by the State on or before March 30, 1994. Payments shall be deposited in the Highway Trust Fund and repaid amounts shall be credited to the appropriate apportionment accounts of the State.

(d) DEDUCTION FROM APPORTIONMENTS.—If a State has not made the repayment as required by (c), the Secretary shall deduct from funds apportioned to the State under title 32, United States Code, in each of the fiscal years ending September 30, 1995 and September 30, 1996, a pro rata share of each category of apportioned funds, the total amount of which shall be equal to 50 per centum of the amount needed for repayment. Any amount deducted under this subsection shall be reapportioned for the fiscal years 1995 and 1996 in accordance with title 23, United States Code, to those States which have not received a higher Federal share under this section and to those States which have made the repayment required by subsection(c). Obligations and deobligations recorded against funds made available under the provisions of this section shall be recorded and reported as net obligations.

SEC. 133. INNOVATIVE PROJECTS.

(a) EXPERIMENTAL PROGRAMS.—The Secretary of Transportation shall carry out experimental programs which allow the Federal Highway Administration and the States to demonstrate innovative and/or non-traditional design, construction and management practices for highway projects while utilizing a competitive process for selection of contractors.

(b) REPORT.—The Secretary shall evaluate and report on the results of the innovative experimental programs conducted under (a).

SEC. 136. FUNCTIONAL RECLASSIFICATION.

A functional reclassification, which shall be updated periodically, should be completed by each "State", as that term is defined in 23 U.S.C. 401, September 30, 1992, and shall be completed by September 30, 1993 in accordance with guidelines that will be issued by the Secretary. The functional reclassification shall classify all "public roads" as that term is defined in 23 U.S.C. 101.

SEC. 135. TRANSIT PROJECTS.

Funds made available for a transit project under this Act or under title 23, United States Code, shall be transferred to and administered by the Urban Mass Transportation Administration.

SEC. 136. RECODIFICATION.

The Secretary shall, by October 1, 1992, prepare a codification of title 23, United States Code, related Acts and statutes and submit the recodification to the Congress for consideration.

SEC. 137. AMENDMENTS TO ADJUST, CLARIFY, CONFORM, REPEAL, RESTATE, AND SIMPLIFY.

(a) PLANS, SPECIFICATIONS AND ESTIMATES.—

Section 106 of title 23, United States Code, is amended to read as follows;

"SEC. 106. PLANS, SPECIFICATIONS AND ESTIMATES.

"(a) APPROVAL OF P, S, AND E.—The State transportation or highway department shall submit to the Secretary for approval plans, specifications and estimates for proposed projects as the Secretary may require.

"(b) CONSTRUCTION ENGINEERING COSTS.—Items included in any estimate for construction engineering shall not exceed 15 percent of the total estimated cost of a project financed with National Highway and Bridge Program funds after excluding from the total estimated cost, the estimated costs of rights-of-way preliminary engineering, and construction engineering.

"(c) COST REDUCTION ANALYSIS.—Plans, specifications and estimates for proposed projects shall be accompanied by a value engineering or other cost reduction analysis if the Secretary determines that it is necessary.".

(b) ACQUISITION OF RIGHTS-OF-WAY—NATIONAL HIGHWAY AND BRIDGE SYSTEM.—

(1) Section 107 of title 23, United States Code, is amended to read as follows:

"SEC. 107. ACQUISITION OF RIGHTS-OF-WAY—NATIONAL HIGHWAY AND BRIDGE SYSTEM.

"(a) AUTHORITY TO ACQUIRE LANDS, IN GENERAL.—In any case in which the Secretary is requested by a State to acquire lands or interests in lands (including within the term "interests in lands", the control of access from adjoining lands) required by that State for right-of-way or other purposes for a project for the construction, reconstruction, or improvement of the National Highway and Bridge System, the Secretary is authorized, in the name of the United States and prior to the approval of title by the Attorney General, to acquire, enter upon, and take possession of those lands or interests in lands by purchase, donation, condemnation, or otherwise in accordance with the laws of the United States (including the Act of February 26, 1931, 46 Stat. 1421), if—

"(1) the Secretary determines either that the State is unable to acquire necessary lands or interests in lands, or is unable to acquire those lands or interests in lands with sufficient promptness; and

"(2) the State has agreed with the Secretary to pay, at a time as may be specified by the Secretary an amount equal to that percent of the costs incurred by the Secretary, in acquiring the lands or interests in lands which represents the State's pro rata share of project costs as determined in accordance with section 120.

The authority granted by this section shall also apply to lands and interests in lands received as grants of land from the United States and owned or held by railroads or other corporations.

"(b) COSTS INCURRED BY THE SECRETARY.—The costs incurred by the Secretary in acquiring any lands or interests in lands may include the cost of examination and abstract of title, certificate of title, advertising, any fees incidental to acquisition, and any costs, fees or expenses incurred by the United States in acquiring lands through condemnation or otherwise. All costs incurred by the Secretary in connection with the acquisition of any lands or interests in lands shall be paid from the National Highway and Bridge Program funds apportioned to the State upon the request of which lands or interests in lands are acquired, and any sums paid to the Secretary by the State as its share of the costs of acquisition of lands or interests in lands shall be deposited in the Treasury to the credit of the appropriation of Federal-aid highways and shall be credited to the amount apportioned to the State as its apportionment of National Highway and Bridge Program funds, or shall be deducted from other moneys due the State for reimbursement from funds authorized to be appropriated for the National Highway and Bridge Program.

"(c) CONVEYANCE OF LANDS BY THE SECRETARY.—The Secretary is authorized and directed by proper deed, executed in the name of the United States, to convey any lands or interests in lands acquired in any State under the provisions of this section to the State transportation or highway department of the State or its political subdivision as its laws may provide, upon terms and conditions as may be agreed upon by the Secretary and the State transportation or highway department or political subdivision to which the conveyance is to be made.

"(d) LANDS OWNED BY THE UNITED STATES.—Whenever rights-of-way, including control of access, on the National Highway and Bridge System are required over lands or interests in lands owned by the United States, the Secretary may make arrangements with the agency having jurisdiction over the lands to give the State or other person constructing the projects on those lands adequate rights-of-way and control of access from adjoining lands, and any agency is directed to cooperate with the Secretary.".

(2) The analysis of chapter 1, of title 23, United States Code, is amended by striking "107. Acquisition of Rights-of-Way-Interstate System." and inserting in lieu thereof "107. Acquisition of Rights-of-Way—National Highway and Bridge System.".

(c) STANDARDS.—

Section 109 of title 23, United States Code, is amended to read as follows:

"SEC. 109. STANDARDS.

(a) APPROVAL OF P.S. AND E.—The Secretary shall not approve plans and specifications for proposed National Highway and Bridge Program projects that are subject to approval if they fail to provide for a facility that will adequately meet the existing and probable future traffic needs and conditions in a manner conducive to safety, durability, and economy of maintenance and that will be designed and constructed in accordance with standards best suited to accomplish the foregoing objectives and to conform to the particular needs of each locality.

"(b) NATIONAL HIGHWAY AND BRIDGE SYSTEM STANDARDS.—The geometric and construction standards to be adopted for the National Highway and Bridge System shall be those approved by the Secretary in cooperation with the State highway departments and the American Association of State Highway and Transportation Officials. Standards, as applied to each actual construction project, shall be adequate, at a minimum, to enable the project to accommodate the types and volumes of traffic anticipated for the project for the 20 year period commencing on the date of approval by the Secretary of the project agreement: *Provided*, That the Secretary may except appropriate projects from the minimum period. Interstate System standards shall in all cases provide for at least four lanes of traffic. The Secretary shall apply standards uniformly throughout all the States.

"(c) SIGN, CURB AND PAVEMENT MARKING AND TRAFFIC SIGNAL STANDARDS.—On any highway project in which Federal funds participate, the location, form and character of informational, regulatory, and warning signs, curb and pavement or other markings, and traffic signals installed or placed by any public authority or other agency, shall be subject to the approval of the State highway department with the concurrence of the Secretary, who is directed to concur only in installations that promote the safe and efficient utilization of the highways.

"(d) HIGHWAY AND RAILROAD GRADE CROSSINGS SAFETY STANDARDS.—No funds shall be approved for expenditure on any National Highway and Bridge System or Federal Lands Program highway under this title, unless proper traffic control devices complying with safety standards determined by the Secretary at that time as being adequate shall be installed or be in operation at any highway and railroad grade crossing or drawbridge on that portion of the highway with respect to which expenditures are to be made.

"(e) SOIL EROSION GUIDELINES.—The Secretary shall issue guidelines for minimizing

possible soil erosion from highway construction. The guidelines shall apply to all proposed projects with respect to which plans, specifications, and estimates are approved by the Secretary after the issuance of the guidelines.

"(f) CONSIDERATION OF ECONOMIC, SOCIAL AND ENVIRONMENTAL EFFECTS.—The Secretary, after consultation with appropriate Federal and State officials, shall promulgate guidelines designed to assure that possible adverse economic, social, and environmental effects relating to any proposed project under this title have been fully considered in developing the project, and that the final decision on the project is made in the best overall public interest, taking into consideration the need for fast, safe and efficient transportation, public services, and the costs of eliminating or minimizing the adverse effects of the following:

"(1) air, noise, and water pollution;

"(2) destruction or disruption of man-made and natural resources, aesthetic values, community cohesion and the availability of public facilities and services;

"(3) adverse employment effects, and tax and property value losses;

"(4) injurious displacement of people, businesses and farms; and

"(5) disruption of desirable community and regional growth. Guidelines shall apply to all proposed projects with respect to which plans, specifications, and estimates are approved by the Secretary after the issuance of the guidelines.

"(g) HIGHWAY NOISE LEVEL STANDARDS.—The Secretary, after consultation with appropriate Federal, State, and local officials, shall develop and promulgate standards for highway noise levels compatible with different land uses and shall not approve plans and specifications for any proposed project on the National Highway and Bridge System for which location approval has not been secured unless the Secretary determines that the plans and specifications include adequate measures to implement the appropriate noise level standards. The Secretary may approve any project on the National Highway and Bridge System for the purpose of carrying out noise level standards. A project may include, but is not limited to, the acquisition of additional rights-of-way, the construction of physical barriers, and landscaping. Sums apportioned for the National Highway and Bridge Program shall be available to finance the Federal share of the project. The project shall be deemed a highway project for all purposes of this title.

"(h) AMBIENT AIR QUALITY.—The Secretary shall cooperate with the Administrator of the Environmental Protection Agency in developing and promulgating guidelines to assure that highways constructed pursuant to this title are in conformity with any approved plan for the implementation of any ambient air quality standard for any air quality control region designated pursuant to the Clean Air Act, as amended.

"(i) CONTIGUOUS STATES.—The Secretary shall not approve any project involving approaches to a bridge under this title, if the project and bridge will significantly affect the traffic volume and the highway system of a contiguous State without first taking into full consideration the views of that State.

"(j) NONMOTORIZED TRANSPORTATION TRAFFIC AND LIGHT MOTORCYCLES.—The Secretary shall not approve any project under this title that will result in the severance or destruction of an existing major route for nonmotorized transportation traffic and light motorcycles, unless the project provides a reasonable alternative route or an alternative route exists.

"(k) 3-R PROJECTS.—A project for resurfacing, restoring, or rehabilitating any highway, other than a fully access-controlled highway, in which Federal funds participate shall be constructed in accordance with standards to preserve and extend the service life of highways and enhance highway safety. Resurfacing, restoring or rehabilitating projects on fully access-controlled highways shall be constructed in accordance with new construction and major reconstruction standards.".

(d) RIGHTS-OF-WAY AGREEMENTS.

(1) Section 111 of title 23, United States Code, is amended to read as follows:

"SEC. 111. RIGHTS-OF-WAY AGREEMENTS.

"(a) IN GENERAL.—All agreements between the Secretary and the State transportation or highway department for the construction of fully access controlled highways on the National Highway and Bridge System shall contain a clause providing that the State will not add any points of access to, or exit from, the project in addition to those approved by the Secretary in the plans for the project, without the prior approval of the Secretary, or as provided for in this section. Agreements may authorize a State or political subdivision, subject to the provisions of (d), to use or permit the use of the right-of-way airspace of the highway for purposes that will not impair the full use and safety of the highway, that will not require or permit vehicular access to the space directly from the established gradeline of the highway, or otherwise interfere in any way with the free flow of traffic. Nothing in this section, or in any agreement entered into under this section, shall require the discontinuance, obstruction, or removal of any establishment for serving motor vehicle users on any highway which has been, or is hereafter, designated as a highway or route on the National Highway and Bridge System (1) if the establishment (A) was in existence before January 1, 1960, (B) is owned by a State, and (C) is operated through concessionaires or otherwise, and (2) if all access to, and exits from, the establishment conform to the standards established under this title.

"(b) VENDING MACHINES.—Any State may permit the placement of vending machines in rest and recreation areas, and in safety rest areas, constructed or located on rights-of-way of a fully access controlled highway of the National Highway and Bridge System in the State. Vending machines may only dispense food, drink, and other articles as the State transportation or highway department determines are appropriate and desirable. Vending machines may only be operated by the State. In permitting the placement of vending machines, the State shall give priority to vending machines which are operated through the State licensing agency designated pursuant to section 2(a)(5) of the Act of June 20, 1936, commonly known as the "Randolph-Sheppard Act" (20 U.S.C. 107(a)(5)). The costs of installation, operation, and maintenance of vending machines shall not be eligible for Federal assistance under this title.

"(c) INCOME FROM RIGHT-OF-WAY AIRSPACE.—States shall charge, as a minimum, fair market value of the sale, use, lease, or lease renewals of right-of-way airspace acquired as a result of a project funded in whole or in part with Federal assistance made available from the Highway Account of the Highway Trust Fund: *Provided*, That the States may permit a government use, a transit or utility use and occupancy, or transportation projects eligible for assistance under this title without charge. Exceptions to the fair market value requirement may be granted by the Secretary for social, environmental, and economic mitigation purposes. This subsection applies to new airspace usage proposals, renewals, of prior agreements, arrangements, or leases entered into by the State after April 2, 1987. A percentage of net income from the revenues obtained by the State for a sale, use, or lease (including a lease renewal) under this section, equal to the percentage of Federal funds used for the project, shall be used by the State for projects eligible under this title.".

(2) The analysis of chapter 1 of title 23, United States Code, is amended by striking "111. Agreements relating to use of an access to rights-of-way—Interstate System." and inserting in lieu thereof "111. Rights-of-Way Agreements.".

(e) LETTING OF CONTRACTS.—

Section 112 of title 23, United States Code is amended to read as follows:

"SEC. 112. LETTING OF CONTRACTS.

"(a) COMPETITIVE BIDDING.—In all cases where construction is to be performed by the State transportation or highway department or under its supervision, a request for submission of bids shall be made by advertisement unless some other method is approved by the Secretary. The Secretary shall require plans and specifications and methods of bidding as shall be effective in securing competition: *Provided*, That Indian contractors certified by State transportation or highway departments shall receive preference in the award of contracts on Indian reservations to the maximum extent practicable.

"(b) BIDDING REQUIREMENTS.—

"(1) IN GENERAL.—Subject to (a) and (b)(2), construction of each project shall be performed by contract awarded by competitive bidding, unless the State transportation or highway department demonstrates, to the satisfaction of the Secretary, that some other method is more cost effective or that an emergency exists. Contracts for the construction of each project shall be awarded only on the basis of the lowest responsive/responsible bid submitted by a bidder meeting established criteria of responsibility. No requirement of obligation shall be imposed as a condition precedent to the award of a contract to a bidder for a project, or to the Secretary's concurrence in the award of a contract to a bidder, unless the requirement or obligation is otherwise lawful and is set forth in the advertised specifications.

"(2) CONTRACTING FOR ENGINEERING AND DESIGN SERVICES.—

"(A) GENERAL RULE.—Each contract for program management, construction management, feasibility studies, preliminary engineering, design, engineering, surveying, mapping, or architectural related services with respect to a project subject to the provisions of (a) shall be awarded in the same manner as a contract for architectural and engineering services is negotiated under Title IX of the Federal Property and Administrative Services Act of 1949 or equivalent State qualifications-based requirements.

"(B) APPLICABILITY.—

"(i) IN A COMPLYING STATE.—If, on April 2, 1987 the services described in (A) may be awarded in a State in the manner described in (A), (A) shall apply in the State beginning April 2, 1987, except to the extent that the State adopts by statute a formal procedure for the procurement of services.

"(ii) IN A NONCOMPLYING STATE.—In the case of any other State, (A) shall apply in the State beginning on the earlier of (I) August 1, 1989, or (II) the 10th day following the close of the 1st regular session of the legislation of a State which begins after April 2, 1987, except to the extent that the State adopts or has adopted by statute a formal procedure for the procurement of the services described in (A).

"(c) SWORN STATEMENT.—The Secretary shall require as a condition precedent to his approval of each contract awarded by competitive bidding pursuant to (b), and subject to the provisions of this section, a sworn statement, executed by, or on behalf of, the person, firm, association, or corporation to whom the contract is to be awarded, certifying that the person, firm, association, or corporation has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the contract.

"(d) CONTRACT AWARD CONCURRENCE.—No contract awarded by competitive bidding pursuant to (b), and subject to the provisions of this section, shall be entered into by any State transportation or highway department or local subdivision of the State without compliance with the provisions of this section, and without the prior concurrence of the Secretary in the award: *Provided*, That contracts for Urban and Rural Highway and Bridge Program projects may be entered into without the prior concurrence of the Secretary in the award.".

(f) CONSTRUCTION.—

Section 114 of title 23, United States Code is amended to read as follows:

"SEC. 114. CONSTRUCTION.

"(a) CONSTRUCTION WORK IN GENERAL.—The construction of any highways on the National Highway and Bridge System shall be undertaken by the respective State transportation or highway departments or under their direct supervision, subject to the inspection and approval of the Secretary and in accordance with State and Federal law. The State transportation or highway department may erect funding and informational signs on the site of construction projects that conform with standards developed by the Secretary.

"(b) CONVICT LABOR.—Convict labor shall not be used in construction of highways on the National Highway and Bridge System unless it is labor performed by convicts who are on parole, supervised release, or probation.

"(c) WARRANTIES/GUARANTEES.—The State transportation or highway department may include warranty/guarantee provisions in construction contracts in accordance with standards developed by the Secretary. Warrantee/Guarantee provisions, if used, shall be for a specific construction project or feature and may not include maintenance.".

(g) ADVANCE CONSTRUCTION.—

Section 115 of title 23, United States Code, is amended to read as follows:

"SEC. 115. ADVANCE CONSTRUCTION.

"(a) IN GENERAL.—When a State proceeds to construct a National Highway and Bridge Program or Urban and Rural Highway and Bridge Program project without the aid of Federal funds, or undertakes a project under sections 134 or 307(c) without full Federal funding, under procedures and requirements applicable to the project, except as the procedures and requirements limit the State to the construction of a project with the aid of previously apportioned Federal funds, the Secretary is authorized to pay to the State the Federal share of the cost of the project, when sufficient funds are apportioned to the State if—

"(1) prior to construction or undertaking of the project the Secretary enters into a project agreement under section 110 and

"(2) the project conforms to applicable standards under this title.

"(b) BOND INTEREST FOR PROJECTS UNDER CONSTRUCTION ON JANUARY 1, 1983.—For any project under construction on January 1, 1983, on the Interstate System and converted to a regularly funded project after January 1, 1983, for which the proceeds of bonds issued by the State, county, city, or other political subdivision of the State were used, any interest earned and payable on the bonds by the date of conversion is an eligible cost, to the extent that the proceeds of the bonds have been expended in the construction of the project.

"(c) BOND INTEREST.—Projects approved under this section may include the amount of any interest earned and payable on bonds issued by the State to the extent that the proceeds of the bonds have actually been expended in the construction of the project. In no event shall the amount of interest considered as a cost of a project be greater than the excess of (1) the amount which would be the estimated cost of the project if the project were to be constructed at the time the project is converted to a regularly funded project, over (2) the actual cost of the project (not including the interest). The Secretary shall consider changes in construction cost indices in determining the amount under (1).

"(d) LIMITATION ON ADVANCED FUNDING.—The Secretary may not approve an application of a State under this section for a project with funds apportioned, under section 104(b) or 104(c)(1) or earmarked under section 307(c) if the amount of approved applications with respect to advance construction projects in that State in the particular category exceeds the total of unobligated funds apportioned to the State or earmarked by the State under that category, plus the State's expected apportionment or earmarking under that category from existing authorizations, plus an amount equal to the State's expected apportionment or earmarking under that category for one additional fiscal year.".

"(h) MAINTENANCE.—

Section 116 of title 23, United States Code is amended to read as follows:

"SEC. 116. MAINTENANCE.

"(a) DUTY TO MAINTAIN.—It shall be the duty of the State transportation or highway department to maintain, or cause to be maintained, any project on the National Highway and Bridge System constructed with the aid of Federal funds under this title or under the provisions of prior Acts. Each State shall use sums needed from its National Highway and Bridge Program apportionment to ensure adequate maintenance of the Interstate System. If the Secretary finds that a State is not adequately maintaining the Interstate System, the Secretary will require the State to program amounts from its National Highway and Bridge Program apportionments to bring the Interstate System up to adequate condition and keep it in that condition. The State's obligation to the United States to maintain a project shall cease when it no longer constitutes a part of the National Highway and Bridge System.

"(b) STATE AGREEMENTS WITH LOCAL OFFICIALS.—In any State where the State transportation or highway department is without legal authority to maintain a project within a municipality or within an Indian reservation, the transportation or highway department shall enter into a formal agreement for its maintenance with the appropriate officials of the municipality or Indian tribe.

"(c) WITHHOLDING PROJECT APPROVAL.—If at any time the Secretary shall find that any project on the National Highway and Bridge System constructed under this title, or constructed under the provisions of prior highway Acts, is not being properly maintained, the Secretary shall call that fact to the attention of the State transportation or highway department. If, within 90 days after receipt of the notice, the project has not been put in proper condition of maintenance, the Secretary shall withhold approval of further projects of all types in the State highway district, municipality, county, other political or administrative subdivision of the State, or the entire State in which the project is located, whichever the Secretary deems most appropriate, until the project shall have been put in proper condition of maintenance.".

(i) PAYMENTS TO STATES.—

(1) Section 121 of title 23, United States Code, is amended to read as follows:

"SEC. 121. PAYMENTS TO STATES.

"(a) PROGRESS PAYMENTS.—Except for projects administered under the Urban and Rural Highway and Bridge Program the Secretary may, as work progresses, make payments to a State for costs incurred on a project. These payments shall at no time exceed the Federal share of the costs incurred, including credits for donated land allowed under section 323, to the date of the voucher covering the payment plus the Federal share of the value of the materials which have been stockpiled in the vicinity of construction in conformity to plans and specifications for the project. Payments may also be made in the case of materials not in the vicinity of construction if the Secretary determines that because of required fabrication at an off-site location the materials cannot be stockpiled in the vicinity. In no case shall total payments exceed total costs incurred by the State for the project.

"(b) FINAL PAYMENT.—Except for projects administered under the Urban and Rural Highway and Bridge Program after completion of a project in accordance with the plans and specifications, and approval of the final voucher by the Secretary, a State shall be entitled to payment of the unpaid balance of the project's Federal share payable. No payment shall be made under this section except for a project covered by a project agreement where agreement is required by section 203(a). No final payment shall be made to a State for its costs of construction of a project until completion of construction has been approved by the Secretary.

"(c) CONSTRUCTION ENGINEERING.—Payments for construction engineering on any project financed with National Highway and Bridge Program funds shall not exceed 15 percent of the Federal share of the cost of the project after excluding from the cost the costs of rights-of-way, preliminary engineering, and construction engineering.

"(d) PAYMENT RECIPIENT.—Payments shall be made to an official or officials or depository as designated by the State transportation or highway department and as authorized under the laws of the State to receive public funds of the State.".

(2) The analysis of chapter 1 of title 23, United States Code, is amended by striking "121. Payment to States for Construction." and inserting in lieu thereof "121. Payment to States.".

(j) UTILITY FACILITIES.—

(1) Section 123 of title 23, United States Code, is amended to read as follows:

"SEC. 123. UTILITY FACILITIES.

"(a) PAYMENTS FOR THE COST OF RELOCATION.—When a State shall pay for the cost of relocation of utility facilities necessitated by the construction of a project under this title, Federal funds may be used to reimburse the State for the cost in the same proportion as Federal funds are expended on the project.

"(b) UTILITY DEFINED.—The term "utility", for the purposes of this section, shall include publicly, privately, and cooperatively owned utilities.

"(c) COST OF RELOCATION DEFINED.—The term "cost of relocation", for the purposes of this section, shall include the entire amount paid by the utility properly attributable to relocation after deducting any increase in the value of the new facility and any salvage value derived from the old facility."

"(2) The analysis of chapter 1 of title 23, United States Code, is amended by striking "123. Relocation of utility facilities" and inserting in lieu thereof "123. Utility Facilities.".

"(k) EMERGENCY RELIEF.—

Section 125 of title 23, United States Code, is amended to read as follows:

"SEC. 125. EMERGENCY RELIEF.

"(a) Availability of Funds.—Funds authorized for this section shall be available for obligation by the Secretary under the provisions of this title for the repair or reconstruction of highways which the Secretary shall find have suffered serious damage as the result of (1) a natural disaster over a wide area such as by floods, hurricanes, tidal waves, earthquakes, or severe storms, or (2) a catastrophic failure from any external cause, in any part of the United States. In no event shall funds be used for the repair or reconstruction of bridges which have been permanently closed to all vehicular traffic by the State or responsible local official because of imminent danger of collapse due to structural deficiencies or physical deterioration. These funds shall not duplicate assistance under another Federal program or compensation from physical damage insurance policies. The Secretary may expend from any funds appropriated for expenditure under this title, including existing Federal-aid appropriations, sums as may be necessary for the immediate execution of the work authorized, the appropriations to be reimbursed from appropriations for emergency relief when made.

"(b) AVAILABILITY ON HIGHWAYS OTHER THAN LOCAL AND RURAL MINOR COLLECTOR.—The Secretary may expend funds authorized for this section for the repair or reconstruction of highways other than highways functionally classified as local or rural minor collector and for the actual and necessary costs of maintenance and operation of ferryboats providing temporary substitute highway traffic service, less the amount of fares charged, on those highways. Except as to highways, mentioned in (c), no funds shall be expended until the Secretary has received an application from the State transportation or highway department and an emergency has been declared by the Governor of the State and concurred in by the Secretary, except that if the President has declared the emergency to be a major disaster for the purposes of the Disaster Relief Act of 1974 (Public Law 93-288) concurrence of the Secretary is not required.

"(c) AVAILABILITY ON FEDERAL ROADS.—

The Secretary may make expenditures from the funds authorized for this section, either independently or in cooperation with any other branch of the Federal Government, a State agency, an organization, or a person, for the repair or reconstruction of forest highways, park roads and parkways, Indian reservation roads, forest development roads, and public lands development roads.

"(d) AVAILABILITY IN THE TERRITORIES.—For purposes of this section, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands shall be considered to be States and part of the United States, and the chief executive officer of each territory shall be considered to be a Governor of a State. The Secretary may expend funds from the sums authorized for this section for the repair or reconstruction of highways other than highways functionally classified as local or rural minor collector in the four named territories.".

(l) VEHICLE WEIGHT LIMITATIONS—INTERSTATE SYSTEM.—

Section 127 of title 23, United States Code is amended to read as follows:

"SEC. 127. VEHICLE WEIGHT LIMITATIONS.

No funds authorized to be appropriated for the National Highway and Bridge Program shall be apportioned to any State which does not permit the use of the Interstate System within its boundaries by vehicles with a weight of 20,000 pounds carried on any one axle, including enforcement tolerances, or with a tandem axle weight of 34,000 pounds, including enforcement tolerances, or a gross weight of at least 80,000 pounds for vehicle combinations of five axles or more. However, the maximum gross weight to be allowed by any State for vehicles using the Interstate System shall be 20,000 pounds carried on one axle, including enforcement tolerances, and a tandem axle weight of 34,000 pounds, including enforcement tolerances and with an overall maximum gross weight, including enforcement tolerances, on a group of two or more consecutive axles produced by application of the following formula:

$$W=500\left(\frac{LN}{N-1}+12N+36\right)$$

where W equals overall gross weight on any group of two or more consecutive axles to the nearest 500 pounds, 1 equals distance in feet between the extreme of any group of two or more consecutive axles, and N equals number of axles in group under consideration, except that two consecutive sets of tandem axles may carry a gross load of 34,000 pounds each providing the overall distance between the first and last axles of those consecutive sets of tandem axles is 36 feet or more: *Provided*, That overall gross weight may not exceed 80,000 pounds, including all enforcement tolerances, except for those vehicles and loads which cannot be easily dismantled or divided and which have been issued special permits in accordance with applicable State laws, or the corresponding maximum weights permitted for vehicles using the public highways of the State under laws or regulations established by appropriate state authority in effect on July 1, 1956, except in the case of the overall gross weight of any group of two or more consecutive axles on any vehicle on January 4, 1975, whichever is the greater. Any amount which is withheld from apportionment to any State pursuant to the foregoing provisions shall lapse if not released and obligated within the availability period specified in title 23. This section shall not be construed to deny apportionment to any State allowing the operation within the State of any vehicles or combinations which the State determines could be lawfully operated within the State on July 1, 1956, except in the case of the overall gross weight of any group of two or more consecutive axles, on January 4, 1975. With respect to the State of Hawaii, laws or regulations in effect on February 1, 1960, shall be applicable for the purposes of this section in lieu of those in effect on July 1, 1956. With respect to the State of Michigan, laws or regulations in effect on May 1, 1982, shall be applicable for the purposes of this section.".

(m) PUBLIC HEARINGS.—

Section 128 of title 23, United States Code, is amended to read as follows:

"SEC. 128. PUBLIC HEARINGS.

(a) NATIONAL HIGHWAY AND BRIDGE PROGRAM PROJECTS.—Any State transportation or highway department which submits plans for a National Highway and Bridge Program project involving the bypassing of, or going through, any city, town, or village, either incorporated or unincorporated, shall certify to the Secretary that is has had public hearings, or has afforded the opportunity for hearings, and has considered the economic and social effects of the location, its impact on the environment, and its consistency with the goals and objectives of urban planning promulgated by the community.

"(b) INTERSTATE SYSTEM PROJECTS.—Any State transportation or highway department which submits plans for an Interstate System project shall certify to the Secretary that it has had public hearings at a convenient location, or has afforded the opportunity for hearings, for the purpose of enabling persons in rural areas who have property continguous to the highway or property through which the highway will pass to express any objections they may have to the proposed locations of the highway.

"(c) REPORTS.—When a hearing has been held under (a) or (b), the State transportation or highway department shall prepare a record of the hearing. The State transportation or highway department shall submit to the Secretary the certification under (a) and (b) accompanied by a report which indicates the consideration given to the economic, social, environmental, and other effects of the plan, highway location or design and various alternatives which were raised during the hearing or which were otherwise considered.".

(n) PAYMENTS ON PROJECTS UNDERTAKEN BY A FEDERAL AGENCY.—

(1) Section 132 of title 23, United States Code, is amended to read as follows:

"SEC. 132. PAYMENTS ON PROJECTS UNDERTAKEN BY A FEDERAL AGENCY.

Where a proposed project is to be undertaken by a Federal agency pursuant to an agreement between a State and the Federal agency, and the State makes a deposit with or payment to the Federal agency in fulfillment of the State's agreement, the Secretary, upon execution of a project agreement with the State, may reimburse the State for the estimated Federal share of the deposit or payment. Upon completion of the project and its acceptance by the Secretary, an adjustment shall be made in the Federal share based on the final cost. Any sums reimbursed to the State under this section which may be in excess of the Federal share shall be recovered and credited to the same class of funds from which the Federal payment was made.".

(2) the analysis of chapter 1 of title 23, United States Code, is amended by striking "132. Payments on Federal-aid projects un-

dertaken by a Federal agency." and inserting in lieu thereof "138. Payments on projects undertaken by a Federal Agency.".

(o) PARKING; SPECIAL VEHICLE ROUTES; BUSES; TRANSIT; AND CARPOOLS.—

(1) Section 137 of title 23, United States Code, is amended to read as follows:

"SEC. 137. PARKING; SPECIAL VEHICLE ROUTES; BUSES; TRANSIT; AND CARPOOLS.

"(a) CARPOOL AND OTHER PUBLICLY OWNED PARKING FACILITIES.—The Secretary may approve as a project on the National Highway and Bridge System the acquisition of land adjacent to the right-of-way and the construction of carpool and other publicly owned parking facilities thereon or within the right-of-way, including the use of the air space above and below the established grade line of the highway pavement. The parking facility shall be located and designed with due consideration to existing or planned public transportation facilities. Carpool parking facilities shall have as their primary purpose the reduction of vehicular traffic on the National Highway and Bridge System. Publicly owned parking facilities, other than carpool parking facilities, must serve an urbanized area. In the event fees are charged for the use of any facility, the revenue in excess of that required for maintenance and operation including compensation to any person for operating the facility shall be used for title 23 related programs.

"(b) CARPOOLS.—In order to conserve fuel, decrease traffic congestion during rush hours, improve air quality, and enhance the use of existing highways and parking facilities, the Secretary may approve for Federal financial assistance from National Highway and Bridge Program funds "projects" designed to encourage the use of carpools. As used in this subsection, the term "carpool" includes a van pool. A project may include, but is not limited to, measures providing carpooling opportunities to the elderly and handicapped, systems for locating potential riders and informing them of convenient carpool opportunities, acquiring vehicles appropriate for carpool use, designating existing highway lanes as preferential carpool highway lanes, providing related traffic control devices, and designating existing facilities for use as preferential parking for carpools.

"(c) APPROVAL OF PARKING FACILITY PROJECTS.—The Secretary shall not approve any project under (a), other than a carpool parking facility project, until—

"(1) the Secretary has determined that the State, or the political subdivision, where the project is to be located, or any agency, or instrumentality of the State or political subdivision, has the authority and capability of constructing, maintaining, and operating the facility;

"(2) the Secretary has entered into an agreement governing the financing, maintenance, and operation of the parking facility with the State, political subdivision, agency or instrumentality, including necessary requirements to insure that adequate public transportation services will be available to persons using the facility; and

"(3) the Secretary has approved design standards for constructing the facility developed in cooperation with the State transportation or highway department.

"(d) PARKING FACILITIES DEFINED.—The term "parking facilities" for purposes of (a) shall include access roads, buildings, structures, equipment, improvements, and interests in lands.

"(e) CONTRACTING TO OPERATE PARKING FACILITIES.—Nothing in this section, or in any rule or regulation issued under this section, or in any agreement required by this section, shall prohibit (1) any State, political subdivision, or agency or instrumentality, from contracting with any person to operate any parking facility constructed under this section, or (2) any person from operating the facility.

"(f) PLANNING FOR URBANIZED AREA PARKING FACILITIES.—The Secretary shall not approve any project under (a) in an urbanized area unless the Secretary determines that it is based on a transportation planning process carried on in accordance with section 134.

"(g) BUSES.—The Secretary may approve as a project on the National Highway and Bridge System, the construction of exclusive or preferential high occupancy vehicle lanes, highway traffic control devices, intercity and urban bus passenger loading areas and facilities (including shelters), and fringe and transportation corridor parking facilities to serve high occupancy vehicles, intercity bus and public mass transportation passengers. If fees are charged for the use of any parking facility constructed under this section, the revenue in excess of that required for maintenance and operation of the facility and the cost of providing shuttle service to and from the facility including compensation to any person for operating the facility and for providing shuttle service shall be used for title 23 purposes.

"(h) HOV, TRUCK, EMERGENCY VEHICLE, ROUTES OR LANES.—National Highway and Bridge System funds shall be available to finance the Federal share of projects for exclusive or preferential high occupancy vehicle, truck, and emergency vehicle routes or lanes. Routes constructed under this subsection on the Interstate System can have less than four lanes of traffic.

"(i) PROJECT UTILIZATION.—No HOV project authorized by this section shall be approved unless the Secretary has received assurances from the owner or operator of the facility that high occupancy vehicles will fully utilize the proposed project and that essential operations and enforcement support of the facility will be provided.

"(j) TRANSIT FACILITIES.—In any case where sufficient land exists within the publicly acquired rights-of-way of the National Highway System to accommodate needed nonhighway public mass transit facilities and where the accommodation can be accomplished without impairing automotive safety or future highway improvements, the Secretary may authorize a State to make those lands and rights-of-way available without charge to a publicly owned mass transit authority for those purposes wherever the public interest will be served.".

(2) The analysis of chapter 1 of title 23, United States Code, is amended by striking "137. Fringe and Corridor Parking Facilities." and inserting in lieu thereof "137. Parking; Special Vehicle Routes; Buses; Transit; and Carpools.".

(p) POLICY ON PARKLANDS, WILDLIFE AND WATERFOWL REFUGES, AND HISTORIC SITES.—

(1) Section 138 of title 23, United States Code, is amended to read as follows:

"SEC. 138. POLICY ON PARK LANDS, WILDLIFE AND WATERFOWL REFUGES, AND HISTORIC SITES.

"(a) POLICY.—It is the policy of the United States Government that special effort should be made to preserve the natural beauty of the countryside, public park and recreation lands, wildlife and waterfowl refuges, and historic sites.

"(b) COOPERATION AND CONSULTATION.—The Secretary shall cooperate and consult with the Secretaries of the Interior, Housing and Urban Development, and Agriculture, and with the States, in developing transportation plans and programs that include measures to maintain or enhance the natural beauty of lands crossed by transportation activities or facilities.

"(c) USE OF PROTECTED RESOURCES.—The Secretary may approve a transportation program or project (other than a project for a park road or parkway under section 204) requiring the use of publicly owned land of a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance, or land of an historic site of national, State, or local significance (as determined by the Federal, State, or local officials having jurisdiction over the park, area, refuge, or site) only if—

"(1) there is no prudent and feasible alternative to using that land; and

"(2) the program or project includes all possible planning to minimize harm to the park, recreation area, wildlife and waterfowl refuge, or historic site resulting from the use.".

(2) The analysis of chapter 1 of title 23, United States Code, is amended by striking "138. Preservation of Parklands." and inserting in lieu thereof "138. Policy of Parklands, Wildlife and Waterfowl Refuges, and Historic Sites.".

(q) EQUAL OPPORTUNITY.—

(1) Section 140 of title 23, United States Code, is amended to read as follows:

"SEC. 140. EQUAL OPPORTUNITY.

"(a) EQUAL EMPLOYMENT OPPORTUNITY.—The Secretary shall require assurance from any State desiring to avail itself of the benefits of this title, that employment in connection with proposed projects will be provided without discrimination based on race, color, religion, national origin, age, disability, or sex. The Secretary shall require that each State shall include in the advertised specification, notification of the specific equal employment opportunity responsibilities of the successful bidder. For the National Highway and Bridge Programs, the Secretary shall, where necessary to assure equal employment opportunity, require certification by any State desiring to avail itself of the benefits of this title that there are in existence and available on a regional, statewide, or local basis, apprenticeship, skill improvement or other upgrading programs, registered with the Department of Labor or the appropriate State agency, if any, which provide equal opportunity for training and employment without regard to race, color, religion, national origin, age, disability, or sex. The Secretary shall periodically obtain from the Secretary of Labor and the respective State transportation or highway departments information to judge compliance with the requirements of this section and the Secretary of Labor shall render to the Secretary assistance and information as necessary to carry out the equal employment opportunity program.

"(b) HIGHWAY CONSTRUCTION TRAINING.—The Secretary in cooperation with any other department or agency of the Government, State agency, authority, association, institution, corporation (profit or nonprofit), or other organization or person, is authorized to develop, conduct, and administer highway construction training, including skill improvement programs. Not to exceed one fourth of one percent of the funds apportioned to a State under section 104 shall be available to carry out this section upon a request by the State transportation or highway department. Whenever apportionments are made under section 104, the Secretary

shall deduct necessary sums, not to exceed $10,000,000 per fiscal year for the administration of this subsection. The provisions of section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), shall not be applicable to contracts, grants and agreements made under the authority granted in this subsection to the Secretary.

"(c) DISADVANTAGED BUSINESS PROFICIENCY.—The Secretary, in cooperation with any other department or agency of the Government, State agency, authority, association, institution, corporation (profit or nonprofit), or any other organization or person, is authorized to develop, conduct, and administer training programs and assistance programs in connection with any program under this title in order that disadvantaged businesses may achieve proficiency to compete, on an equitable basis, for contracts and subcontracts. Whenever apportionments are made under section 104, the Secretary shall deduct necessary sums, not to exceed $10,000,000 per fiscal year, for the administration of this subsection. The provisions of section 3709 of the Revised Statutes, as amended (42 U.S.C. 5), shall not be applicable to contracts, grants and agreements made under the authority granted in this subsection to the Secretary notwithstanding the provisions of section 302(e) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252(e)).

"(d) INDIAN EMPLOYMENT.—Consistent with section 703(i) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2(i)), nothing in this section shall preclude the preferential employment of Indians living on or near a reservation on projects and contracts on Indian reservation roads. The Secretary shall cooperate with Indian tribal governments and the States to implement this subsection.

"(e) PROHIBITION OF DISCRIMINATION ON THE BASIS OF SEX.—No person shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal assistance under this title or carried on under this title. This provision will be enforced through agency provisions and rules similar to those already established, with respect to racial and other discrimination, under title VI of the Civil Rights Act of 1964. This remedy is not exclusive and will not prejudice or cut off any other legal remedies available to a descriminatee.".

(2) The analysis of chapter 1 of title 23, United States Code, is amended by striking "140. Nondiscrimination." and inserting in lieu thereof "140. Equal Opportunity.".

(r) STATE SIZE AND WEIGHT LAWS.—

(1) Section 141 of title 23, United States Code, is amended to read as follows:

"SEC. 141. STATE SIZE AND WEIGHT LAWS.

"(a) CERTIFICATION.—Each State shall certify to the Secretary before January 1 of each year that it is enforcing all State laws respecting vehicle size and weight limits allowed on the Interstate System, in accordance with section 127.

"(b) INFORMATION TO VERIFY CERTIFICATION.—Each State shall submit to the Secretary information as the Secretary shall, by regulation, require as necessary to verify the certification of the State under (a).

"(c) REDUCTION OF APPROPRIATIONS.—If a State fails to certify as required by (a) or if the Secretary determines that a State is not adequately enforcing all State laws respecting maximum vehicle size and weight limits, notwithstanding the certification, then National Highway and Bridge Program funds apportioned to the State for that fiscal year shall be reduced by amounts equal to 10 percent of the amount which would otherwise be apportioned to the State under section 104.

"(d) APPOINTMENT OF WITHHELD FUNDS.—If within 1 year from the date that the apportionment for any State is reduced in accordance with (c), the Secretary determines that the State is enforcing all State laws respecting size and weight limits, the apportionment of the State shall be increased by an amount equal to the reduction. If the Secretary does not make that determination within a 1-year period, the amounts withheld shall be reapportioned to all other eligible States using the factors from the original apportionments.".

(2) The analysis of chapter 1 of title 23, United States Code, is amended by striking "141. Enforcement of Requirements." and inserting in lieu thereof "141. State Size and Weight Laws.".

(s) FEDERAL-STATE RELATIONSHIP.—

Section 145 of title 23, United States Code is amended to read as follows:

"SEC. 145. FEDERAL-STATE RELATIONSHIP.

"The authorization of the appropriation of Federal funds or their availability for expenditure under this title shall in no way infringe on the sovereign rights of the States to determine which projects shall be Federally financed.".

(t) NATIONAL BRIDGE INSPECTION PROGRAM.—

Section 151 of title 23, United States Code is amended to read as follows:

"SEC. 151. NATIONAL BRIDGE INSPECTION PROGRAM.

"(a) NATIONAL BRIDGE INSPECTION STANDARDS.—The Secretary, in consultation with the State transportation or highway departments and interested and knowledgeable private organizations and individuals, shall establish national bridge inspection standards for the proper safety inspection and evaluation of all highway bridges.

"(b) MINIMUM REQUIREMENTS OF INSPECTION STANDARDS.—The standards established under (a) shall, at a minimum—

"(1) specify, in detail, the method by which inspections shall be carried out by the States;

"(2) establish the maximum time period between inspections;

"(3) establish the qualifications for those charged with carrying out the inspections;

"(4) require each State to maintain and make available to the Secretary upon request—

"(A) written reports on the results of highway bridge inspections together with notations of any action taken pursuant to the findings of inspections; and

"(B) current inventory data for all highway bridges reflecting the findings of the most recent highway bridge inspections conducted; and

"(5) require each State to establish a procedure to certify that highway bridge inspectors meet national qualifications.

"(c) TRAINING PROGRAMS FOR BRIDGE INSPECTORS.—The Secretary, in cooperation with the State transportation or highway departments, shall establish a program designed to train governmental employees to carry out highway bridge inspections. The training program shall be revised from time to time to take into account new and improved techniques.

"(d) AVAILABILITY OF FUNDS.—To carry out this section, the Secretary may use funds made available pursuant to the provisions of section 104(a).".

(u) NATIONAL MINIMUM DRINKING AGE.—

Section 158 of title 23, United States Code, is amended to read as follows:

"SEC. 158. NATIONAL MINIMUM DRINKING AGE.

"(a) WITHHOLDING OF FUNDS FOR NONCOMPLIANCE.—The Secretary shall withhold 10 percent of the amount to be apportioned to any State under section 104(c)(1) and 104(c)(2) on the first day of each fiscal year in which the purchase or public possession in that State of any alcoholic beverage by a person who is less than 21 years of age is lawful.

"(b) APPORTIONMENT OF WITHHELD FUNDS.—Funds withheld under this section from apportionment to any State shall be apportioned to the other States in compliance with this section and remain available for the period of time applicable to the category of funds withheld.

"(c) ALCOHOLIC BEVERAGE DEFINED.—As used in this section, the term "alcoholic beverage" means—

"(1) beer as defined in section 5052(a) of the title 26, United States Code,

"(2) wine of not less than than ½ of 1 percent of alcohol by volume, or

"(3) distilled spirits as defined in section 5002(a)(8) of title 26, United States Code.".

(v) FOREST DEVELOPMENT ROADS AND TRAILS.—

Section 205 of title 23, United States Code is amended to read as follows:

"SEC. 205. FOREST DEVELOPMENT ROADS AND TRAILS.

"(a) COSTS OF CONSTRUCTION AND MAINTENANCE.—Funds available for forest development roads and trails shall be used by the Secretary of Agriculture to pay for the costs of construction and maintenance including costs on roads and trails on experimental and other areas under Forest Service administration. The Secretary of Agriculture may enter into contracts with State or civil subdivisions and issue necessary regulations.

"(b) COOPERATION OF STATE AND LOCAL GOVERNMENTS.—Cooperation of States, counties, or other local subdivisions may be accepted but shall not be required by the Secretary of Agriculture.

"(C) COMPETITIVE BIDDING.—Construction estimate to cost $50,000 or more per mile or $50,000 or more per project for projects with a length of less than one mile, exclusive of bridges and engineering, shall be advertised and let to contract. If the estimated cost is less than $50,000 per mile or $50,000 per project for projects with a length of less than one mile or if, after proper advertising, no acceptable bid is received or the bids are deemed excessive, the work may be done by the Secretary of Agriculture on his own account.

"(d) PARKING AREAS AND SANITARY, WATER, AND FIRE CONTROL FACILITIES.—Funds available for forest development roads and trails shall be available for adjacent vehicular parking areas and for sanitary, water, and fire control facilities.".

"(w) DEFENSE ACCESS ROADS.—

Section 210 of title 23, United States Code, is amended to read as follows:

"SEC. 210. DEFENSE ACCESS ROADS.

"(a) CONSTRUCTION AND MAINTENANCE OF DEFENSE ACCESS ROADS.—The Secretary is authorized, out of the funds appropriated for defense access roads, to provide for the construction and maintenance of defense access roads (including bridges, tubes, and tunnels) to military reservations, to defense industries and defense industry sites, and to the sources of raw material when the roads are certified to the Secretary as important to the national defense by the Secretary of Defense or other official as the President may

designate, and for replacing existing highways and highway connections that are shut off from the general public use by necessary closures or restrictions at military reservations and defense industry sites.

"(b) AVAILABILITY OF APPROPRIATED FUNDS.—Funds appropriated for the purposes of this section shall be available, without regard to apportionment among the several States, for paying all or part of the cost of the construction and maintenance of defense access roads.

"(c) FUNDS APPROPRIATED FOR DEFENSE MANEUVERS AND EXERCISES.—Funds appropriated for defense maneuvers and exercises, may be used by the Secretary in areas certified to him by the Secretary of Defense as maneuver areas for construction, maintenance, and repair work as may be necessary to keep the highways in those areas, which have been or may be used for training of the Armed Forces, in suitable condition for training purposes and for repairing the damage caused to highways by the operations of personnel and equipment in training.

"(d) ACQUISITION AND CONVEYANCE OF LAND.—If the Secretary shall determine that the State transportation or highway department of any State is unable to obtain possession and the right to enter upon and use the required rights-of-way, lands, or interest in lands, improved or unimproved, required for any project authorized by this section with sufficient promptness, the Secretary is authorized to acquire, enter upon, take possesion, and expend funds, prior to approval of title by the Attorney General, in the name of the United States, of right-of-way, lands or interest in lands as may be required in the State for projects by purchase, donation, condemnation, or otherwise in accordance with the laws of the United States (including the Act of February 26, 1931; 46 Stat. 1421). The cost incurred by the Secretary in acquiring any rights-of-way, lands, or interest in lands may include the cost of examination and abstract of title, certificate of title, advertising, and any fees incidental to acquisition; and shall be payable out of funds available for paying the cost or the Federal share of the cost of the project for which rights-of-way, lands, or interests in lands are acquired. The Secretary is further authorized and directed by proper deed executed in the name of the United States to convey any lands or interests in lands acquired in any State under the provisions of this section to the State transportation or highway department of the State or to a political subdivision thereof as its laws may provide, upon terms and conditions as may be agreed upon by the Secretary and the State transportation or highway department, or political subdivisions to which the conveyance is to be made.

"(e) LETTING OF CONTRACTS.—The provisions of section 112 are applicable to defense access roads.

"(f) ADVANCED FUNDS.—The Secretary, after determining that it is necessary for the expeditious completion of any defense access road project, may advance to any State out of funds appropriated for defense access roads transferred and available to the Secretary, the Federal share of the cost of construction to enable the State transportation or highway department to make prompt payments for acquisition of rights-of-way, and for construction as it progresses. Sums advanced shall be deposited in a special fund by the State official authorized by State law to receive funds, to be disbursed solely upon vouchers approved by the State transportation or highway department for rights-of-way which have been or are being acquired and for construction which has been actually performed under this section. Upon determination by the Secretary that funds advanced to any State are no longer required, the amount of the advance which is determined to be in excess of requirements for the project shall be repaid, and repayments shall be returned to the credit of the appropriation from which the funds were advanced.

"(g) REPAIR OF DAMAGE.—Funds appropriated for the purpose of this section shall be available to pay the cost of repairing damage caused to highways by the operation of vehicles and equipment in the construction of classified military installations and facilities for ballistic missiles if the Secretary shall determine that the State transportation or highway department of any State is, or has been, unable to prevent damage by restrictions upon the use of highways without interference with or delay in, the completion of a contract for the construction of military reservations or installations. This subsection shall apply notwithstanding any provision of contract holding a party thereto responsible for damage, if the Secretary of Defense or his designee shall determine, in fact, that construction estimates and the bid of party did not include allowance for repairing damage.".

(x) PUBLIC LANDS DEVELOPMENT ROADS AND TRAILS.—

Section 214 of title 23, United States Code, is amended to read as follows:

"SEC. 214. PUBLIC LANDS DEVELOPMENT ROADS AND TRAILS.

Funds available for public lands development roads and trails shall be used to pay the cost of construction and improvement of these roads and trails and shall be available for adjacent vehicular parking areas and for sanitary, water, and fire control facilities.".

(y) TERRITORIAL HIGHWAY PROGRAM.—

Section 215 of title 23, United States Code, is amended to read as follows:

"SEC. 215. TERRITORIAL HIGHWAY PROGRAM.

"(a) ESTABLISHMENT.—Recognizing the mutual benefits that will accrue to the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and to the United States from the improvement of highways in territories of the United States, the Secretary is authorized to assist those territorial governments in a program for the construction and improvement of a system of arterial highways, and necessary interisland connectors designated by the Governor of each territory and approved by the Secretary.

"(b) TECHNICAL ASSISTANCE.—In order to establish a long-range highway development program, the Secretary is authorized to provide technical assistance for the establishment of an appropriate agency to administer on a continuing basis highway planning, design, construction and maintenance operations, the development of a system of arterial and connector highways, including necessary interisland connectors, and the establishment of advance acquisition of right-of-way and relocation assistance programs.

"(c) AGREEMENT WITH THE SECRETARY.—No part of the funds provided for this section shall be available for obligation with respect to a territory until the Governor enters into an agreement with the Secretary providing that the government of the territory (1) will design and construct a system of arterial and collector highways, including necessary inter-island connectors, built in accordance with standards approved by the Secretary; (2) will provide for the maintenance of facilities in a condition to adequately serve the needs of present and future traffic; and (3) will implement standards for highway safety, traffic operations and uniform traffic control devices which are approved by the Secretary.

"(d) SURVEYS AND INVESTIGATIONS; PLANNING; STUDIES; RESEARCH AND DEVELOPMENT.—

"(1) Three percent of the sums provided for each fiscal year for carrying out this section shall be available for expenditure only for engineering and economic surveys and investigations, for the planning of future highway programs and their financing, for studies of the economy, safety, and convenience and the desirable regulation and equitable taxation of highway usage, and for research and development, necessary in connection with the planning, design, and maintenance of the highway system, and the regulation and taxation of its use.

"(2) In addition to the percentage provided in (1) sums provided for each fiscal year for carrying out this section may be expended upon request of the Governor and with the approval of the Secretary for the purposes enumerated in (1).

"(e) MAINTENANCE.—None of the funds provided for carrying out this section shall be obligated or expended for maintenance of the highway system.

"(f) ALLOCATION.—Sums provided for carrying out this section shall be allocated among the territories at the discretion of the Secretary.".

(z) ALASKA-CANADA INTERNATIONAL HIGHWAY.—

(1) Section 218 of title 23, United States Code is amended to read as follows:

"SEC. 218. ALASKA-CANADA INTERNATIONAL HIGHWAY.

"(a) RECONSTRUCTION, IN GENERAL.—Recognizing the benefits that will accrue to the State of Alaska and to the United States from the reconstruction of the Alaska-Canada International Highway from the Alaskan border to Haines Junction in Canada and the Haines Cutoff Highway from Haines Junction in Canada to the south Alaskan border, the Secretary is authorized out of the funds appropriated for the purpose of this section to provide for necessary reconstruction of that highway. Authorizations shall remain available until expended. Expenditures shall be made for the construction of highways pursuant to the agreement reached between the Government of Canada and the Government of the United States that provides, in part, that the Canadian Government—

"(1) will provide, without participation of funds authorized under this title, all necessary right-of-way for the reconstruction of the highways;

"(2) will not impose any highway toll, or permit any toll to be charged for the use of the highways by vehicles or persons;

"(3) will not levy or assess, directly or indirectly, any fee, tax, or other charge for the use of the highways by vehicles or persons from the United States that does not apply equally to vehicles or persons of Canada;

"(4) will continue to grant reciprocal recognition of vehicle registration and drivers' licenses in accordance with agreements between the United States and Canada; and

"(5) will maintain the highways after their completion in proper condition adequately to serve the needs of present and future traffic.

"(b) SUPERVISION BY THE SECRETARY.—The survey and construction work undertaken pursuant to this section shall be under the general supervision of the Secretary.".

(2) The analysis of chapter 2 of title 23, United States Code, is amended by striking

"218. Alaska Highway." and inserting in lieu thereof "218. Alaska-Canada International Highway.".

(aa) STATE TRANSPORTATION OR HIGHWAY DEPARTMENT.—

(1) Section 302 of title 23, United States Code, is amended to read as follows:

"SEC. 302. STATE TRANSPORTATION OR HIGHWAY DEPARTMENT.

"Any State desiring to avail itself of the provisions of this title shall have a State transportation or highway department which shall have adequate powers, and be suitably equipped and organized to discharge to the satisfaction of the Secretary the duties required by this title. In meeting the provisions of this section, a State may engage the services of private engineering firms.".

(2) The analysis of chapter 3 of title 23, United States Code, is amended by striking "302. State highway department." and inserting in lieu thereof "302. State Transportation or Highway Department.".

(bb) PARTICIPATION BY SMALL BUSINESS ENTERPRISES.—

Section 304 of title 23, United States Code is amended to read as follows:

"SEC. 304. PARTICIPATION BY SMALL BUSINESS ENTERPRISES.

It is in the national interest to encourage and develop the actual and potential capacity of small business and to utilize this important segment of our economy to the fullest practicable extent in construction of highways. In order to carry out that intent and encourage full and free competition, the Secretary shall assist, insofar as feasible, small business enterprises in obtaining contracts in connection with the prosecution of the highway program.".

(cc) ARCHEOLOGICAL AND PALEONTOLOGICAL RECOVERY.—

(1) Section 305 of title 23, United States Code is amended to read as follows:

"SEC. 305. ARCHEOLOGICAL AND PALEONTOLOGICAL RECOVERY.

A State may use funds authorized to be appropriated to carry out this title for archeological and paleontological data recovery in compliance with the Act entitled 'An Ace for the preservation of American antiquities,' approved June 8, 1906 (34 Stat. 225), and State laws where applicable.".

(2) The analysis of chapter 3 of title 23, United States Code, is amended by striking "305. Archelogical and paleontological salvage." and inserting in lieu thereof "305. Archeological and paleontological recovery.".

(dd) COOPERATION WITH FEDERAL AND STATE AGENCIES AND FOREIGN COUNTRIES.—

Section 308 of title 23, United States Code is amended to read as follows:

SEC. 308. COOPERATION WITH FEDERAL AND STATE AGENCIES AND FOREIGN COUNTRIES.

"(a) SERVICES, AUTHORITY AND REIMBURSEMENT.—The secretary is authorized to perform by contract or otherwise, authorized engineering or other services in connection with the survey, construction, maintenance, or improvement of highways for other Government agencies, cooperating foreign countries, and State cooperating agencies, and reimbursement for services, which may include depreciation on engineering and road building equipment used, shall be credited to the appropriation concerned.

"(b) MATERIALS, AUTHORITY AND REIMBURSEMENT.—Appropriations for the work of the Federal Highway Administration shall be available for expenses of warehouse maintenace and the procurement, care, and handling of supplies, materials, and equipment for distribution of projects under the supervision of the Federal Highway Administration, or for sale or distribution to other Government agencies, cooperating foreign countries, and State cooperating agencies, and the cost of supplies and materials or the value of equipment, including the cost of transportation and handling, may be reimbursed to current applicable appropriations.".

(ee) CIVIL DEFENSE.—

Section 310 of title 23, United States Code is amended to read as follows:

"SEC. 310. CIVIL DEFENSE.

In order to assure that adequate consideration is given to civil defense aspects in the planning and construction of highways constructed with the aid of Federal funds, the Secretary is authorized and directed to consult, from time to time, with the Federal Emergency Management Agency relative to the civil defense aspects of highways.".

(ff) HIGHWAY IMPROVEMENTS STRATEGICALLY IMPORTANT TO THE NATIONAL DEFENSE.—

Section 311 of title 23, United States Code is amended to read as follows:

"SEC. 311. HIGHWAY IMPROVEMENTS STRATEGICALLY IMPORTANT TO THE NATIONAL DEFENSE.

"(a) ADMINISTRATIVE FUNDS.—Administrative funds made available under section 104(a) may be used to pay the entire engineering costs of the surveys, plans, specifications, estimates, and supervision of construction of projects for the urgent improvements of highways strategically important from the standpoint of the national defense undertaken on the order of the Secretary upon the request of the Secretary of Defense or other official that the President may designate.

"(b) APPORTIONED FUNDS.—With the consent of a State, funds apportioned under section 104 may be used to the extent deemed necessary and advisable by the Secretary to carry out the provisions of this section.

"(c) APPROVAL OF PROJECT.—In approving projects under this title the Secretary may give priority of approval to, and expedite the construction of projects that are recommended as important to the national defense by the Secretary of Defense or other official authorized by the President to make that recommendation.".

(gg) DETAIL OF ARMY, NAVY, AND AIR FORCE OFFICERS.—

Section 312 of title 23, United States Code is amended to read as follows:

"SEC. 312. DETAIL OF ARMY, NAVY, AND AIR FORCE OFFICERS.

The Secretary of Defense, upon request of the Secretary, is authorized to make temporary details to the Federal Highway Administration of officers of the Army, the Navy, and the Air Force, without additional compensation, for technical advice and for consultation regarding highway needs for the national defense. Travel and subsistence expenses of officers detailed shall be paid from appropriations available to the Department of Transportation on the same basis as authorized by law and by regulations of the Department of Defense for those officers.".

(hh) RELIEF OF EMPLOYEES IN HAZARDOUS WORK.—

Section 314, title 23, United States Code, is amended to read as follows:

"SEC. 314. RELIEF OF EMPLOYEES IN HAZARDOUS WORK.

"The Secretary is authorized in an emergency to use appropriations to the Department of Transportation for carrying out the provisions of this title for medical supplies, services, and other assistance necessary for the immediate relief of employees of the Federal Highway Administration engaged in hazardous work.".

(ii) RULES, REGULATIONS, AND RECOMMENDATIONS.—

Section 315 of title 23, United States Code, is amended to read as follows:

"SEC. 315. RULES, REGULATIONS AND RECOMMENDATIONS.

"Except as otherwise expressly provided in this title, the Secretary is authorized to prescribe and promulgate all rules and regulations for carrying out this title. The Secretary may make recommendations to the Congress and State transportation or highway departments as necessary for preserving and protecting the highways and insuring safety to traffic.".

(jj) CONSENT BY UNITED STATES TO CONVEYANCE OF PROPERTY.—

Section 316 of title 23, United States Code is amended to read as follows:

"SEC. 316. CONSENT BY UNITED STATES TO CONVEYANCE OF PROPERTY.

For the purposes of this title the consent of the United States is given to any railroad or canal company to convey to the State transportation or highway department of any State, or its nominee, any part of its right-of-way or other property in that State acquired by grant from the United States.".

(kk) APPROPRIATION FOR HIGHWAY PURPOSES OF LANDS OR INTERESTS IN LANDS OWNED BY THE UNITED STATES.—

Section 317 of title 23, United States Code is amended to read as follows:

"SEC. 317. APPROPRIATION FOR HIGHWAY PURPOSES OF LANDS OR INTERESTS IN LANDS OWNED BY THE UNITED STATES.

"(a) DETERMINATION OF NECESSITY; MAP FILING.—If the Secretary determines that any part of the lands or interests in lands owned by the United States is reasonably necessary for the right-of-way of any highway, or as a source of materials for the construction or maintenance of any highway adjacent to those lands or interest in lands, the Secretary shall file with the Secretary of the Department supervising the administration of those lands or interests in lands a map showing the portion of those lands or interests in lands which it is desired to appropriate.

"(b) ACTION OF LAND MANAGEMENT AGENCY.—If within a period of 4 months after filing, the Secretary of that Department shall not have certified to the Secretary that the proposed appropriation of that land or material is contrary to the public interest or inconsistent with the purposes for which that land or material has been reserved, or shall have agreed to the appropriation and transfer under conditions which are necessary for the adequate protection and utilization of the reserve, then the land and material may be appropriated and transferred to the State transportation or highway department, or its nominee, for those purposes and subject to the conditions specified.

"(c) REVERSION TO LAND MANAGEMENT AGENCY.—If at any time the need for lands or materials for those purposes no longer exist, notice of the fact shall be given by the State transportation or highway department to the Secretary and the lands or materials shall immediately revert to the control of the Secretary of the Department from which they were appropriated.".

(ll) LANDSCAPING, SCENIC ENHANCEMENT, REST AREAS AND WILDFLOWERS.—

(1) Section 319 of title 23, United States Code, is amended to read as follows:

"SEC. 319. LANDSCAPING, SCENIC ENHANCEMENT; REST AREAS; WILDFLOWERS.

"(a) LANDSCAPING AND ROADSIDE DEVELOPMENT.—The Secretary may approve as a part of the construction of highways the costs of landscape and roadside development, including acquisition and development of publicly owned and controlled rest and recreation areas and sanitary and other facilities reasonably necessary to accommodate the traveling public, and for acquisition of interests in and improvement of strips of land necessary for the restoration, preservation, and enhancement of significant environmental features and scenic beauty adjacent to highways. Improvements shall not include vegetation that will affect safe highway operations by becoming a roadside obstacle.

"(b) PLANTING OF WILDFLOWERS.—

"(1) GENERAL RULE.—The Secretary shall require the planting of native wildflower seeds or seedlings, or both, as part of any landscaping under this section. At least ¼ of 1 percent of the funds expended for a landscaping project shall be used for plantings.

"(2) WAIVER.—The requirements of this subsection may be waived by the Secretary if a State certifies that native wildflowers or seedlings cannot be grown satisfactorily or planting areas are limited or otherwise used for agricultural purposes.

"(3) GIFTS.—Nothing in this subsection shall be construed to prohibit the acceptance of native wildflower seeds or seedlings donated by civic organizations or other organizations and individuals to be used in landscaping projects.".

(2) The analysis of chapter 3 of title 23, United States Code, is amended by striking "319. Landscaping and Scenic Enhancement." and inserting in lieu thereof "319. Landscaping and Scenic Enhancement, Rest Areas and Wildflowers.".

(mm) NATIONAL HIGHWAY INSTITUTE.—

Section 321 of title 23, United States Code, is amended to read as follows:

'SEC. 321. NATIONAL HIGHWAY INSTITUTE.

"(a) ESTABLISHMENT AND AUTHORITY TO CONDUCT TRAINING.—The Secretary shall establish and operate in the Federal Highway Administration a National Highway Institute hereinafter referred to as the "Institute". The Institute shall develop and administer, in cooperation with the State transportation or highway departments, and any national or international entity, training programs of instruction for Federal Highway Administration, State and local transportation and highway department employees, State and local police, public safety and motor vehicle employees, United States citizens and foreign nationals engaged or to be engaged in highway work of interest to the United States. Programs may include, but are not limited to courses in modern developments, techniques, management, and procedures, relating to highway planning, environmental factors, acquisition of rights-of-way, relocation assistance, engineering, safety, construction, maintenance, contract administration, motor carrier activities and inspection. The Secretary shall administer the authority vested in the Secretary by this title or by any other provision of law for the development and conduct of education and training programs relating to highways through the Institute.

"(b) SET ASIDE.—Not to exceed ¼ of 1 percent of all National Highway Bridge Program funds apportioned to a State under this title shall be available for expenditure by the State highway department for payment of not to exceed 75 percent of the cost of tuition and direct educational expenses (but not travel, subsistence, or salaries) in connection with the education and training of State and local highway department employees as provided in this section.

"(c) FEDERAL RESPONSIBILITY.—Education and training of Federal, State and local highway employees authorized by this section shall be provided (1) by the Secretary at no cost to the States and local governments for those subject areas which are a Federal program responsibility; or (2) in any case where education and training are to be paid for under (b) by the State, subject to the approval of the Secretary, through grants and contracts with public and private agencies, institutions, individuals, and the Institute *Provided* that private agencies and individuals shall pay the full cost of any education and training received by them.

"(d) TRAINING FELLOWSHIPS; COOPERATION; COLLECTION OF FEES.—The Institute is authorized, subject to approval of the Secretary, to engage in all phases of contract authority for training purposes authorized by this section including but not limited to the granting of training fellowships. The Institute is also authorized to carry out its authority independently or in cooperation with any other branch of the Government, State agency, authority, association, institution, corporation (profit or nonprofit), or any other national or international entity, or person. The Institute is authorized to establish and collect fees from any entity and place them in a special account for the purpose of this section.

"(e) FUNDS.—The funds required to carry out this section may be from the sums deducted for administration purposes under 104(a). The provisions of section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), shall not be applicable to contracts or agreements made under the authority of this section. The sums provided pursuant to this subsection may be combined or held separate from the fees or memberships collected and be administered by the Secretary as a fund which shall be available until expended.

"(f) DEFINITION.—The term "national and international entity" as used in this section is defined to mean any government or non-government, public or private, profit or non-profit body, institution, corporation, agency, association, authority, State, Country, Province, City, County, local jurisdiction, or individuals.".

(nn) REPORTS AND SURVEYS AS EVIDENCE.—

(1) Section 409 of title 23, United States Code is amended to read as follows:

"SEC. 409. REPORTS AND SURVEYS AS EVIDENCE.

Notwithstanding any other provision of law, reports, surveys, schedules, lists, or data compiled for the purpose of identifying, evaluating, or planning the safety enhancement of potential accident sites, hazardous roadway conditions, or railway-highway crossings, for the purpose of developing any highway safety construction improvement project which may be implemented utilizing Federal highway funds shall not be admitted into evidence in Federal or State court or considered for other purposes in any action for damages arising from any occurence at a location mentioned or addressed in those reports, surveys, schedules, lists, or data.".

(2) The analysis of chapter 4 of title 23, United States Code, is amended by striking "409. Admission as Evidence of Certain Reports and Surgeys." and inserting in lieu thereof "409. Report and Surveys as Evidence.".

(oo) CONFORMING AMENDMENT.—

Section 5122(8)(B) of title 42, United States Code, is amended by striking "any non-Federal-aid street, road, or highway" and inserting instead "Any street, road, or highway not eligible for emergency relief under title 23, United States Code".

(pp) REPEALS.—

(1) Section 117, 119, 135, 139, 143, 144, 146, 147, 148, 150, 152, 155, 156, 201, 212, 216, 309, 318, 320 and 324 of title 23, United States Code are repealed.

(2) Section 163 of the Federal-Aid Highway Act of 1973 is repealed.

(3) Section 144 of the Federal-Aid Highway Act of 1978 is repealed.

(4) Section 163 of the Surface Transportation Assistance Act of 1982 is repealed.

SEC. 138. EFFECTIVE DATE.

The Federal-Aid Highway Act of 1991 shall be effective on October 1, 1991.

Mr. SANFORD. Mr. President, I rise today in support of the Federal aid surface transportation legislation introduced by Senator WARNER and to add my name as an original cosponsor of the bill. This legislation being offered today addresses real needs and real injustices that exist under the current surface transportation programs. For too long these inequities have been overlooked; we cannot allow them to be disregarded any longer. I implore every Member of this body to take very seriously the changes that are recommended in the legislation offered by Senator WARNER.

Last week, 34 Senators and I sent a letter to the congressional leaders involved in rewriting this year's highway bill arguing for a more equitable distribution of the Federal highway aid. The fact that our letter received 35 cosigners illustrates how great the problems with the current surface transportation programs are and how essential the need for change is.

North Carolina's statistics regarding surface transportation funding also illustrate the need for change with the current surface transportation programs. Between 1956 and 1989 motorists in North Carolina contributed $1.7 billion more in fuel taxes than the Federal Government spent on roads in the State. In the current year alone, North Carolina motorists will pay about $450 million in Federal highway taxes, but the State will receive less than $330 million in highway aid. North Carolina has received far less than its fair share of surface transportation funding. Since 1956, North Carolina has received a cumulative average of 83 cents for every dollar contributed into the fund and an average of five cents for every dollar contributed into the mass transit account.

It has been said that the Moynihan bill, S. 965, and the administration's proposal look to the future of our highway needs by providing the States greater flexibility, but these proposals do not provide a more equitable distribution of aid for the traditional donor States. S. 965 ignores the many inequities that exist in the surface transportation programs. It bases the funding levels each State will receive in future years on the States' funding

levels between 1981 and 1987. As the 35 signers of the letter have noted, if your State faired poorly under the current system, you will receive no relief under the Moynihan proposal. In not addressing these problems, many of the donor States will again be bearing a highly unfair burden under the surface transportation programs. The donor States can no longer support the transportation projects in other States.

In 1956, when the Federal-aid highways were established, our funding needs differed. The funding formulas were based on factors such as land area, postal delivery miles, and population in an effort to build the highways where they were most needed. Today we have a vast network of Federal highways, and we need to concentrate on their maintenance. The funding formulas need to be based on factors which indicate the amount of use of the highways and the number of lane miles in each State.

New growth States along the sunbelt region cannot depend on population as an accurate funding factor. Our population is increasing, and that increase is not accurately represented by the existing funding formulas. Between the years 1980 and 1990 North Carolina's population grew 12.7 percent. As a State grows, so too does the need to provide more adequate transportation. Necessary transportation will be denied to new growth States if we are forced to live by the standards of the current surface transportation programs. We need to address the changes that are occurring within the various States and various regions of the United States to develop a more equitable surface transportation program. We cannot merely project our needs for the future by relying on outdated and obsolete information.

The Federal Aid Surface Transportation Program establishes a National Highway and Bridge System which is comprised of the existing rural and urban interstate highways and an appropriate portion of the urban and rural principal arterial highways. The National Highway and Bridge System [NHBS] has an allocation system based on lane miles, vehicle miles of travel, and diesel fuel consumption to accurately show the amount of highway use in each State. This formula is a very equitable formula that reflects and awards States funding based on true needs.

This bill also establishes an Urban and Rural Highway and Bridge Program [URHB] which encompasses the arterial and collector highways not included in the NHBS. The Urban and Rural Highway and Bridge Program funds are allocated to the States in proportion to their percentage of Federal highway trust fund contribution. This formula ensures the equitable distribution of funds.

With the growing population and the increasing congestion, there is an increased need to improve mass transportation. The Federal Aid Surface Transportation Program expands the definition of public transit programs eligible for mass transit account discretionary support.

Various studies show that the United States has a weakened infrastructure and that this weak transportation system is adversely impacting the competitiveness of our industries. For many reasons we cannot ignore our transportation infrastructure needs any longer. We need to examine the current system and make definite changes that will provide more equity in surface transportation programs.

I urge my colleagues to support the federal aid surface transportation legislation in order to provide more equitable funding for all States and to meet our country's infrastructure needs. And I challenge all Members of this body to make every effort to ensure that the surface transportation programs we adopt for the future are fair and equitable for all.

Mr. MACK. Mr. President, I join my colleague Senator WARNER and other Members of the Senate in introducing the Federal Aid Surface Transportation [FAST] Act of 1991.

Floridians, as all Americans, consistently name the upkeep and maintenance of our transportation network as one of their primary concerns. Florida's transportation officials must face these concerns by providing safe and efficient roads and highways for a State which grows by nearly 1,000 people a day. My State's transportation network has to grow quickly and efficiently to meet the needs of a population that has grown by one-third since 1980.

What many Americans do not realize is the fact that it almost takes as long to drive from Key West to Pensacola as it does from Pensacola to Chicago. We not only have a fast growing State, but a very large State. Florida is the second largest State in terms of land area east of the Mississippi River.

Florida has made efforts to meet its transportation needs. Just last year, the Florida legislature passed the largest ever comprehensive transportation package in the State's history. Florida ranks second among all States in State funding dedicated for transportation. Yet with our strong commitment, Florida's road needs still outstrip available resources.

Why is this so? The fundamental reason is that Florida gets back only a small fraction of the moneys it contributes to the Federal highway trust fund. A recent Florida DOT study reported that in 1990, Florida received 53 cents for each dollar it contributed in Federal gas taxes. In other words, only 2.6 percent of the total spent from the highway trust fund in 1990 went to Florida, while Florida's contributions equaled 4.9 percent of total contributions. In 1991, Florida will not fare much better. It is estimated that Florida's return will increase to only 61 cents for each dollar contributed.

In the coming months, Congress will vote to reauthorize the Surface Transportation Act. It is critical that the reauthorization include Senator WARNER's bill, which I am cosponsoring today.

Florida transportation officials have identified three major areas of concern for the reauthorization of the Surface Transportation Act.

First, Florida needs a simplified, consolidated, and comprehensive Federal transportation program which provides increased flexibiity to meet the States' diverse needs.

Second, Florida needs the Federal Government to spend down the highway trust fund to allow for increased transportation investment.

Third, and most importantly, Florida needs to receive its fair share from contributions made to the highway trust fund. According to Florida DOT, Florida has historically received less than its fair share. Since the inception of the highway trust fund in 1956, Florida has averaged only 80 cents back for each highway tax dollar contributed.

Floridians would like to see at least a dollar return for each dollar contributed to the highway trust fund. At the same time, my State acknowledges the fact that all States cannot receive more than a dollar for dollar return from the trust fund. Yet when Florida and other States do not receive even close to a fair return from Federal gas taxes, there needs to be a fundamental change in the distribution of Federal transportation dollars.

Congress now has the ability to change the discrepancies of the highway trust fund through the reauthorization of the Surface Transportation Act. The Senate has taken the first step in this process by the introduction of four bills, including the administration's bill.

Yet these bills would not address the flaws in the allocation of the highway trust fund. The FAST proposal will address this critical issue in an equitable fashion. FAST provides for a fairer formula, using the extensiveness of our highways, the intensity of use of our highways, and the amount of commercial use of our highways as the primary components to distribute Federal transportation dollars.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a fact sheet detailing the FAST formula and comparing it to other proposed formulas.

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

FAST IS A FAIRER FORMULA

The Administration's transportation bill would distribute funds through:

70 percent based on fuel consumption;

15 percent based on land area; and

15 percent based on each State's share of total public road mileage.

The Senate Environment and Public Works Committee's bill, S. 965, would distribute funds through:

Using the average return for each State from the Highway Trust Fund from the last five years (1987-1991). Florida's five year average is 75 cents.

The FAST bill would distribute funds through a new formula:

1/9 based on total statewide rural lane miles;

1/9 based on total statewide rural vehicle miles of travel;

2/9 based on total statewide urban lane miles;

2/9 based on total statewide urban vehicle miles of travel; and

3/9 based on statewide consumption of diesel fuel.

How Florida fares in 1992 under these three proposed formulas:

	Percent of the total	Rate of return	Rank
Administration—1992	3.73	[1] 76	48
Administration—1996	4.14	[1] 84	48
S. 965—1992	3.97	[1] 81	46
S. 965—1996	4.01	[1] 82	50
FAST—1992	4.30	[1] 88	45
FAST—1996	4.77	[1] 97	36

[1] Cents per dollar.

Mr. MACK. Under the FAST legislation, Florida's rate of return for each dollar it has contributed would increase to 88 cents in 1992, and to 97 cents in 1996. This rate of increase closely matched the rate of increase for all donor States under our FAST proposal.

Congress cannot legislate the status quo this time. We have the opportunity to correct the deficiencies of the current system. Any reauthorizing legislation passed by the Senate must not penalize growth States. In short, 53 cents in 1990, or 61 cents in 1991, will not cover today's or tomorrow's transportation growth.

Floridians are not asking for more than what they have contributed to the highway trust fund. What Floridians are asking for is a transportation bill which is fair. Increased flexibility on the State level, spending down of the trust fund balances, and Federal assurances that States receive assistance based on their contributions in Federal gas taxes are issues of national importance. The bill which I am cosponsoring today meets these criteria, and I urge my colleagues to join me as a cosponsor of this legislation to ensure all 50 States receive their fair share of transportation funds.

I conclude, Mr. President, by restating a couple of points. Again, it is almost as far from Key West, FL, to Pensacola, FL, as it is from Pensacola to Chicago.

There is a tendency to think of Florida as a fast-growing State. That is quite accurate based on the information that I mentioned earlier, with 1,000 people a day moving into our State. But most people ignore the fact that we are a very large State, a very long State, a State that relies a great deal on the highway trust fund.

Again, I urge my colleagues to cosponsor this legislation.

By Mr. BRYAN:

S.J. Res. 148. Joint resolution designating October 8, 1991, as "National Firefighters Day"; to the Committee on the Judiciary.

NATIONAL FIREFIGHTERS DAY

Mr. BRYAN. Mr. President, I am introducing an important measure to honor America's firefighters. The bill will set aside October 8, 1991, as National Firefighters Day.

Firefighters are some of the bravest and most dedicated men and women in the country. Unfortunately, their work often goes unrecognized.

One million men and women work in more than 32,000 fire departments across the Nation to safeguard the American public from the ravages of fire. Frequently they do it for no other reason than public service, as fully 85 percent of them are volunteers.

These men and women place their lives on the line every day to improve public safety, and that does not always mean putting out fires. Surprisingly, the number of calls answered by a fire department for emergencies other than fires usually exceeds the number of calls for fires. Firefighters are trained and prepared to perform a variety of services such as emergency medical services [EMS], flammable liquid cleanup, rescue work and assistance in connection with accidents and natural disasters. These men and women are many times the first responders to natural disasters, airplane crashes, and medical emergencies.

Unfortunately, firefighting is an extremely risky profession. Each year, more than 120 of these brave men and women fall in the line of duty.

October 8 will mark the 120th anniversary of the Great Chicago Fire of 1871. It is appropriate to take time that day to recognize the irreplaceable services performed by firefighters.

I urge my colleagues to join me in honoring these fine men and women.

ADDITIONAL COSPONSORS

S. 9

At the request of Mr. D'AMATO, his name was added as a cosponsor of S. 9, a bill to amend the foreign aid policy of the United States toward countries in transition from communism to democracy.

S. 39

At the request of Mr. ROTH, the names of the Senator from Vermont [Mr. JEFFORDS] and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of S. 39, a bill to amend the National Wildlife Refuge Administration Act.

S. 81

At the request of Mr. LOTT, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 81, a bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age.

S. 127

At the request of Mr. CRANSTON, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 127, a bill to increase the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans; to amend title 38, United States Code, to improve veterans' compensation, health care, education, housing, and insurance programs; and for other purposes.

S. 167

At the request of Mr. RIEGLE, the names of the Senator from Ohio [Mr. GLENN], the Senator from Virginia [Mr. ROBB], the Senator from Virginia [Mr. WARNER], and the Senator from Utah [Mr. GARN] were added as cosponsors of S. 167, a bill to amend the Internal Revenue Code of 1986 to permanently extend qualified mortgage bonds.

S. 202

At the request of Mr. COCHRAN, the name of the Senator from Indiana [Mr. LUGAR], was added as a cosponsor of S. 202, a bill to amend the Fair Labor Standards Act of 1938 to exempt from such act certain individuals involved in model garment programs and for other purposes.

S. 246

At the request of Mr. LOTT, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 246, a bill to amend the Internal Revenue Code of 1986 to provide that certain deductions of members of the National Guard or reserve units of the Armed Forces will be allowable in computing adjusted gross income.

S. 279

At the request of Mr. BRYAN, the name of the Senator from Vermont [Mr. JEFFORDS], was added as a cosponsor of S. 279, a bill to amend the Motor Vehicle Information and Cost Savings Act to require new standards for corporate average fuel economy, and for other purposes.

S. 280

At the request of Mr. DOLE, the names of the Senator from Colorado [Mr. BROWN], the Senator from North Dakota [Mr. BURDICK], and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of S. 280, a bill to provide for the inclusion of foreign deposits in the deposit insurance assessment base to permit inclusion of non-deposit liabilities in the deposit insurance assessment base, to require

the FDIC to implement a risk-based deposit insurance premium structure, to establish guidelines for early regulatory intervention in the financial decline of banks and to permit regulatory restrictions on brokered deposits.

S. 416

At the request of Mr. DANFORTH, the names of the Senator from Wyoming [Mr. SIMPSON], the Senator from Washington [Mr. GORTON], the Senator from Colorado [Mr. BROWN], the Senator from Iowa [Mr. HARKIN], and the Senator from Oregon [Mr. HATFIELD] were added as cosponsors of S. 416, a bill to amend the Internal Revenue Code of 1986 to make permanent the tax credit for increasing research activities.

S. 501

At the request of Mr. KOHL, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 501, a bill to establish a data collection, information dissemination, and student counseling and assistance network and for other purposes.

S. 533

At the request of Mr. GLENN, the names of the Senator from Michigan [Mr. RIEGLE], the Senator from Arkansas [Mr. BUMPERS], and the Senator from Washington [Mr. GORTON] were added as cosponsors of S. 533, a bill to establish the Department of the Environment, provide for a Bureau of Environmental Statistics and a Presidential Commission on Improving Environmental Protection, and for other purposes.

S. 567

At the request of Mr. SANFORD, the name of the Senator from Georgia [Mr. FOWLER] was added as a cosponsor of S. 567, a bill to amend title II of the Social Security Act to provide for a gradual period of transition (under a new alternative formula with respect to such transition) to the changes in benefit computation rules enacted in the Social Security Amendments of 1977 as such changes apply to workers born in years after 1916 and before 1927 (and related beneficiaries) and to provide for increases in such workers' benefits accordingly and for other purposes.

S. 597

At the request of Mr. DODD, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 597, a bill to amend the Public Health Service Act to establish and expand grant programs for evaluation and treatment of parents who are abusers and children of substance abusers, and for other purposes.

S. 651

At the request of Mr. GARN, the names of the Senator from Oklahoma [Mr. BOREN], and the Senator from Tennessee [Mr. SASSER] were added as cosponsors of S. 651, a bill to improve the administration of the Federal Deposit Insurance Corporation, and to make technical amendments to the Federal Deposit Insurance Act, the Federal Home Loan Bank Act, and the National Bank Act.

S. 698

At the request of Mr. CRAIG, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 698, a bill to amend the Internal Revenue Code of 1986 to provide for 50-percent exclusion of long-term capital gains, and for other purposes.

S. 720

At the request of Mr. KENNEDY, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 720, a bill to provide financial assistance to eligible local educational agencies to improve urban education, and for other purposes.

S. 799

At the request of Mr. NICKLES, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 799, a bill to amend the Davis-Bacon and the Service Contract Act of 1965 to exempt from such acts tenants of federally-related housing who participate in the construction, alteration, or repair of their residences, and for other purposes.

S. 838

At the request of Mr. DODD, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 838, a bill to amend the Child Abuse Prevention and Treatment Act to revise and extend programs under such act, and for other purposes.

S. 840

At the request of Mr. DURENBERGER, the names of the Senator from Alaska [Mr. STEVENS] and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of S. 840, a bill to amend the Internal Revenue Code of 1986 to provide a simplified method for computing the deductions allowable to home day care providers for the business use of their homes.

S. 890

At the request of Mr. KENNEDY, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 890, a bill to reauthorize the Star Schools Program Assistance Act, and for other purposes.

S. 929

At the request of Mr. WALLOP, the names of the Senator from Alaska [Mr. STEVENS], and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of 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.

S. 935

At the request of Mr. KOHL, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 935, a bill to amend title 11, United States Code, to provide that certain liens under a marital property settlement may not be exempted.

S. 990

At the request of Mr. LUGAR, the names of the Senator from Indiana [Mr. COATS], and the Senator from Georgia [Mr. FOWLER] were added as cosponsors of S. 990, a bill to authorize appropriations for railroad relocation and a demonstration program.

S. 1040

At the request of Mr. GLENN, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 1040, a bill to provide a Government-wide comprehensive energy management plan for Federal agencies.

S. 1067

At the request of Mr. LAUTENBERG, the names of the Senator from Illinois [Mr. SIMON], and the Senator from Washington [Mr. ADAMS] were added as cosponsors of S. 1067, a bill to amend the Urban Mass Transportation Act of 1964 to provide for grants and loans to private nonprofit corporations and associations to be used to pay operating expenses related to new and existing mass transportation services for elderly and handicapped persons.

S. 1084

At the request of Mr. MITCHELL, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 1084, a bill to deny the People's Republic of China nondiscriminatory (most favored nation) trade treatment.

SENATE JOINT RESOLUTION 21

At the request of Mr. SASSER, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of Senate Joint Resolution 21, a joint resolution expressing the sense of the Congress that the Department of Commerce should utilize the statistical correction methodology to achieve a fair and accurate 1990 census.

SENATE JOINT RESOLUTION 96

At the request of Mr. RIEGLE, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of Senate Joint Resolution 96, a joint resolution to designate November 19, 1991, as "National Philanthropy Day."

SENATE JOINT RESOLUTION 100

At the request of Mr. KOHL, the names of the Senator from Louisiana [Mr. JOHNSTON], The Senator from Iowa [Mr. GRASSLEY], the Senator from Delaware [Mr. BIDEN], the Senator from Louisiana [Mr. BREAUX], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Joint Resolution 100, a joint resolution designating January 5, 1992, through January 11, 1992, as "National Law Enforcement Training Week."

SENATE JOINT RESOLUTION 115

At the request of Mr. MOYNIHAN, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor 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 121

At the request of Mr. DECONCINI, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of Senate Joint Resolution 121, a joint resolution designating September 12, 1991, as "National D.A.R.E. Day."

SENATE JOINT RESOLUTION 130

At the request of Mr. LAUTENBERG, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of Senate Joint Resolution 130, a joint resolution to designate the second week in June as "National Scleroderma Awareness Week."

SENATE JOINT RESOLUTION 144

At the request of Mr. D'AMATO, the names of the Senator from Nevada [Mr. BRYAN], the Senator from Tennessee [Mr. SASSER], the Senator from Maine [Mr. MITCHELL], and the Senator from Illinois [Mr. DIXON] were added as cosponsors of Senate Joint Resolution 144, a joint resolution to designate May 27, 1991, as "National Hero Remembrance Day."

SENATE JOINT RESOLUTION 145

At the request of Mr. CRANSTON, the names of the Senator from Arkansas [Mr. BUMPERS], and the Senator from Florida [Mr. MACK] were added as cosponsors of Senate Joint Resolution 145, a joint resolution designating the week beginning November 10, 1991, as "National Women Veterans Recognition Week."

SENATE RESOLUTION 82

At the request of Mr. SMITH, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of Senate Resolution 82, a resolution to establish a Select Committee on POW/MIA Affairs.

SENATE RESOLUTION 115

At the request of Mrs. KASSEBAUM, the names of the Senator from Iowa [Mr. HARKIN], and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponsors of Senate Resolution 115, a resolution expressing the sense of the Senate regarding the emergency humanitarian and political situation in Somalia.

AMENDMENT NO. 246

At the request of Mr. DODD, the names of the Senator from West Virginia [Mr. BYRD], the Senator from Vermont [Mr. LEAHY], the Senator from Arizona [Mr. DECONCINI], the Senator from Colorado [Mr. WIRTH], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Ohio [Mr. GLENN], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Virginia [Mr. ROBB], the Senator from Washington [Mr. ADAMS], the Senator from Iowa [Mr. HARKIN], the Senator from Nevada [Mr. BRYAN], the Senator from Massachusetts [Mr. KERRY], the Senator from Michigan [Mr. LEVIN], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from North Carolina [Mr. SANFORD], and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of amendment No. 246 proposed to S. 3, a bill 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.

SENATE CONCURRENT RESOLUTION 40—RELATIVE TO HALTING DISTRIBUTION OF A CERTAIN NEO-NAZI COMPUTER GAME

Mr. D'AMATO submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 40

Whereas neo-Nazi video games have emerged in the Federal Republic of Germany and the Republic of Austria, targeting Jewish people and Turks as the objects of hatred;

Whereas the game "KZ Manager" puts the player in the role of a Nazi concentration camp manager earning points for gassing prisoners and selling gold fillings;

Whereas this game features graphics of Hitler, swastikas and tortured prisoners;

Whereas another game titled "Aryan Test," designates Auschwitz, Treblinka, and Maidanek as "glorious" places in the history of the German empire;

Whereas the scope of anti-Semitism and neo-Nazi activities throughout the globe has reached repulsive proportions;

Whereas the production, possession, and distribution of anti-Semitic material is prohibited and punishable under German and Austrian criminal law;

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that this degree of anti-Semitism and hatred is so profound that the Federal Republic of Germany and the Republic of Austria should take all applicable steps to halt the distribution of "KZ Manager," "Aryan Test" and other similar video games and prosecute anyone found in possession of these materials to the full extent of the law.

• Mr. D'AMATO. Mr. President, I rise today to introduce a resolution expressing the sense of the Congress that the Federal Republic of Germany and the Republic of Austria should act to halt the distribution of a new form of neo-Nazi propaganda. I am referring to neo-Nazi computer games targeting Jewish people and Turks as the objects of a vile, sick, and repulsive hatred.

One game, "KZ Manager," puts the player in the role of a Nazi concentration camp manager earning points for gassing prisoners and selling gold fillings. Another game, "Aryan Test," designates Auschwitz, Treblinka, and Maidanek as "glorious" places in the history of the German empire.

This issue was brought to my attention by Rabbi Marvi Hier of the Simon Wiesenthal Center. We are all in his and the center's debt for exposing how widespread the distribution of these games has become, and for reminding us of the need for eternal vigilance against anti-Semitism and racial hatred.

Both the Austrian and German Governments publicly acknowledge that the production, possession, and distribution of such material is clearly prohibited and punishable under their criminal laws. This resolution simply takes the only possible moral position on this issue, namely, that those laws must be enforced to the fullest.

I ask unanimous consent that letters I have written to Chancellor Kohl and the German Ambassador and to Kurt Waldheim and the Austrian Ambassador urging that they keep their word, and enforce their anti-Nazi laws, be printed in full immediately following the conclusion of my remarks.

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

U.S. SENATE,
Washington, DC, May 8, 1991.

Bundeskanzler Dr. HELMUT KOHL,
Adenaueralle 139–141,
Federal Republic of Germany.

DEAR DR. KOHL: I am writing to urge that action be taken under the German Criminal Code or other applicable law against the distribution of neo-Nazi video games circulating in Germany. Some of these games target Jewish people as the objects of hatred. Others substitute Turks. The manufacturers of these hateful products should be sent to jail.

The Simon Wiesenthal Center, which has brought this matter to my attention, informs me that one such game ("KZ Manager") puts the player in the role of a Nazi concentration camp manager earning points for gassing prisoners. Another ("Aryan Test") opens with an address to "German Youth, the only decent youth which must be protected from the decay in morals which is caused by the Jews." Based on the points earned, the player is assigned a rank, ranging from Aryan to Jew. The Jew receives the gas.

In Germany, incitement to racial hatred through publications, audio or video recordings, or media broadcasts is prohibited by section 131 of the Criminal Code.

Section 131 provides that:

"(1) Whoever:

1. distributes;

2. publicly displays, posts up, presents or otherwise makes accessible;

3. offers to a person under eighteen years of age, lets him have or makes available to him; or

4. produces, obtains, supplies, keeps in supply, offers, announces, commends, undertakes to import into the area of applicability of this Code, or to export from it, in order to use them or parts of them within the meaning of numbers one through three, or to enable someone else to so use them,

any writings which incite to racial hatred or which depict cruel or otherwise inhumane acts of violence against persons in such a manner as to glorify or deny the wrongfulness of such acts of violence, or which represent the cruel or inhumane aspects of the subject matter in a manner violative of human dignity, shall be punished by imprisonment for up to one year or by fine."

The word "writing" is defined at section 11(3) to include "sonic and pictorial record-

ings, as well as illustrations and other representations."

Hate-filled neo-Nazi propaganda cannot be tolerated. I therefore urge you to bring the full weight of your office to bear in enforcing Germany's anti-Nazi laws to the fullest extent possible to eliminate all incitements to racial hatred in whatever form they take.

Sincerely.

ALFONSE M. D'AMATO,
U.S. Senator.

U.S. SENATE,
Washington, DC, May 7, 1991.

President KURT WALDHEIM,
Bundeskanzleramt, Praesidentschaftskanzlei, Vienna, Austria.

DEAR PRESDIENT WALDHEIM: I am writing to urge that action be taken under the Austrian Criminal Code or other applicable law against the distribution of neo-Nazi video games circulating in Austria. Some of these games target Jewish people as the objects of hatred. Others substitute Turks.

The Simon Wiesenthal Center, which has brought this matter to my attention, informs me that one such game ("KZ Manager") puts the player in the role of a Nazi concentration camp manager earning points for gassing prisoners. Another ("Aryan Test") opens with an address to "German Youth, the only decent youth which must be protected from the decay in morals which is caused by the Jews." Based on the points earned, the player is assigned a rank, ranging from Aryan to Jew. The Jew receives the gas.

I understand that the Austrian Criminal Code No. 60/1974, as amended, prohibits incitement to racial hatred in section 283. The offense is committed by anyone who publicly solicits or incites the commission of hostile acts against churches or religious groups or against groups of persons who are associated with a church or religious group, or a particular race, ethnic group or state. The offense is also committed by anyone who publicly fosters hatred against such groups of persons or insults or deprecates them in a manner that violates human dignity.

The spread of hate-filled neo-Nazi propaganda cannot be tolerated. I therefore urge you to bring the full weight of your office to bear in enforcing Austria's anti-Nazi laws to the fullest extent possible to eliminate all incitements to racial hatred in whatever form they take.

Sincerely,

ALFONSE M. D'AMATO,
U.S. Senator.●

SENATE CONCURRENT RESOLUTION 41—RELATIVE TO THE OCCUPATION OF TIBET

Mr. PELL (for himself, Mr. MOYNIHAN, Mr. HELMS, Mr. AKAKA, Mr. KENNEDY, Mr. JEFFORDS, Mr. D'AMATO, Mr. SARBANES, Mr. WALLOP, Mr. DIXON, Mr. ROBB, Mr. CRANSTON, Mr. BRADLEY, and Mr. HATFIELD) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 41

Whereas Tibet has maintained throughout its history a distinctive national, cultural, and religious identity separate from that of China;

Whereas Chinese archival documents and traditional dynastic histories, including those pertaining to periods of Manchu and Mongol rule, never refer to Tibet being made "an integral part" of China;

Whereas several countries, including Mongolia, Bhutan, Nepal, British India, and Czarist Russia recognized Tibet as an independent nation or dealt with Tibet independently of any Chinese government;

Whereas in 1949–50, China launched an armed invasion of Tibet in contravention of international law;

Whereas at the time of the Chinese occupation, Tibet possessed all the attributes of statehood under international law including a defined territory and population, an independent government, and the ability to conduct domestic affairs and independent international relations, as found in 1960 by the International Commission of Jurists;

Whereas it is the policy of the United States to oppose aggression and other illegal uses of force by one country against the sovereignty of another as a manner of acquiring territory, and to condemn violations of international law, including the illegal occupation of one country by another;

Whereas in the 1950's and 1960's, the United States repeatedly condemned what it characterized as China's aggression against Tibet and actively supported the United Nations in both condemning China and calling for Tibet's right to self-determination in General Assembly Resolutions 1353 (1959), 1723 (1961), and 2079 (1965);

Whereas on December 16, 1961, at the United Nations, United States Ambassador Plimpton summarized the official United States' position on Tibet, stating: "The United States believes that our objectives must include the restoration of human rights of the Tibetan people and their natural right of self-determination";

Whereas China's illegal occupation of Tibet continues to this day;

Whereas the United States should not condone aggression by accepting China's claim to sovereignty over Tibet; Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that Tibet, including those areas incorporated into the Chinese provinces of Sichuan, Yunnan, Gansu, and Quinghai, is an occupied country under the established principles of international law whose true representatives are the Dalai Lama and the Tibetan government in exile as recognized by the Tibetan people.

Mr. PELL. Mr. President, on April 18, the Congress welcomed His Holiness the 14th Dalai Lama of Tibet in a manner befitting his role as religious and temporal leader of the Tibetan people. In the rotunda of the Capitol, Members of Congress and friends of Tibet paid tribute to this man of peace and to his 40-year effort to free his countrymen from an oppressive Chinese rule intent on military occupation, economic domination, and cultural genocide.

Mr. President, today I am introducing with Senators MOYNIHAN, HELMS, KENNEDY, SARBANES, D'AMATO, CRANSTON, AKAKA, WALLOP, DIXON, JEFFORDS, ROBB, HATFIELD, and BRADLEY a resolution expressing the sense of the Congress that Tibet is an occupied country under established principles of international law. This is not merely a measure of justice for the long suffering Tibetans, it is also a legal determination, and an historical fact.

A report issued by the International Commission on Jurists in 1960 found that Tibet demonstrated the conditions of statehood as accepted under international law. In the 1950's and 1960's, the United States repeatedly condemned what it characterized as China's aggression against Tibet and actively supported the United Nations in both condemning China and calling for Tibet's right to self-determination in General Assembly Resolutions 1353 (1959), 1723 (1961), and 2079 (1965). The United States Ambassador to the United Nations in 1961, Ambassador Plimpton, summarized the official United States position on Tibet, saying: "The United States believes that our objective must include the restoration of human rights of the Tibetan people and their natural right of self determination."

Mr. President, May 23 is the anniversary of the signing of the 1951 surrender document, the "Agreement on Measures for the Peaceful Liberation of Tibet"—a document signed under duress and made official by the Communist Chinese with a forged Tibetan Government seal. The Chinese Communist party will mark this day with the erection of a 230-foot high monument in Lhasa, Tibet's capital city, and with what many expect to be the largest display of force since the Red Army invasion.

Let the American Congress mark this day by setting the record straight. In the words of the Republican leader, Senator DOLE, as spoken on the occasion of the Dalai Lama's visit to the Congress, "as the Tibetan people and His Holiness the Dalai Lama go forward on their journey toward freedom, the government of the Peoples Republic of China should know that the Congress and the people of the United States stand with them and are united on the goals of freedom and human rights in Tibet."

Mr. President, I ask unanimous consent that a letter signed by myself and Mr. MOYNIHAN be printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, May 7, 1991.

DEAR COLLEAGUE: On May 23rd the Chinese Communist party will celebrate 40 years of rule over Tibet. The Chinese will commemorate this event with the erection of a 230-foot high monument in Lhasa, and what many expect to be the largest display of force since the invasion.

May 23rd is the anniversary of the signing of the 1951 surrender document, the so-called Agreement on Measures for the Peaceful Liberation of Tibet. The Dalai Lama and his government repudiated the document when they fled into exile, saying that it had been signed under duress and the official saying that it had been signed under duress and the official Tibetan government seal was forged by the Communist Chinese.

This week we will introduce a resolution expressing the sense of Congress that Tibet is an occupied country under established principles of international law whose true representatives are the Dalai Lama and the Tibetan government in exile (attached).

If you would like to join us as original cosponsors please call Mary Beth Markey at 4-5220.

Sincerely,

CLAIBORNE PELL.
DANIEL PATRICK MOYNIHAN.

SENATE RESOLUTION 129—RELATIVE TO THE RECENT PARLIAMENTARY ELECTIONS IN ALBANIA

Mr. PELL (for himself and Mr. DOLE) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 129

Whereas on March 31, 1991 Albania conducted its first open, multiparty parliamentary elections since the 1920's;

Whereas a fair election is a process, not a single event, which includes the formulation of rules governing the election, the conduct of the campaign prior to the actual voting and finally, the voting, tabulation and release of results.

Whereas the Document of the June 1990 Meeting of the Conference on the Human Dimension of the Conference on Security and Cooperation in Europe (CSCE) states that participating States will "ensure that law and public policy work to permit political campaigning to be conducted in a fair and free atmosphere in which neither administrative action, violence or intimidation bars the parties and the candidates from freely presenting their views and qualifications, or prevents the voters from learning and discussing them or from casting their vote free of fear of retribution";

Whereas although the election itself appeared to have been conducted properly with few reports of fraud, some irregularities were noted such as disparities in the number of registered voters per precinct; and there were credible reports that during the campaign preceding the election some intimidation of voters and harassment of opposition party activities occurred;

Whereas the monopoly over election rulemaking enjoyed by the Communist Party of Labor, in addition to its greater access to government-supplied resources such as transportation, office space and printed material, contributed to the Party of Labor's ability to win over two-thirds of the seats in the new 250-member parliament;

Whereas, the opposition did well in the cities, defeating many leading Party of Labor candidates such as President Alia, and Foreign Minister Kapllani;

Whereas the Party of Labor won decisively in rural areas very likely because rural voters had little contact with international observers, had limited access to media coverage of the campaign, feared the effects of agricultural decollectivization, and were conditioned by decades of repression to vote for communist candidates;

Whereas on April 2, when the election results were announced, peaceful opposition demonstrations occurred in the capital city of Tirana as well as in other cities;

Whereas during one of these demonstrations, which the government sought to suppress, in the northern city of Shkoder, four unarmed opposition members, including Arben Broci, a leader of the Democratic Party of Albania were killed, reportedly by Albanian security forces;

Whereas the Albanian people are in dire need of medical and other humanitarian assistance: Now, therefore, be it

Resolved by the Senate, That—

(1) the Senate condemns the use of violence to break up peaceful demonstrations and calls on the government of Albania promptly to complete a full and objective investigation of the April 2 killings in Shkoder, as requested by the Democratic Party of Albania and to deal appropriately with those found responsible;

(2) the Senate regrets that the organization and conduct of the campaign preceding the March 31 election did not permit opposition political parties to compete fairly with the governing Party of Labor;

(3) the Senate commends the President for his decision to re-establish full diplomatic relations with Albania and urges him to utilize this new relationship (a) to encourage a dialogue between the government and the opposition regarding the future of the country and (b) to urge the government to honor its expressed commitments to make political and market-oriented economic reforms and to meet European political and human rights standards;

(4) the Administration should support Albania's application for CSCE membership, provided that Albania unequivocally accepts all of the obligations of the Helsinki Final Act of 1975 and subscribes to the objectives set forth in the Document of the June 1990 Meeting of the Conference on the Human Dimension of the CSCE;

(5) if Albania becomes a CSCE member, the United States should use the CSCE forum to monitor and encourage Albania's compliance with its CSCE obligations;

(6) the United States should be as responsive as possible to Albania's genuine humanitarian needs, which should be addressed through private voluntary organizations;

(7) other economic assistance and economic relations should be directly related to Albania's progress in making political and economic reforms and in improving its human rights performance;

(8) the Administration should encourage and support programs of the National Democratic and Republican Institutes to assist in Albania's democratic development; and

(9) the Voice of America and/or Radio Free Europe should expand Albanian language broadcasting to Albania, and the United States Information Agency should establish a strong information program at the new Embassy in Tirana.

SENATE RESOLUTION 130—AUTHORIZING USE OF THE HART BUILDING ATRIUM

Mr. BURDICK submitted the following resolution; which was considered and agreed to:

S. RES. 130

Resolved, That the atrium of the Senate Hart Office Building may be used from 12 noon until 1 p.m. on one day during the spring and one day during the winter of each session of the 102d Congress, for a concert of American music to be presented by the Congressional Chorus.

SENATE RESOLUTION 131—RELATIVE TO THE ASSASSINATION OF RAJIV GANDHI, FORMER PRIME MINISTER OF INDIA

Mr. MITCHELL (for himself, Mr. DOLE, Mr. PELL, Mr. MOYNIHAN, Mr. HATFIELD, Mr. ADAMS, Mr. AKAKA, Mr. BAUCUS, Mr. BENTSEN, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mr. BOREN, Mr. BRADLEY, Mr. BREAUX, Mr. BROWN, Mr. BRYAN, Mr. BUMPERS, Mr. BURDICK, Mr. BURNS, Mr. BYRD, Mr. CHAFEE, Mr. COATS, Mr. COCHRAN, Mr. COHEN, Mr. CONRAD, Mr. CRAIG, Mr. CRANSTON, Mr. D'AMATO, Mr. DANFORTH, Mr. DASCHLE, Mr. DECONCINI, Mr. DIXON, Mr. DODD, Mr. DOMENICI, Mr. DURENBERGER, Mr. EXON, Mr. FORD, Mr. FOWLER, Mr. GARN, Mr. GLENN, Mr. GORE, Mr. GORTON, Mr. GRAHAM, Mr. GRAMM, Mr. GRASSLEY, Mr. HARKIN, Mr. HATCH, Mr. HEFLIN, Mr. HELMS, Mr. HOLLINGS, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KASTEN, Mr. KENNEDY, Mr. KERREY, Mr. KERRY, Mr. KOHL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. LOTT, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Mr. MCCONNELL, Mr. METZENBAUM, Ms. MIKULSKI, Mr. MURKOWSKI, Mr. NICKLES, Mr. NUNN, Mr. PACKWOOD, Mr. PRESSLER, Mr. PRYOR, Mr. REID, Mr. RIEGLE, Mr. ROBB, Mr. ROCKEFELLER, Mr. ROTH, Mr. RUDMAN, Mr. SANFORD, Mr. SARBANES, Mr. SASSER, Mr. SEYMOUR, Mr. SHELBY, Mr. SIMON, Mr. SIMPSON, Mr. SMITH, Mr. SPECTER, Mr. STEVENS, Mr. SYMMS, Mr. THURMOND, Mr. WALLOP, Mr. WARNER, Mr. WELLSTONE, Mr. WIRTH, and Mr. WOFFORD submitted the following resolution; which was considered and agreed to:

S. RES. 131

Whereas Rajiv Gandhi courageously served his nation as Prime Minister and as leader of the opposition;

Whereas Rajiv Gandhi embodied the post-independence generation of Indian leadership committed to economic liberalization, to individual rights, and to Indian leadership on behalf of democracy and development in Asia and the Third World;

Whereas Rajiv Gandhi has made an important contribution to better relations between the world's most populous democracy and the United States;

Whereas Rajiv Gandhi has been murdered in the middle of an election campaign in a cowardly attack that is intended as an assault on Indian democracy itself: Now, therefore be it,

Resolved, That the Senate of the United States—

condemns the cowardly murder of former Prime Minister Rajiv Gandhi and others in the bomb explosion of May 21, 1991;

expresses its profound regret over the deaths of Rajiv Gandhi and other victims of election violence in India;

offers its deepest condolences to Rajiv Gandhi's widow Sonia, to his children Priyanka and Rahul, and to the people of India; and

stands in solidarity with the people of India in their effort to sustain the most successful democratic tradition in the developing world.

AMENDMENTS SUBMITTED

SENATE ELECTION ETHICS ACT

STEVENS AMENDMENT NO. 248

Mr. STEVENS proposed an amendment to amendment No. 246 proposed by Mr. DODD 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 election campaigns, and for other purposes, as follows:

On page 2, line 23, strike "January 1, 1992." and insert "the date on which the rate of pay of Members of the Senate becomes equal to the rate of pay of Members of the House of Representatives."

MOYNIHAN (AND GARN) AMENDMENT NO. 249

Mr. MOYNIHAN (for himself and Mr. GARN) proposed an amendment to amendment No. 242 proposed by Mr. BOREN to the bill S. 3, supra, as follows:

On page 101, between lines 4 and 5, insert the following:

SEC. 405. UNIFORM LIMITATIONS FOR EARNED AND UNEARNED INCOME.

(a) SUBSTANTIVE AMENDMENTS.—Section 501 of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended—

(1) in section 501(a)(1) by inserting "or unearned" after "earned"; and

(2) in section 501(a)(2) by inserting "or unearned" after "earned".

(b) TECHNICAL AMENDMENTS.—The heading for title V of the Government Ethics Act of 1978 (5 U.S.C. App.) is amended by striking "EARNED".

(2) The heading for section 501 of the Government Ethics Act of 1978 (5 U.S.C. App.) is amended by striking "EARNED".

(3) The heading for section 501(a) of the Government Ethics Act of 1978 (5 U.S.C. App.) is amended by striking "EARNED".

BENTSEN (AND OTHERS) AMENDMENT NO. 250

Mr. BENTSEN (for himself, Mr. BOREN, Mr. SHELBY, Mr. LEAHY, and Mr. WIRTH) proposed an amendment to amendment No. 242 proposed by Mr. BOREN to the bill S. 3, supra, as follows:

At the appropriate place in the amendment, insert the following:

SEC. . CONTRIBUTIONS BY FOREIGN NATIONALS.

Section 319 of FECA (2 U.S.C. 441e) is amended—

(1) in subsection (a) by inserting after "foreign national" the first place it appears the following: ", including any separate segregated fund or nonparty multicandidate political committee of a foreign national,";

(2) in subsection (b)(1) by inserting before the semicolon at the end the following: ", but shall include any partnership, association, corporation, or subsidiary corporation organized under or created by the laws of the United States, a State, or any other place subject to the jurisdiction of the United States if more than 50 percent of the entity is owned or controlled by a foreign principal".

BREAUX (AND OTHERS) AMENDMENT NO. 251

Mr. BREAUX (for himself, Mr. DOLE, and Mr. MCCONNELL) proposed an amendment to amendment No. 250 proposed by Mr. BENTSEN (and others) to amendment No. 242 proposed by Mr. BOREN to the bill S. 3, surpa, as follows:

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

SEC. . PROHIBITION OF CERTAIN ELECTION-RELATED ACTIVITIES OF FOREIGN NATIONALS.

(a) FINDINGS AND DECLARATIONS.—The Congress finds and declares that—

(1) the electoral process of the United States should be open to all American citizens;

(2) foreign nationals should have no role in the American electoral process;

(3) Congress does not intend and has never intended to permit foreign nationals to participate, directly or indirectly, in the decisionmaking of political committees established pursuant to the Federal Election Campaign Act of 1971;

(4) it is the intent of Congress to prohibit any participation whatsoever by any foreign national in the activities of any political committee; and

(5) while it is necessary to safeguard the political process from foreign influence, it is critical that any protections not discriminate against American citizens employed by foreign-owned companies and that Americans' constitutional rights of free association and speech be protected.

(b) PROHIBITION OF CERTAIN ELECTION-RELATED ACTIVITIES OF FOREIGN NATIONALS.—Section 319 of the Federal Election Campaign Act of 1971 is amended by—

(1) redesignating subsection (b) as subsection (e); and

(2) inserting after subsection (a) the following new subsections:

"(b) A foreign national shall not direct, dictate, control, or directly or indirectly participate in any person's decisionmaking concerning the making of contributions or expenditures in connection with elections for any Federal, State, or local office or decisionmaking concerning the administration of a political committee.

"(c) A nonconnected political committee or the separate segregated fund established in accordance with section 316(b)(2)(C) or any other organization or committee involved in the making of contributions or expenditures in connection with elections for any Federal, State, or local office shall include the following statement on all printed materials produced for the purpose of soliciting contributions:

"It is unlawful for a foreign national to make any contribution of money or other thing of value to a political committee."

"(d) A nonconnected political committee or the separate segregated fund established in accordance with section 316(b)(2)(C) or any other organization or committee involved in the making of contributions or expenditures in connection with elections for any Federal, State, or local office shall certify in regular reports to the Commission, or in a manner prescribed by the Commission, that no foreign national has participated either directly or indirectly in the decisionmaking of the political committee or separate segregated fund, including the appointment of the administrators of the committee or fund."

(c) PENALTY.—Section 309(b)(1)(C) of FECA (2 U.S.C. 437g(d)(1)(C)) is amended by inserting "section 319 or" before "section 322".

MCCONNELL (AND OTHERS) AMENDMENT NO. 252

Mr. MCCONNELL (for himself, Mr. NICKLES, and Mr. GRAMM) proposed an amendment, which was subsequently modified, to amendment No. 242 proposed by Mr. BOREN to the bill S. 3, supra, as follows:

Strike section 101.

Strike subsection (d) of section 102.

Strike section 103.

Strike subsection (b) of section 103.

Strike section 104.

Strike section 105.

On page 47, beginning with line 17, strike all through page 50, line 3.

On page 50, line 4, strike "(b)" and insert "SEC. 304A(a)".

On page 52, line 8, strike "(c)" and insert "(b)".

On page 53, line 1, strike "(d)" and insert "(c)".

On page 54, line 6, strike "(f)" and insert "(e)".

On page 54, line 16, strike "(g)" and insert "(f)".

On page 61, strike lines 5 through 13.

On page 61, lines 16 and 17, strike "and subsection (c) or (d)".

WELLSTONE AMENDMENT NO. 253

Mr. WELLSTONE proposed an amendment to amendment No. 242 proposed by Mr. BOREN to the bill S. 3, supra, as follows:

On page 13, line 18, strike "$250,000" and insert "25,000".

On page 52, line 10, strike "250,000" and insert "25,000".

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON ANTITRUST, MONOPOLIES, AND BUSINESS RIGHTS

Mr. BOREN. Mr. President, I ask unanimous consent that the Subcommittee on Antitrust, Monopolies, and Business Rights of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Tuesday, May 21, 1991, at 9:30 a.m. to hold a hearing on oversight of the AT&T consent decree.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BOREN. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be authorized to meet during the session of the Senate on Tuesday, May 21, at 2:30 p.m. to conduct a hearing on the nominations of John M. Hayden, nominated to be Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior; and Ivan Selin, nominated to be Commissioner of the Nuclear Regulatory Commission.

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

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS, AND FORESTS

Mr. BOREN. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks, and Forests of the full Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, at 2 p.m., May 21, 1991, to receive testimony of the following bills: S. 52, H.R. 1143, S. 550, S. 638, H.R. 749, S. 639, H.R. 904, S. 663, S. 749, S. 996, H.R. 427, and H.R. 690.

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

COMMITTEE ON ARMED SERVICES

Mr. BOREN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, May 21, 1991, at 2 p.m., to receive a briefing on the conduct of the air campaign during Operation Desert Shield/Desert Storm.

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

SUBCOMMITTEE ON DEFENSE INDUSTRY AND TECHNOLOGY

Mr. BOREN. Mr. President, I ask unanimous consent that the Subcommittee on Defense Industry and Technology of the Committee on Armed Services be authorized to meet on Tuesday, May 21, 1991, at 9:30 a.m., to receive testimony on the current issues involving the Department of Defense in-house laboratory system, in review of S. 1066, the Department of Defense authorization bill for fiscal years 1992–93.

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

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION AND THE SUBCOMMITTEE ON SUPERFUND, OCEAN, AND WATER PROTECTION

Mr. BOREN. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection and the Subcommittee on Superfund, Ocean, and Water Protection, Committee on Environmental and Public Works, be authorized to meet during the session of the Senate on Tuesday, May 21, beginning at 9:30 a.m. to conduct a hearing to receive testimony from William Reilly, Administrator, Environmental Protection Agency, regarding issues related to clean water and pending legislation to amend the Clean Water Act.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BOREN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation and the National Ocean Policy Study, be authorized to meet during the session of the Senate on May 21, 1991, at 2 p.m., on the National Ocean and Atmospheric Administration [NOAA] reauthorization.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. BOREN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, May 21, 1991, at 2 p.m. to hold a closed hearing on intelligence matters.

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

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. BOREN. Mr. President. I ask unanimous consent that the Senate Committee on Agriculture, Nutrition, and Forestry, be allowed to meet during the session of the Senate on May 21, 1991, at 2:30 p.m. in SR–332, to hold a hearing on 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 PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

Mr. BOREN. Mr. President. I ask unanimous consent that the Committee on Banking, Housing and Urban Affairs be allowed to meet during the session of the Senate, Tuesday, May 21, 1991, at 10 a.m. to conduct a hearing on issues confronting urban America, particularly problems facing African-American males, with a focus upon recommendations and proposed solutions.

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

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. BOREN. Mr. President. I ask unanimous consent that the Senate Committee on Agriculture, Nutrition, and Forestry, Subcommittee on Agriculture and Credit and the House Committee on Government Operations, Subcommittee on Government Information, Justice, and Agriculture, be allowed to meet during the session of the Senate on May 21, 1991, at 9 a.m. in SR–332, to hold a joint hearing on the Farmers Home Administration national appeals staff.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BOREN. Mr. President. I ask unanimous consent that the full Committee on Environment and Public Works be authorized to meet during the session of the Senate on Wednesday and Thursday, May 22 and 23, beginning at 9:30 a.m., to conduct a business meeting to mark up S. 965, the Surface Transportation Efficiency Act of 1991; and other pending business.

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

ADDITIONAL STATEMENTS

VETERANS' CLAIMS ADMINISTRATIVE ACT OF 1991

• Mr. SHELBY. Mr. President, I rise today in support of the Veterans' Claims Administrative Equity Act of 1991, a bill that would benefit the hundreds of thousands of our Nation's veterans. This legislation seeks to address the increasing delays by the Veterans Benefits Administration in response to requests by Veterans for claims and adjustments. While the Veterans Benefits Administration has historically provided veterans with timely action in regard to benefit claims, delays are becoming more and more frequent. Although 25 percent of all claims are adjudicated within 3 months, over one-third fail to be completed inside of 6 months. Additionally, the Veterans Benefits Administration has no reasonable response time standard in the claims process.

Our Nation's veterans have suffered significant reductions in benefits over the years. All too often, veterans programs are cut in the budget process. Congress can preserve its commitment to veterans by enacting legislation that would require the Veterans Benefits Administration to complete action on all original claims within 270 days. Additionally, if a veteran files a notice of disagreement with an original decision, the case would be sent to the Board of Veterans Appeals within 270 days. Finally, where the Administration fails to meet a deadline, the veteran claimant will be paid interim benefits until a decision is reached.

This bill, known as the Veterans' Claims Administrative Equity Act of 1991 will allow Congress the opportunity to do what is right and just in protecting the interests of our Nation's veterans.•

DEAN CORNETT: VOLUNTEER EXTRAORDINARIE

• Mr. McCONNELL. Mr. President, I rise today to recognize a Kentuckian, whose unselfish way of life has recently culminated in her being named 1 of this country's 19 Presidential Volunteer Action Award recipients for 1990. Dean Cornett's storefront literacy project has helped many individuals earn their high school equivalence degrees.

The center's program was featured nearly 2 years ago when it was publicized on Charles Kuralt's "Sunday Morning" program on CBS. Ms. Cornett was also named last June as one of President Bush's "thousand points of light" for her volunteer efforts.

Cornett estimates that some 150 people have studied for their high school certificates in the center, and that at least 25 have earned them. "Even if

they haven't gotten their certificates, they've been helped," said Cornett.

Mr. President, the continuing work of Ms. Dean Cornett is vital to this country if for no other reason than for the spirit and enthusiasm which she instills in her community. She is truly a shining example of the volunteer spirit, which has helped make this country the model for nations worldwide. At this time, Mr. President, I would ask that a Courier-Journal piece on Ms. Cornett be inserted into the RECORD.

The article follows:

[From the Courier-Journal, Apr. 20, 1990]

VOLUNTEER WILL BE HONORED NATIONALLY

(By Richard Wilson)

PAINT LICK, KY.—It's a long way from the rural backroads of Madison and Garrard counties to the White House, but it's a trip that Dean Cornett will reluctantly make next week.

"I really feel unqualified to go take this honor. I just never like to be up front," the 73-year-old widow said yesterday.

Cornett will be honored at the White House next Friday as one of 19 recipients of this year's President's Volunteer Action Awards—for her role in creating a storefront literacy project that has helped many people earn their high school equivalency diplomas.

But that's only one of the services Cornett operates out of the literacy center on tiny Paint Lick's only street. There's also a clothing bank, art classes, a library and women's reading group, sewing classes, children's story hours and courses through Eastern Kentucky University.

"She's one of those programs very hard to find nationally because it's so small and so remote. To find something that is this local and this grassroots is wonderful. It really does reflect the level of (volunteer) involvement across the country," said Richard Mock, an official at the National Volunteer Center in Alexandria, Va.

While Cornett has drafted many volunteers to help her with various projects, she is the only staff member for the umbrella organization Friends of Paint Lick Inc., which technically oversees her good-will endeavors. The group borrowed $12,000 from the local Peoples Bank two years ago to buy the two-story building that now houses its programs.

"Dean's our Mother Teresa. She takes care of everybody else's needs and doesn't want any credit," said Virginia Fenfro, a Paint Lick resident and long-time friend.

Stories of Cornett's good deeds are plentiful. Friends say she combs the area's backroads in her 1970 Chevy pickup, often carrying food, fuel and medicine to impoverished families or just giving someone a lift.

"She'll stop at beat-up old pick-up trucks . . . and if someone is standing there needing a ride or help or just to talk, she'll screech to a halt," said Frank Taylor, president of the the Berea-based Mountain Association for Community Economic Development. "She's always looking for people who need something."

Cornett is "a motivator" who convinces others that they can overcome any obstacle, said Ike Adams, an official at the Christian Appalachian Project in Lancaster.

Karie Rollins, who dropped out of high school 18 years ago and now works in a local restaurant and at the post office, agrees. Rollins, now 34, said Cornett pushed her into the local GED program two years ago, then prodded her to complete it.

"She's certainly changed my life," said Rollins, who has completed a semester of college through the EKU courses offered at the center.

Cornett and the Friends of Paint Lick were nominated for the national volunteer award by Linda Caldwell, a Paint Lick native and librarian of Jefferson County's Fairdale High School.

Caldwell calls Cornett "a dynamo of energy. Her mind is like a steel trap and moves as fast as a wheel. She tries to help everybody—it doesn't matter who they are."

Cornett, a Harlan County native who graduated from high school in Knox County, moved to Madison County in 1941 when she married her husband, Thomas, who died in 1970. The mother of three grown children, she still lives on the family farm in Madison County.

Cornett got involved in volunteer work through community action and adult-education programs in Richmond in the 1960s. She also was involved in Democratic politics in Madison County.

Her public activities dwindled for many years after her husband's death, but that all changed in mid-1988 when Kevin Brown, an eighth-grader at the local elementary school, sought her help on a school project on rural community revitalization.

"I said, 'Kevin, I'm getting old and I don't get out much. Anything you think up for Paint Lick will be alright.'" But together they came up with the idea for Friends of Paint Lick. The group, incorporated in December 1988, "wouldn't be what it is today without her," said Brown, now a sophomore at Garrard County High School.

During an interview at the center, its walls lined with books and artwork by local residents, Cornett scoffed at the accolades she's received.

"The less you say about me, the better," she said. Others like her volunteers, deserve the credit, she said.

"I just had a vision of something that could be," Cornett said.

She calls education "the power that can change lives," "In my two years of being here every day, if just one person has been helped, it's been worth it to me."

As a child, Cornett recalls reading a book about Jane Addams, a turn-of-the-century social worker who started Hull House, a sanctuary in the Chicago slums for the impoverished. "I loved that story about those poor little children that she helped. So I've got my Hull House here."•

BUDGET SCOREKEEPING REPORT

• Mr. SASSER. Mr. President, I hereby submit to the Senate the most recent budget scorekeeping report for fiscal year 1991, prepared by the Congressional Budget Office under section 308(b) of the Congressional Budget Act of 1974, as amended. This report serves as the scorekeeping report for the purposes of section 605(b) and section 311 of the Budget Act.

This report shows that current level spending is under the budget resolution by $0.4 billion in budget authority, and under the budget resolution by $0.4 billion in outlays. Current level is $1 million below the revenue target in 1991 and $6 million below the revenue target over the 5 years, 1991–95.

The current estimate of the deficit for purposes of calculating the maximum deficit amount is $326.6 billion, $0.4 billion below the maximum deficit amount for 1991 of $327 billion.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 20, 1991.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1991 and is current through May 17, 1991. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the Budget Enforcement Act of 1990 (Title XIII of P.L. 101–508). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated May 14, 1991, there has been no action that affects the current level of spending and revenues.

Sincerely,

ROBERT D. REISCHAUER,
Director.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG., 1ST SESS., AS OF MAY 17, 1991

[In billions of dollars]

	Revised on-budget aggregates [1]	Current level [2]	Current level +/− aggregates
On-Budget:			
Budget authority	1,189.2	1,188.8	−0.4
Outlays	1,132.4	1,132.0	−0.4
Revenues:			
1991	805.4	805.4	(3)
1991–95	4,690.3	4,690.3	(3)
Maximum deficit amount	327.0	326.6	−0.4
Direct loan obligations	20.9	20.6	−0.3
Guaranteed loan commitments	107.2	106.9	−0.3
Debt subject to limit	4,145.0	3,373.2	−771.8
On-Budget:			
Social Security Outlays:			
1991	234.2	234.2	.....
1991–95	1,284.4	1,284.4	.....
Social Security revenues:			
1991	303.1	303.1	.....
1991–95	1,736.3	1,736.3	.....

[1] The revised budget aggregates were made by the Senate Budget Committee staff in accordance with section 13112(f) of the Budget Enforcement Act of 1990 (title XIII of Public Law 101–508).

[2] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. In accordance with section 606(d)(2) of the Budget Enforcement Act of 1990 (title XIII of Public Law 101–508) and in consultation with the Budget Committee, current level excludes $45.3 billion in budget authority and $34.6 billion in outlays for designated emergencies including Operation Desert Shield/Desert Storm; $0.1 billion in budget authority and $0.2 billion in outlays for debt forgiveness for Egypt and Poland; and $0.2 billion in budget authority and outlays for Internal Revenue Service funding above the June 1990 baseline level. Current level outlays include a $1.1 billion savings for the Bank Insurance Fund that the committee attributes to the Omnibus Budget Reconciliation Act (Public Law 101–508), and revenues include the Office of Management and Budget's estimate of $3 billion for the Internal Revenue Service provision in the Treasury-Postal service appropriations bill (Public Law 101–509). The current level of debt service to limit reflects the latest U.S. Treasury information on public debt transactions.

[3] Less than $50,000,000.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG., 1ST SESS., SENATE SUPPORTING DETAIL, FISCAL YEAR 1991 AS OF CLOSE OF BUSINESS MAY 17, 1991

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues	.....	.....	834,910
Permanent appropriations and trust funds	725,105	633,016	.....
Other legislation	664,057	676,371	.....
Offsetting receipts	−210,616	−210,616	.....

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG., 1ST SESS., SENATE SUPPORTING DETAIL, FISCAL YEAR 1991 AS OF CLOSE OF BUSINESS MAY 17, 1991—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
Total enacted in previous sessions	1,178,546	1,098,770	834,910
II. Enacted this session:			
Extending IRS Deadline for Desert Storm Troops (H.R. 4, Public Law 102–2)			−1
Veterans' education, employment and training amendments (H.R. 180, Public Law 102–16)	2	2	
Dire emergency supplemental appropriations for 1991 (H.R. 1281, Public Law 102–27)	3,823	1,401	
Higher education technical amendments (H.R. 1285, Public Law 102–26)	3	3	
OMB domestic discretionary sequester	−2	−1	
Total enacted this session	3,826	1,405	−1
III. Continuing resolution authority			
IV. Conference agreements ratified by both Houses			
V. Entitlement authority and other mandatory adjustments required to conform with current law estimates in revised on-budget aggregates	−8,572	539	
VI. Economic and technical assumption used by committee for budget enforcement act estimates:	15,000	31,300	−29,500
On-budget current level	1,188,799	1,132,014	805,409
Revised on-budget aggregates	1,189,215	1,132,396	805,410
Amount remaining:			
Over budget resolution			
Under budget resolution	416	382	1

Note.—Numbers may not add due to rounding.•

SALUTE TO ACADEMIC DECATHALON WINNERS

• Mr. SEYMOUR. Mr. President, I stand today in recognition of a very special group of students and their teachers from my home of Orange County, CA. Jay Kim, Ryan Sakamoto, Teddy Chen, Todd Faurot, George Dannenhauer, Sian Baker, Robin Cheney, and Kirk Brown are the members of the Orange County Academic Decathalon Team, coached by Mrs. Kathy Lane and Mr. Roger Gunderson. The Orange County team won the statewide California competition in March and placed second in the national finals held in Los Angeles in April, and Jay and George earned bronze and silver medals.

The U.S. Academic Decathalon competition was born in Orange County, the brainchild of a gifted educator and former superintendent of schools, Dr. Robert Peterson. The California program originated in 1979, and the U.S. competition, in which 44 States now compete, began in 1981. In every national competition, a California team has placed first or second. Of course, having said that, I must also add that it is not whether you win or lose, it is how you play the game. In the case of the academic decathalon, the game is played so everyone wins, because everyone who participates learns.

The academic decathalon program is structured to motivate students, not just "A" average students, but also "B" and "C" students. In 1987, the highest scoring student in the national competition was a "C" student who had been denied admission to college. Because of his affiliation with the decathalon he was admitted to the University of California, Berkeley and is now a graduate of that institution.

I rise today not only to honor the students who have won this competition, and the teachers who helped guide them, but also the private sector partners in the U.S. Academic Decathalon Program. It is certainly a foremost example of the success of which American educators and businesses are capable when they join together to achieve their common goal of a better-educated society.

The decathalon's sponsors include the Ronald McDonald's Children's Charities, the Lennox Foundation, the Raytheon Co., the American Honda Foundation, the Psychological Corp., a division of Harcourt Brace Jovanovich, Inc., D.C. Heath and Co., TRW, and Arthur Andersen.

I ask the Senate to join me in honoring the Orange County California Academic Decathalon Team, their teachers, the program's sponsors, and all the students and teachers who participated in the program from throughout the Nation.•

PROJECT RESPECT IN WISCONSIN

• Mr. KOHL. Mr. President, I rise today to recognize the efforts of a group in Milwaukee called Project Respect, Inc., and its "Warning! We Must Respect Each Other" campaign. Project Respect is a neighborhood crime prevention program which encourages citizens to participate in activities designed to protect our community against crime. In cooperation with the Milwaukee Police Department Crime Prevention Bureau, Project Respect has implemented neighborhood block watches and coordinated services relating to crime prevention for crime victims.

We all know too well how much crime, especially violent crime, is plaguing our communities. For example, last year there were over 4,000 robberies, 9,000 burglaries, and 1,400 aggravated assaults reported to the police in Milwaukee alone. And that's not surprising; nationally, violent crime rose 10 percent. That is why we must take a moment to commend the efforts of these individuals, who are working to make our communities free from violence.

Every year for the past 17 years, Project Respect has sponsored the "Warning! We Must Respect Each Other" campaign. This year's campaign, which takes place from May 19 through June 19, includes various events such as a community banquet, picnics, special events for youths, and other social, educational, and recreational activities. This program is designed to help Milwaukeeans prevent crime and to promote citizen involvement in crime prevention efforts.

I want to wish Project Respect the best of luck in its campaign this year and encourage people all over the country to involve themselves in similar projects. If we had a Project Respect in every major American city, we would be taking a giant step toward ridding our communities of violence, crime, and drug abuse.•

AIDS UPDATE

• Mr. CRANSTON. Mr. President, according to the Centers for Disease Control, as of April 30, 1991, 171,876 Americans have been diagnosed with AIDS; 108,731 Americans have died from AIDS; and 63,145 Americans are currently living with AIDS.

REALITY CHECK

Just a decade ago AIDS was unknown. Today, according to the World Health Organization [WHO] from 8 to 10 million people are infected worldwide. By the end of 1991, another million adult cases will have been added to this number.

In the United States, AIDS is now the second leading cause of death among young men—before heart disease, cancer, suicide, and homicide. Among young women, AIDS is projected to be one of the top five leading causes of death among young women in 1991. In some urban States—New York, New Jersey, and California—AIDS is the leading cause of death for young men and for young black women. In 1988, AIDS was the leading cause of death among 1- to 4-year-old Hispanic children nationally and, in New York State, the second leading cause of death among black children.

As we continue to debate health spending priorities in America, Mr. President, let us be mindful of how insidious is the threat of AIDS. In fact, according to the Centers for Disease Control, "Current dimensions and projected trends indicate the second decade of this epidemic will be far worse than the first."•

TRIBUTE TO SHIRLEE WENCZEL

• Mr. LAUTENBERG. Mr. President, I rise to pay tribute to Shirlee Wenczel, president of Wenczel & Co., a Pennington, NJ, based marketing communications firm. In recognition of her contribution to her field, Ms. Wenczel was recently inducted into the Advertising Hall of Fame of New Jersey.

Ms. Wenczel first founded her advertising agency in 1976, and built it from

a one-employee, one-client firm to a flourishing, multiclient agency employing over 28 people. Her award-winning advertising agency is noted for its efficiency, service to clients, and its creativity. The North American Advertising Network recognized it as one of the best managed agencies in the Nation.

Despite her family and professional responsibilities, Shirlee Wenczel has made time for philanthropic activities. Her many affiliations include serving on the board of the Association for Retarded Citizens, the National Scleroderma Society, and the Association for Retarded Citizens. Wenczel's firm also provides pro bono marketing services to groups such as the American Cancer Society of Trenton and the March of Dimes.

Ms. Wenczel has left her mark on the advertising profession as well as upon organizations dedicated to helping others. I join in extending to Shirlee Wenczel my heartiest congratulations on her induction into the Advertising Hall of Fame, and my warmest wishes for continued success and happiness in the future.●

ALFONSIN, ARGENTINE PARLIAMENTARIANS ENDORSE CRANSTON-KENNEDY IMET REFORM BILL

● Mr. CRANSTON. Mr. President, I rise today to urge that my colleagues support the International Military Education and Training Act of 1991, S. 156, which is designed to help reinforce civilian control over military establishments in emerging democracies.

The Cranston-Kennedy IMET reform effort seeks to draw upon the strengths of the United States' successful 200-year experience in civil-military relations and to apply them to one of its most important military assistance programs.

Traditionally IMET has provided key military-to-military linkages with officers from other countries, while providing them with exposure to American ideals and know-how.

Last year, the program was funded at just $47 million. And, as a result of initiatives by my good friend the distinguished Senator from Vermont [Mr. LEAHY] myself, and others, for the first time IMET training is being provided to civilians belonging to defense ministries and other relevant executive branch agencies.

The Cranston-Kennedy bill would expand the civilian training element of IMET, offering such assistance to members of national legislatures and their staffs, while assuring that its curriculums fully reflect democratic development criteria.

It would put a means test to so-called nation-building training—involving militaries in the construction of public works and other social and economic development activities—by offering such assistance through IMET only when the recipient country does not have any civilian agencies or private sector entities that could better carry out these kinds of tasks, and when it is requested by the freely elected head of the country.

The Kennedy-Cranston bill has received favorable comments in several countries, particularly in Latin America, where civilian political authorities are struggling to fortify their control over sometimes rebellious military establishments.

Mr. President, I recently received a letter of support for our IMET proposal from former Argentine President Raul Alfonsin, as well as a resolution of endorsement introduced by members of his Radical Civic Union who sit on Argentina's parliamentary defense commission. The Cranston-Kennedy bill had earlier received the backing of the current Argentine Government led by President Carlos Menem.

I am particularly pleased to have Alfonsin's support. During the 1980's he had the difficult job of guiding one of Latin America's most difficult democratic transitions.

Few events in Latin America have ever won as much admiration as Alfonsin's government's determination to try those responsible in the 1970's for plunging Argentina into the so-called dirty war in which thousands disappeared and were secretly killed.

But beyond restoring a sense of justice through the example of the dirty war crimes, Alfonsin took several steps which helped assure the survival of the rule of law as Argentina passed some of its most difficult moments of transition.

It was Alfonsin who wrested Argentina's police forces from military control, placing at their head law enforcement professionals who were respected by their own forces.

The role of Argentina's police had suffered from a serious professional deformation from decades of subordination to that country's highly politized military. It is revealing that in a recent history of the People's Revolutionary Army, or ERP, one of the two most important leftist guerrilla groups in Argentina in the 1970's, former ERP chieftain Luis Mattini admitted that one of the factors the insurgents counted in their favor was the resentment and demoralization among the police that came with their control by the military.

It was Alfonsin's government which passed a law, reminiscent of our own posse comitatus statutes, that separated military from police functions, thus giving the latter a nearly exclusive role in the maintenance of public safety.

These were not merely abstract formulations, but rather a virtual revolution in thinking on security issues in Latin America. And the results were for all to see.

Under the stewardship of the late Federal police chief, Juan Pirker, an Alfonsin appointee, the rotten apples were quietly purged from police rolls and several kidnapings and murders committed by police were solved by members of the force themselves.

But at no time, Mr. President, was the change more evident than during the food riots which shook Argentina in May 1989.

Several months before an economic austerity package sparked similar riots in Venezuela. Despite more than three decades of democratic rule, Venezuela has very imprecise police and military roles. When rioting erupted on the streets, the confusion between national defense and internal security manifested itself in a security force rampage. Best estimates say that between 600 and 2,000 people died as a result.

In May, as Alfonsin was struggling under the weight of the economic collapse of his country, bread riots broke out in several major cities. They lasted for several days and appeared to be of the same intensity as those in Venezuela.

The military demanded it be given a role in crushing the disturbances. Alfonsin, however, said no—and pointed to the fact the armed forces were prohibited from carrying out internal security functions.

Instead, the federal police and the national gendarmarie—both restored to professional respect through Alfonsin's reforms—took control of the streets using modern crowd control techniques. Less than a dozen people died, most killed by angry shopkeepers or others.

The contrast could not have been greater. Well-trained police professionals responding to civilian political authority made the difference.

Today, the United States remains the world's only superpower. The cold war, we are told, is over. Yet, unfortunately, some aspects of our security assistance programs seem to lag behind such momentous changes.

Mr. President, I urge my colleagues to support S. 156. It is an idea born of the changes that have come with the emergence of new democracies throughout the world.

I ask that President Alfonsin's letter, together with the parliamentary resolution offered by members of his Radical Civic Union, be placed in the RECORD. I also ask that a letter of support for the Cranston-Kennedy initiative written by former Carter Defense Department official David McGiffert be printed as well.

The material is as follows:

RADICAL CIVIC UNION,
NATIONAL COMMITTEE,
April 29, 1991.

DEAR SENATOR CRANSTON: I have been informed about the initiative you, together

with Senator Kennedy, presented to the honorable Senate Foreign Relations Committee to reform the International Military Education and Training Act (IMET), known as S. 156.

I am very pleased with this proposal and wish to express my personal point of view about this matter. I believe that joint training of military officers and civilians from the political community and from parliament is essential for the strengthening of our democratic governments.

Military policy in our countries requires the creation of shared experiences where:

The prinicipal of military subordination to civilian authority is reaffirmed;

The role of the armed forces in protecting the national territory and sovereignty is clearly defined, and

The United States' experience of unrestricted respect for democratic institutions is transmitted.

I wish also to emphasize the proposed revision of Section 541 of the Foreign Assistance Act of 1961, which will permit civilians who are responsible for the designing of military policy in our countries to participate in the (IMET) program.

The bill you have presented expresses with great clarity the essential principles for which we have fought for many years and is sustained by the real experiences of our nations. For this reason I believe it will be a very valuable instrument for the creation of bonds between the military and the democratic community of our hemisphere.

Therefore, Senator, I wish to express my sincerest congratulations for the initiative you have undertaken and, as the president of Argentina's principal opposition party, express our willingness to support it in whatever form is necessary.

I also take this opportunity to let you know that legislators from our party have presented to the defense commission of our national Chamber of Deputies a resolution supporting your bill.

With every good wish, I remain,

Sincerely,

RAUL ALFONSIN,
Former President of Argentina.

RESOLUTION

The Honorable Chamber of Deputies of the Nation, declares:

That is would look upon with favor the approval by the Congress of the United States of America of the "International Military Education and Training Reform Act of 1991" as presented by Senators Cranston and Kennedy, so that through its application, the current International Military Education and Training Program will offer training in defense and security issues to civilian functionaries and non-governmental organizations in Latin America—

That it is also considered of great importance—due to its important impact in the future on various aspects of civil-military relations in Latin America and, certainly, on the strengthening of the political stability of Latin American nations—the following aspects of the reforms proposed by the aforementioned Senators:

(a) the specific inclusion in the program, of members of national legislatures and their staffs;

(b) That the military training known as "Nation Building" (training of militaries in the construction of public works and other social and economic development activities, i.e.: "civic action") be offered exclusively to those countries lacking in civilian agencies capable of undertaking such tasks, and at the request of freely-elected democratic governments.

FUNDAMENTS

Mr. President: The program of the United States of America known as International Miliary Education and Training—IMET, carried out as part of the Foreign Assistance Act of 1961, currently offers U.S. training and assistance to foreign armed forces, in specifically military tasks as well as those known as "Nation Building" (training of militaries in the construction of public works and other social and economic development activities, i.e: "civic action").

It ought to be recognized that in the past, the fruits of this program did not yield the most satisfactory results in the strengthening of democratic systems in Latin American countries. On the contrary, the experience in this matter has shown that these programs offered ideological support so that—using the pretext of the fight against communism—the armed forces of Latin America progressively took control of their own countries, and, finally, of their own governments. At the same time, the programs known as "Nation Building" allowed these Armed Forces to present themselves as real competitors with their governments in works designed for social and economic development and, in some cases, to acquire through them significant political power.

The new ideas in the United States of America about the need to strengthen democratic governments in South America—whose clearest expression is the existence, in almost the entire subcontinent, of governments freely elected by the people—seem to be causing the revision of certain aspects of the aforementioned program. This is what emerges from the presentation in the Senate of the United States, by Senators Cranston and Kennedy, of the bill known as the "International Military Education and Training Act of 1991." Its most important aspect is the possibility of offering through it training in defense and security issues to civilian functionaries and non-governmental organizations in Latin America—particularly about aspects concerning the oversight and management of the armed forces—thus allowing the constitutional command and control of the same.

Other aspects of the reforms presented by Cranston and Kennedy have a great moral and political importance, as examples of the change taking place in U.S. thinking about what type of defense assistance is offered to Latin American countries. Thus, they propose for specific inclusion in the program members of national legislatures and their staffs; and that the military training known as "Nation Building" (training of militaries in the construction of public works and other social and economic development activities, i.e: "civic action") be offered exclusively to those countries lacking in civilian agencies capable of undertaking such tasks, and at the request of freely-elected democratic governments.

As a true symbol of the purposes which inform this proposal, we believe it is opportune to include here the Declaration of Findings and Purposes of the same:

"The Congress finds that—

(1) one of the most important changes that must occur in newly emerging democracies is that a Nation's military is fully under the control of civilian authority;

(2) the success and prestige of the United States Armed Forces and those of many other democracies have been immeasurably advanced by their unquestioned subordination to civilian political authority and their strict adherence to a mission of national defense of territory and sovereignty;

(3) the American model has an important array of lessons in the proper management of civil-military relations, such as—

(a) the clear and unequivocal direction provided by civilian political leaders of the military structure and forces;

(b) the control of the military budget by Congress provides essential oversight by elected officials responsible to the people;

(c) the existence of close interaction and contact between civilians and military, and between the four services, throughout the command and control structure;

(d) civilian-run non-governmental organizations help inform and shape defense policy; and

(e) the United States military, which has no law enforcement functions except in extreme and unusual circumstances, has, therefore, remained at the margins of partisan politics;

(4) in many emerging democracies the corps of civilian managers that forms an integral part of military management in the United States does not exist;

(5) the lack of continuity in democratic political institutions can mean a loss of historical memory, gaps in technical training, and an absence of personal ties between military officers and civilians which sustain good will in times of crisis; and

(6) there are professional ethics, strictures, and responsibilities that are essential to democratic control of a nation's military, such as the following:

(a) that the military does not play a partisan political role;

(b) that it is the duty of the military, both individually and collectively, to prevent human rights abuses of civilians or captured or surrendered military personnel;

(c) that illegal orders should not be obeyed;

(d) that power must not be misused to further personal goals.

(b) Recognizing that democratic control over the military cannot be established without empowering civilian managers in defense and security issues and without circumscribing the role of the armed forces to those of national defense functions, it is the purpose of this Act to revise and reform the existing International Military Education and Training (IMET) program so as to provide support for emerging democracies and the civilian control of military establishments * * *."

We believe that these declarations outline an important change in U.S. attitudes with respect to questions concerning civil-military relations in Latin America. And, above and beyond the importance the assigning of funds for the teaching of Latin American civilians, and particularly members of their parliaments, for the purpose of strengthening constitutional control over the military, the aforementioned declarations show a lucid and worthy attitude, to which we ought to respond with our support and encouragement. To that end, we ask the support of our colleagues.

VICTORIO OSVALDO BISCIOTTI.
CONRADO HUGO STORANI.
CARLOS M.A. MOSCA.
FRANCISCO MUGNOLO.
RICARDO FELGUERAS.

COVINGTON & BURLING,
Washington, DC, February 4, 1991.

Hon. ALAN CRANSTON,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR CRANSTON: I understand that you plan to propose enlargement of the

IMET program so as to permit the training of foreign civilian officials in the management of military establishments. It seems to me an idea worthy of very serious consideration. Both military and civilians in this country take for granted our traditional subordination of the military to civilian control. It is, I believe, very much in our interest to encourage the development of a similar tradition in other countries which are trying to move in that direction. I believe the IMET program could make a contribution to this end.

Sincerely,

DAVID E. MCGIFFERT,
Former Under Secretary of the Army and Assistant Secretary of Defense.•

RECOGNIZING ISIDORE FIELD

• Mr. BRYAN. Mr. President, I rise today to recognize a Nevadan who, through his service to Nevada's needy, has demonstrated some of the most admirable of human qualities. Mr. Isidore Field has been honored with the 1991 Woods Schools National Award for Exceptional Service and Leadership in the field of Scouting for the Handicapped.

This award, given by the Boy Scouts of America [BSA] and the National Advisory Committee on Scouting for the Handicapped, is the highest award given by the BSA in the area of service. There is only one winner of this award each year, and Mr. Field was selected out of over 800 nominations.

The award is presented to "that individual who has demonstrated exceptional service and leadership in the field of Scouting for the Handicapped." His generosity, perseverance, and leadership throughout 26 years of service in Scouting for the Handicapped have helped make the Scouting for the Handicapped Program what it is today, and what it will be tomorrow. Isidore Field, Izzi as he is known to us, is truly a source of pride and inspiration in the Nevada community.

In 1980, Izzi moved to the Las Vegas area, and he has been working to help handicapped Scouting in our State ever since. He assisted in one of the earliest attempts to organize a Scout troop in school; then assisted in an effort to organize an after school troop, at Helen J. Stewart School—a school for special education students. He then became a varsity coach and Scoutmaster with a team whose charter partner is the Desert Development Center of Las Vegas—a residential home for the mentally retarded. Their goal is the social normalization of their clients. Izzi's Scouting efforts contribute regularly to that goal.

Mr. President, Izzi continues to serve our community today. People like him do not need awards to make their efforts seem worthwhile. These special people are motivated by something deeper, something vastly more important. Whether for religious, ethical, or personal reasons, Izzi Field has contributed immeasurably to the welfare of Nevada.

The Boy Scouts of America have shown their appreciation for his invaluable work by honoring him with the Woods Schools National Award for Exceptional Service and Leadership in the field of Scouting for the Handicapped. In light of the noble purpose of this organization, Izzi should indeed feel honored by this recognition. I want to add my voice to the many others who offer their thanks to Izzi Field for what he has done for needy individuals, the Boy Scouts of America, and for the Nevada community.•

MEASURE INDEFINITELY POSTPONED

Mr. BOREN. Mr. President, I ask unanimous consent that calendar order No. 63, S. 786, be indefinitely postponed.

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

REHABILITATION ACT OF 1973 AMENDMENTS

Mr. BOREN. Mr. President, I now ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2127, Rehabilitation Act amendments, which have just been received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2127) to amend the Rehabilitation Act of 1973 to extend the programs of such act, 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.

Mr. HARKIN. Mr. President, I rise in support of H.R. 2127, the Rehabilitation Act Amendments of 1991.

The bill accomplishes two purposes: First, the bill extends for 1 year the programs authorized under the Rehabilitation Act of 1973. Included among the programs extended for 1 year is the 71-year-old Vocational Rehabilitation State Grant Program, which provides comprehensive rehabilitation services necessary to render an eligible person employable.

Additional programs covered by the 1-year extension include the Supported Employment Services for Individuals with Severe Handicaps Program, rehabilitation training grants, comprehensive services for independent living, centers for independent living, independent living services for older blind individuals, the client assistance program, the projects with industry program, the national institute on disability and rehabilitation research, the special demonstration projects, and the special recreation programs.

The second purpose of the bill is to amend the early intervention program authorized under part H of the Individuals with Disabilities Education Act to permit those States that are unable to comply with the provisions of part H because of their current fiscal situation to stay in the program while at the same time providing rewards for those States that are in full compliance with the provisions currently in the law.

Part H is landmark legislation providing financial assistance to States to develop and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency program of early intervention services for infants and toddlers with disabilities and their families. Under part H, States were given 3 years to plan and adopt policies establishing this system. In the fourth year, States are required to have the system in place and provide some, but not all, early intervention services. In the fifth year, States are expected to provide all early intervention to all eligible infants and toddlers and their families.

For fiscal year 1990, Congress appropriated $79 million for the part H program. For fiscal year 1991, the appropriation level is $117 million. The 47 percent increase was included in anticipation of the fact that States were going to be moving from a planning to a service delivery mode. The part H program is forward funded; thus, the fiscal year 1991 funds become available after July 1, 1991.

Some States are on schedule; for example, they have submitted their fourth-year application and plan on submitting their fifth-year application on or after July 1, 1991, under which they will provide all early intervention services to all eligible infants and toddlers with disabilities and their families. Other States, which are currently operating a fourth-year program, may not be able to continue in the program because their State's fiscal situation prevents them from making the full-service commitment at this time. Some States have not yet submitted their fourth-year application because of their State's fiscal situation.

The differential funding provision included in the bill provides rewards for those States that are on schedule and at the same time allows States that would have dropped out of the program, but for provisions in this bill, to stay in the program.

In general, those States that are on schedule will be eligible starting on July 1, 1991, to receive their full share of the fiscal year 1991 allocation—and subsequent year allocations—and a reallocation in an amount not to exceed 100 percent of the amount it would otherwise have received in the previous fiscal year.

Those States that have met their fourth-year requirements—the system

is in effect and some but not all services are provided—but are unable to meet their fifth-year requirements at this time will be able to stay in the program if the Governor seeks, on behalf of the State, and the Secretary grants their request for extended participation. Two, 1-year requests may be granted.

These States will be eligible, starting on July 1, 1991, to submit their fifth-year application and, if their request for extended participation is granted, receive an amount equal to the amount they received in fiscal year 1990 and a reallocation in an amount not to exceed the amount they would have received under the fiscal year 1991 allotment if they had been in full compliance, but only if there are funds available after the full-compliance States have received their reallocation. The same policy would apply in subsequent years.

Those States that have met their third-year requirements—planning and policy development—but have not yet submitted their application for the fourth year of participation and are unable to meet the fourth-year requirements will be able to stay in the program if the Governor seeks, on behalf of the State, and the Secretary grants their request for extended participation. Again, two, 1-year extensions may be granted.

These States, which to date have held off submitting their fourth-year application, will be eligible to submit their fourth-year application and if their request for extended participation is granted, receive an allocation equal to the amount they received in fiscal year 1989. If they seek a similar extension from fourth-year requirements for the next fiscal year—any time after July 1, 1991—they will be eligible for an amount equal to the amount they would have been eligible to receive under the fiscal year 1990 level. These States seeking an extension from fourth-year requirements are not eligible for a reallocation.

Set out below is a more detailed explanation of this provision prepared by the Department of Education.

EXPLANATION OF DIFFERENTIAL FUNDING UNDER PART H

A. FISCAL YEAR 1990

("States" are defined to include the 50 States, the District of Columbia, Puerto Rico, the Department of the Interior, and the jurisdictions listed in section 684(a) of the Individuals with Disabilities Education Act.)

1. States meeting all fourth-year requirements receive their FY 1990 allotments plus their proportionate share of reallotted funds.

2. In order to receive an allotment for FY 1990, each State must have met all third-year requirements.

3. A State may receive an allotment for FY 1990 although it has not met fourth-year requirements if it submits an approvable request for extended participation by a date established by the Secretary.

4. A State that has received approval for extended participation for FY 1990 would receive the same allotment as it received for FY 1989.

5. Funds remaining after a date established by the Secretary would be reallotted. Funds available for reallotment would be the sum of funds remaining as a result of the difference between the allotments that extended participation States received for FY 1989 and the allotments they would have received for FY 1990 plus any funds not distributed because one or more States did not apply for an allotment for FY 1990. These funds would be reallotted to those States that have met all fourth-year requirements, based on each State's proportionate share of the total funds available for reallotment.

B. FISCAL YEARS 1991 AND 1992

("States" are defined to include the 50 States, the District of Columbia, Puerto Rico, the Department of the Interior, and the jurisdictions listed in section 684(a) of the Individuals with Disabilities Education Act.)

1. States meeting all fifth-year requirements receive their FY 1991 or 1992 allotments plus their proportionate share of reallotted funds.

2. The requirement in A.2. applies to FY 1991 and 1992 allotments.

3. A State may receive an allotment for FY 1991 or 1992 although it has not met all or some fourth-year requirements if it submits an approvable request for extended participation by a date established by the Secretary.

4. A State may receive an allotment for FY 1991 or 1992 although it has not met all or some fifth-year requirements if it submits an approvable request for extended participation by a date established by the Secretary.

5. States that have approved fourth-year or fifth-year extended participation requests would receive the same allotment for FY 1991 or 1992 that they either actually received for FY 1990 or they would have received if they had not requested extended participation for FY 1990 (and, as a result, received an allotment equal to their FY 1989 allotment) except that: beginning with fiscal year 1991, the 50 States, the District of Columbia and Puerto Rico shall not receive less than $500,000.

6. Funds remaining from either the FY 1991 or FY 1992 appropriation after all allotments (including allotments based on extended participation requests) have been made would be reallotted to all States in the priority order given below:

a. (1) Funds remaining from either the FY 1991 or 1992 appropriation would first be reallotted to those States that have met all fifth-year requirements. Reallotment would be based on each State's proportionate share of the total funds available for reallotment.

(2) The sum of a State's allotment and proportionate share of reallotted funds would be capped at twice the amount the State received as its allotment for the previous fiscal year or twice the amount it would have received as its allotment for the previous fiscal year if it had not requested and received extended participation. Funds reallotted in the previous fiscal year would not be considered in determining the amount of the cap.

b. (1) Any funds remaining from either the FY 1991 or 1992 appropriation after 6.a. would then be allotted to those States that have met all fourth-year requirements and have received extended participation because they have not met all fifth-year requirements. A State's reallotment would be based on its proportionate share of the total funds remaining available for reallotment after 6.a.

(2) The sum of a State's allotment and proportionate share of reallotted funds would be capped at the amount a State would have received for its allotment for the fiscal year in which it has been approved for extended participation (that is, in 1991, for example, a State could receive a sum equal to the total FY 1991 allotment it would have received if it had not requested and received extended participation).

c. Notwithstanding the limitations under 6.a., any funds remaining from either the FY 1991 or 1992 appropriation after 6.a. and 6.b. would then be reallotted to those States that have met all fifth-year requirements, based on each State's proportionate share of the total funds remaining available for reallotment after 6.a. and 6.b.

NOTE.—States cannot receive approval for extended participation more than two times.

In closing, I thank Senators DURENBERGER, KENNEDY, and HATCH, Congressmen OWENS and BALLENGER, and representatives from the U.S. Department of Education for their efforts in developing this policy. I believe that this provision may prove to be the difference that makes this visionary idea a reality in all States in our Nation.

Mr. President, I urge my colleagues to adopt the House bill.

Mr. DOLE. Mr. President, I rise in support of H.R. 2127, the Rehabilitation Act Amendments of 1991. The bill, which extends the expiring program authorities of the Rehabilitation Act of 1973 for 1 year, also amends the Early Intervention Services Program authorized under part H of the Individuals With Disabilities Education Act [IDEA].

THE 1973 REHABILITATION ACT

Congress has long recognized the importance of providing programs and services that enable people with disabilities to enjoy lives of dignity and productivity. Under the Rehabilitation Act of 1973, a network of programs and services has been established to assist Americans with disabilities to prepare for employment and to develop independent living skills. In order to achieve the inclusion of people with disabilities into the work force and the community, the act provides funds for several broad program categories, including individual services, research programs, personnel training, and demonstration projects.

The centerpiece of the act is the Federal-State Vocational Rehabilitation Program, which provides Federal grants to States to help locate and obtain jobs for people with physical and mental disabilities. Some of the other important programs and institutions eligible for the 1-year extension include the supported employment services for individuals with Severe Handicaps Program, rehabilitation training grants, comprehensive services for independent living, centers for independent living, the projects with industry program, the National Institute on Disability and Rehabilitation Re-

search, and the special demonstration projects.

INDIVIDUALS WITH DISABILITIES EDUCATION ACT

The Individuals With Disabilities Education Act [IDEA], formerly the Education of the Handicapped Act [EHA], is an integral part of our Nation's effort to ensure that children with disabilities have the opportunity to reach their fullest potential. Sadly, for many years, our Nation legally prevented children with disabilities from enjoying the social and academic benefits of public education. In 1975, against ths background of exclusion, Congress established a framework of services and programs to ensure children with disabilities, ages 3 to 21, an enforceable right to a free appropriate public education.

Since the enactment of IDEA, Congress has come to recognize the importance of providing early intervention services for infants and toddlers with disabilities. Statistical and anecdotal evidence underscores the need for services and programs designed to help these special children prepare for learning. While access to a free appropriate public education is critical to the development of all children, it is essential to prime those with special developmental needs for the rigors of the classroom.

In 1986, Congress created an optional State grant program to assist in the establishment of statewide systems for early intervention services. This early intervention program, known as part H, is targeted to children from birth through 2 years of age who are developmentally delayed, infants and toddlers at risk of substantial developmental delay, or children with physical or mental conditions that will probably result in substantial delay. Although part H focuses on the needs of infants and toddlers, it also recognizes the needs and importance of the family.

Mr. President, this bill amends the Early Intervention Services Program. It creates a mechanism, known as differential participation, to enable the continued participation in part H of States having difficulty adhering to the program's original 5-year time line. The new funding mechanism is very simple, and all States are going to benefit from this improvement.

The differential participation provision provides rewards for those States submitting applications on time, and allows others experiencing fiscal hardship to become eligible for two 1-year extensions. All States granted extensions by the Secretary are allowed to remain in the program, with funding frozen at current levels of support. Then, the portion of the appropriations not distributed to the extension States is to be reallocated to the on-line States. Any remaining grant money is to be reallocated to those extension States with programs in place, demonstrating compliance with fourth-year requirements.

I am proud that Kansas was among the first States to successfully apply for a fourth-year grant under the part H program. The Kansas Department of Health and Environment, the Kansas Interagency Coordinating Council, and service providers across the State, such as the Early Childhood Development Center in Hays and the McPherson County Special Education Cooperative, deserve tremendous credit for their hard work and dedicated efforts on behalf of the youngest, most vulnerable Kansans.

Mr. President, I ask my colleagues to support the Rehabilitation Act Amendments of 1991. As a Nation, we must ensure that children with disabilities have equal access to a free education, and the corresponding opportunities to develop into independent and productive members of our Nation's communities.

Mr. KOHL. Mr. President, I rise in support of H.R. 2127 and commend our colleagues on both sides for their efforts on this proposal.

It is critical that we proceed carefully on the reauthorization of the Rehabilitation Act. With enactment of the landmark Americans with Disabilities Act during the last Congress, I believe that Congress, the administration, and the disability community need time to think through the various issues related to comprehensive reform of the Rehabilitation Act.

Just as importantly, I want to commend my colleagues for the extensions to deadlines imposed in Public Law 99–457. The new flexibility for States to request up to two 1-year extensions responds to the request of many Governors, including the Governor of Wisconsin. At the same time, the changes create a generous incentive for States to stay on track with implementation of their zero through 2 programs. Each of us has, from time to time, heard from State officials who argue that Washington usually changes the rules to reward the noncompliant, while punishing the States that have worked earnestly to fulfill the Federal requirements and deadlines.

The bill before us is a refreshing change and I am hopeful that the incentive created will be substantial enough to prod my own State of Wisconsin into committing the necessary State funds to stay on schedule with implementation of our birth to 3 program. As I understand it, if Wisconsin, for example were to request a 1-year extension to continue participation, it should receive somewhere in the neighborhood of $1.378 million. However, should Wisconsin redouble efforts, establishing a comprehensive, coordinated, statewide family-based early intervention system consistent with Public Law 99–457, it would receive at least $2.043 million. Additionally, depending on how many States take advantage of the additional funds available, there is the possibility that the State could receive up to 53 percent more in Federal support from the remaining difference.

Mr. President, I was informed earlier this year that Wisconsin would not be able to stay on course with making the program an entitlement by year 5 because of the difficult economic period that Wisconsin and the Nation is temporarily experiencing. The legislation before us acknowledges those difficulties, but provides a financial incentive and a helping hand to States. Hopefully, this incentive will encourage States to look beyond developmentally disabled infants and children for budget balancing and enable us to provide disabled children and their families the support and service coordination needed for quality of life.

I commend my colleagues who have crafted this proposal and I encourage the States to embrace its challenge.

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 third reading and passage of the bill.

The bill (H.R. 2127) was ordered to a third reading, was read the third time, and passed.

Mr. BOREN. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

AUTHORIZING USE OF THE HART BUILDING ATRIUM

Mr. BOREN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Senate Resolution 130, a resolution authorizing the use of the Hart Building atrium, submitted earlier today by Senator BURDICK.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 130) authorizing the use of the Hart Building atrium for a concert by the Congressional Chorus.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. BURDICK. I am submitting a resolution today which will bring culture to our own Hart atrium. The resolution grants the Congressional Chorus authority to perform a spring and a winter concert for each session of the 102d Congress. The chorus would perform from 12 noon to 1 p.m. on a day which would not disrupt Senate business.

The Congressional Chorus, founded in 1987, is composed of over 50 volunteer members from the legislative branch,

including the Senate, the House of Representatives, the Library of Congress, and the Congressional Budget Office. Under the musical direction of Dr. Michael Patterson, the chorus serves as a showcase for American music. Its repertoire includes classical compositions, traditional folksongs and spirituals, jazz classics, and Broadway show tunes. The members meet to rehearse during their lunch hours 1 day a week.

The chorus presented its first concert in the atrium of the Hart Senate Office Building in December 1987, and went on to sing at the Inauguration of President Bush in January 1989. They have performed for a wide variety of occasions on and around Capitol Hill, including the lighting of the Capitol Christmas tree, the gala benefit for the U.S. Capitol Building, and more recently at the John F. Kennedy Center for the Performing Arts.

Mr. President, I commend the Congressional Chorus members for providing us with this fine music and look forward to their concerts.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the resolution.

The resolution (S. Res. 130) was agreed to, as follows:

S. RES. 130

Resolved, That the atrium of the Senate Hart Office Building may be used from 12 noon until 1 p.m. on one day during the spring and one day during the winter of each session of the 102d Congress, for a concert of American music to be presented by the Congressional Chorus.

Mr. BOREN. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

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

The motion to lay on the table was agreed to.

ORDERS FOR TOMORROW

Mr. BOREN. Mr. President, I ask unanimous consent when the Senate completes its business today, it stand in recess until 9:30 a.m. Wednesday, May 22; that following the prayer the Journal of proceedings be approved to date; that the time for the two leaders be preserved for their use later in the day; that there then be a period for morning business not to extend beyond the hour of 9:45 a.m. with Senators permitted to speak therein; that during morning business Senator WOFFORD be recognized for up to 3 minutes and Senator KENNEDY be recognized for up to 10 minutes; further that when the Senate resumes debate on the McConnell amendment at 9:45 a.m., the time from 9:52 to 9:56 a.m. be under the control of the Republican leader or his designee; and that the time from 9:56 to 10 a.m. be under the control of the majority leader.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

PROGRAM

Mr. BOREN. Mr. President, for the information of the Senate, and to reiterate statements made by the majority leader, tomorrow morning at 10 a.m. the Senate will vote on the McConnell amendment, to be followed shortly thereafter by a vote on the Wellstone amendment.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. BOREN. Mr. President, if there is no further business to come before the Senate today, and if the acting Republican leader has no further business, I now ask unanimous consent that the Senate stand in recess as under the previous order until 9:30 a.m., Wednesday, May 22.

There being no objection, the Senate, at 9:24 p.m., recessed until Wednesday, May 22, 1991, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 21, 1991:

DEPARTMENT OF LABOR

ROBERT MICHAEL GUTTMAN, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF LABOR, VICE MARY STERLING.