SENATE—*Tuesday, June 25, 1996*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

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

Martin Luther said, "The very ablest youth should be reserved and educated not for the office of preaching, but for government. Because in preaching, the Holy Spirit does it all, whereas in government one must exercise reason in the shadowy realms where ambiguity and uncertainty are the order of the day."

Gracious God, infinite wisdom, we thank You for reserving and preparing the women and men of this Senate to serve You in the high calling of government. So often politics and politicians are denigrated in our society. We forget that politics is simply the doing of government. Bless the Senators, their faithful staffs, and all who are part of the Senate family. Give all of them a renewed awareness that they are here by Your appointment and You will give vision in the ambiguities and clear convictions in the uncertainties that occur today. Send out Your light; lead us; empower us. We commit ourselves anew to excellence for Your glory and the good of our beloved Nation. In the name of our Lord. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT, is recognized.

SCHEDULE

Mr. LOTT. Mr. President, this morning there will be a period for continued debate on S. 1219, the campaign finance reform bill, with the time equally divided between the two leaders or their designees.

UNANIMOUS-CONSENT AGREEMENT

I understand that there has been a request for an extension of that debate, therefore I now ask unanimous consent that debate be extended until 1 p.m. today under the previous conditions, and further that Senators have until 1 p.m. in order to file second-degree amendments to the campaign finance reform bill as well as first-degree amendments to the DOD bill.

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

Mr. LOTT. I might just note that has been cleared by the Democratic leadership. This just does provide for an additional 30 minutes of debate on the campaign finance reform bill.

At 2:15 today, under the previous order, the Senate will proceed to a rollcall vote on the motion to invoke cloture on the campaign finance reform bill. If cloture is not invoked, the Senate is expected to resume consideration of the Department of Defense authorization bill; therefore, further rollcall votes are expected throughout today's session.

As a further reminder, a cloture motion was filed on the DOD authorization bill last night, with that vote to occur on Wednesday of this week. Also, the Senate will recess from the hour of 1 to 2:15 p.m. today, in order for the weekly policy conferences to meet.

I hope the cloture vote on DOD authorization may not be necessary, but from what I saw last week, the Senate has not yet gotten serious about completing this legislation. We must do it this week. We will do it this week. We just have to get on with the amendments. So we probably can expect to go into the night tonight and may very well tomorrow also.

I might also just say, I plan to meet later on this morning with the Democratic leader and see if we can come to an agreement on how to handle the small business tax relief and minimum wage issue, beginning on Monday, July 8.

I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. DEWINE). Under the previous order, leadership time is reserved.

CAMPAIGN FINANCE REFORM

The PRESIDING OFFICER. The Senate will now resume consideration of S. 1219, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1219) to reform the financing of Federal elections, and for other purposes.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I want to speak against cloture on this bill, but I also want to talk about what I think is good about the bill and why I am voting against cloture.

First, I want to say, if I were titling this bill, it would be called the Incumbency Protection Act, because that is what limitations on expenditures for campaigns will do. It will take away the right of a challenger to be able to raise more money than an incumbent with the advantage of name identification and to be able to go forward with a message.

What they say in this bill is that it is voluntary. It is voluntary, but you pay quite a price if you do not adhere to the limits. You, then, will be faced with 30 minutes of free broadcast time against you, if you do not adhere to the limits. You will have reduced postal rates against you. This is really coercive. Then there is the cost. My gosh, the Postmaster General has said he will have to raise all postal rates if he has to provide reduced rates.

So I want to talk about why I think this is the most important part of the bill. But I also want to talk about what I think is good in the bill because, if we ever want to come back to this, there are some improvements that we really ought to make, and I will be supportive of these things. I love the idea of requiring 60 percent of campaign funds to be raised from individuals in a State. I think that is something that will enable the people in the State to have the right say in the election of their Members of the U.S. Congress, in the election of their Senators.

I am for limitations of personal money for a campaign. I think you have to make sure it would be constitutional, so you would say a person can spend any amount of his or her own money that he or she wants to, but he or she could only be repaid a certain amount. I think that is a wise thing, because I, too, am alarmed, as many of us are, by people who would just pour millions of their own money into a campaign and, in effect, be able to buy an election; because that is what people see. They have the access to the airways with money, and it does become, I think, an inequitable situation.

Limitations on the amounts of contributions by PAC's to the same amount as individuals contribute is good. I do think PAC's, however, have been misrepresented, not only on this floor but around the country, because I think political action committees, most often, are grassroots efforts within a company. Why would we not want the working people of this country to be able to contribute $25 or $100 or $500, if they desire to do it? PAC's are voluntary and they should be voluntary. But if people want to participate in our process, I think they should be encouraged. Frankly, I think many of the companies in this country have done a wonderful job of encouraging their employees to be a part of a PAC. When they do that, the employees are able to have the candidates come before them.

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

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They will have the Democrat and the Republican. They will be able to have debates. I think that is healthy. That makes more people interested in the process, have a stake in the process, and be good citizens. That is what we want to encourage in our democracy.

I am for the provision that would not allow the franking privilege for mass mailings in an election year. I do not use the franking privilege for mass mailings at all. I have not detected I am any less in contact with my constituents. I think it is a good thing, in an election year, not to have the franking privilege for mass mailings. I think we could easily do that.

So these are things that I think are great steps in the right direction, and I commend my colleagues, Senator MCCAIN and Senator FEINGOLD, for bringing these forward because these are things I could vote for.

The reason I am going to vote against cloture is because the overriding, most important part of this bill goes against everything that freedom in a democracy stands for, and that is the limitations on contributions, voluntary, but nevertheless I think it creates a very uneven situation.

I am a person who could be on the other side of that because in my personal experience I ran against an incumbent who was much better funded than I was, who had the PAC contributions from Washington that I have heard so much talk about on this floor. I had a very hard time raising money against this incumbent. But you know what? The people were looking at the message. And even though my message was much less generously funded than my opponent's message, nevertheless the people were able to make this choice.

I do not want to limit the incumbent or the challenger. If the message is right, we need to have the freedom to get it out. I, of course, think that limiting an incumbent and saying you can only spend this much, and limiting the challenger and saying you can only spend this much, is going to favor the incumbent. There is just no question about that. And even though I was on the other side of that, I think it is wrong and I think I will stand always against any kind of limitations, whether it is cloaked in a voluntary cloak of armor or not, because it is not really voluntary when you are then going to the television stations or the postal service or going to the radio stations and saying, "Ah, yes."—these people that are voluntarily saying that they are going to stay within the limit—"You're going to pay for that difference."

What is the nexus? Why are we telling television stations or the Postal Service, which is going to have to raise rates on everyone else in America, that you should subsidize this arbitrary limitation that is voluntary? It just does not make sense, Mr. President.

So I am going to vote against cloture because I think the overriding issue here is limitations. If you want to see the hardship of limitations, look at the States that have the limitations in place. Look at the Presidential election right now. One candidate has a primary and therefore has to spend the money in the limitation. The other candidate does not have a primary. This could be reversed. It could be the year that there is a Republican incumbent and the Democrats have a primary. Either way, it makes for an artificial limitation that is not fair. I do not think we want to put that in place now for Members of Congress and Members of the Senate.

Let me just say that we do have limitations on contributions that I think are quite reasonable. Could they be lower? Yes. I mean, $500, $1,000—it could be lower if we wanted it to be lower. I would certainly be flexible in that area. But you know, when I look at the States around this country that have no limitations whatsoever on contributions and there are people taking $100,000 for a campaign for a State office, and we are talking about $1,000 limitations on contributions or $5,000 from a PAC that is an amalgamation of many employees in a company, I think we are assuring that there is going to be a grassroots base. We have that assurance right now.

I had 40,000 contributors to my campaigns for the U.S. Senate. I ran twice within 2 years. Forty thousand. My average contribution was about $100. I think that is a grassroots effort. I had many $5 and $10 contributions. That does make sure that no one has particular access to a person because of some huge contribution.

I think we can do a lot to improve our campaign finance in this country, Mr. President, but I just think this bill is not the right approach. I hope that we can work on this and continue to work on it, because as I said, I think, having limitations on personal use of funds, having the 60 percent requirement of raising money in your home State, not using the franking privilege in an election year are very good, solid recommendations from this bill. So I hope that we will be able to work on something, but, Mr. President, this is not the right vehicle. Thank you, and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Let me thank my good friend from Texas for her excellent statement on the issue before us. I appreciate her contribution to this debate, not only at this time but in previous rounds. She is right on the mark, it seems to me, in concluding that this bill falls well short of anything the Congress ought to foist on to the American people, and particularly the restrictions on all the individuals across the country that want to participate in the political process.

I would just say to my friend from Texas—I did not get a chance yesterday to tell her this—even the National Education Association, almost never aligned with people like the Senator from Texas and myself, wrote me a letter yesterday saying how awful this bill was, and said they hoped it would be defeated. They also pointed out that the average contribution to the NEA PAC was $6, and asked the question, why in the world participation of that sort would be a bad thing for American democracy and something the Congress ought to eliminate?

Mrs. HUTCHISON. Will the Senator yield for a question?

Mr. MCCONNELL. Certainly.

Mrs. HUTCHISON. Is it not true that the Postmaster General has raised serious questions about this bill, and what he would be required to do is in the way of raising postal rates for everyone because of the subsidy that would be required under this bill for lower postal rates in an election year?

Mr. MCCONNELL. In a letter I received from the Postmaster General yesterday, he comes out against the bill. Obviously, the Postmaster General is not accustomed to taking positions on legislation up here. But his point is that this is in effect a transfer of cost to the postal ratepayers across America.

That is one of the reasons the Direct Marketing Association, the direct mail people—they are a private business—also opposes this, because in effect it is passing on to the postal ratepayers an enormous expense.

This bill is not free. The notion has been put forth that somehow the spending limits are free. In fact, it passes the cost on to the broadcasting industry and on to the postal patrons of this country.

Mrs. HUTCHISON. Not only that, since we have virtually a monopoly in the postal system, it is like a taxpayer subsidy because it is requiring every person in America that wants to send a letter to pay more for this limitation that we are putting in place. It just does not qualify as a true voluntary limitation.

Mr. MCCONNELL. No, it is not voluntary and not free, I say to my friend from Texas. It is not voluntary because if you choose not to shut up, if you choose not to take the Government prescribed speech limits, you have to pay more for your television. So it is not voluntary. And it is not free because the broadcasting industry is called upon to subsidize campaigns and the postal patrons are called upon to subsidize campaigns. So it is neither voluntary nor free.

I thank very much my friend from Texas for pointing this out.

Mrs. HUTCHISON. I yield the floor back to the Senator from Kentucky. But I commend the Senator from Kentucky for his great leadership in this area because he is the person who has studied this issue thoroughly and has taken things that sound very good, and has talked about what the real impact is going to be on the consumer that has to pay 32 cents to send a letter right now. And that is a lot to ask when you look at the fine print here. I commend the Senator from Kentucky for helping us understand it.

Mr. McCONNELL. I thank the Senator from Texas.

Mr. President, how much time does my side have left?

The PRESIDING OFFICER. The Senator has 87 minutes.

Mr. McCONNELL. I yield the floor.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, how much time do the proponents of the bill have?

The PRESIDING OFFICER. The Senator has 103 minutes.

Mr. FEINGOLD. I thank the Chair.

Mr. President, before I turn to my very distinguished colleague from West Virginia for his remarks, let me just make a couple points in response to the Senator from Texas and the Senator from Kentucky.

First of all, it seems, almost as if in an effort to stop this bill from even being amended, that the kitchen sink is being thrown at this bill. Now we hear the Postmaster General is one of the lead opponents of the bill. But this completely disregards the resolution that we have placed in the bill, the Senator from Arizona has placed in the bill, that would provide that the money that is saved from preventing Members of Congress from franking during an election year would be used to provide a relatively modest funding necessary to provide the postal discounts which will only be given to those Senators and Members of Congress who agree to the spending limits. So that again is another red herring.

Second, it does not matter how many times the other side says that this bill is not voluntary, it is voluntary. There are no such mandatory restrictions across the board for citizens as has been suggested by the Senator from Kentucky and the Senator from Texas.

It does not matter how many special interests—whether it is the NEA, the AFL–CIO, or business PAC's—it does not matter how many times they tell you our scheme for allowing people to voluntarily abide by limits and give them benefits; it does not matter how many times they say that is not voluntary. It is. It is voluntary.

Mrs. HUTCHISON. Will the Senator yield?

Mr. FEINGOLD. I am happy to yield to the Senator.

Mrs. HUTCHISON. I want to ask the Senator, what would happen under your bill if there was not enough money saved from the use of the frank to cover the cost of the discounted mailing?

Mr. FEINGOLD. If that happens, which I doubt, it would have to come out of the budget of the post office.

Mrs. HUTCHISON. In other words, it does not necessarily cover all of the costs?

Mr. FEINGOLD. Our estimates are from——

Mrs. HUTCHISON. The Postmaster General says he would have to raise all of the rates, because it comes from the post office.

Mr. FEINGOLD. Our estimates are that it would cover it. We go on the basis of estimates here. That is our assumption. Even if there was a small gap, the effect would be minimal.

Let me quickly wrap up—because I want to turn to the Senator from West Virginia—and indicate again a very serious distortion. The Senator from Kentucky keeps saying that it will cost people who do not abide by the limits more. That is just not true. They will not pay a dime more than they pay today. They will still be eligible for the lowest commercial rate as the TV stations are required to give them. They will not have to pay more for their postal rates. It is simply untrue they will have to pay more than they do today. True, they will not get the lower costs that those who abide by the limits will get, but do not let anyone tell you people have to pay more under our bill. They can still spend as much as they want, and they will not have any higher cost for what they do.

Finally, Mr. President, what this is about, really, is whether candidates who are more rooted back in their home States will have a better chance, or whether those who are dominated by big money or by D.C. special interests will dominate.

I have this cartoon from one of the most distinguished political cartoonist of the 20th century. This is the context in which the vote today is being seen. We can talk here about how important PAC's are, and somehow this will put artificial limits on candidates. This is what the American public knows today's vote is about. It shows a gentleman from the U.S. Congress talking to a lobbyist with a lot of money and a cigar. The guy says, "No more little gifts or junkets—from now on, it's strictly campaign cash."

Mr. President, the American public knows we have finally done something about lobbying disclosures. The American public knows we have cracked down on the practice of gift giving, one of the most offensive practices to the American people. But they also know the big granddaddy of them all, the important issue is the money that is awash in this campaign because of campaign financing.

If we do not take the action today to move this bill forward, if we fail in this bipartisan effort, this cartoon will be prophetic. This cartoon will show that all that has happened is that the gifts and the lobbying are being transferred through the campaign cash system. I do not think we should let that happen.

Mr. President, with that, I yield 15 minutes of the proponents' time to the distinguished Senator from West Virginia.

The PRESIDING OFFICER (Mr. BROWN). The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the distinguished manager of the bill, and I thank the Chair.

Mr. President, for nearly 2 years now many of our Republican colleagues, particularly those in the House of Representatives, have trumpeted the glories of their so-called Contract With America. To listen to some, this was the document that held the secrets to solving the Nation's problems. It was the primer for a reform-minded Congress—something that would bring great respect to this institution and its Members. Yet, there is one item conspicuously absent from the much-touted, so-called contract. I note with amazement that what is completely missing from that celebrated ideological text is any mention of campaign finance reform. I have looked and I have looked and I have looked and it is just not there.

We are told by those who promote the contract that a balanced budget constitutional amendment is good for the country. We are told that the line-item veto is good for the country. But, for seemingly inexplicable reasons, many of those who have spent their time clamoring for change have decided that putting an end to our current grotesque and out-of-control campaign spending system is just not worthy of attention.

How unfortunate, Mr. President, because I, along with many of my colleagues, truly believe that until Members of Congress come to grips with the simple fact that campaign finance reform is much more important than any of these other reforms, this institution will continue to be perceived as the property of the special interests—that is exactly what it is, the property of the special interests—owned lock, stock, and barrel. We all know it. And, as the public opinion polls indicate, the American people know it, too.

It is a great disappointment to me that too few Members seem to understand this. Time and time again, those of us who have pushed for these reforms have seen our efforts rebuffed. Indeed, Mr. President, as Majority Leader in 1987 and 1988, I tried eight times—eight times—to get cloture on campaign finance reform legislation. And eight times I lost. More importantly, however, eight times the American people lost.

That is why this legislation before us today is so important. It is an effort, a bipartisan effort, to put a stop to the noxious system currently in place for the financing of senatorial campaigns. It is a measure that does not favor challengers or incumbents, or candidates from either political party. On the contrary, this bill, the McCain-Feingold bill, takes a balanced approach that will go a long way toward creating a level playing field.

Mr. President, one needs to look no further than this Chamber to see the pressing need for this type of reform. I believe that the primary problem in this body, the root problem plaguing the Senate today is what I would term the "fractured attention"—the fractured attention of Senators. Countless times, action on the Senate floor has been slowed or delayed because Senators are not in Washington, or if they are, they are away from the Capitol. That absence is not because those Senators are off on vacation or taking their leisure. They are not off somewhere lounging in the sun, neglecting their duties here. On the contrary, as each of us knows all too well, Senators are often elsewhere because of the need to raise unthinkable sums of money—unthinkable sums—money essential for running for reelection.

Plato thanked the gods for having been born a man, and he thanked the gods for having been born a Greek. He also thanked the gods for having been born in the age of Sophocles. Sophocles said, "There's nothing in the world so demoralizing as money." Sophocles was not an American politician, but he knew what he was talking about.

I can say after 50 years in politics, there is nothing so demeaning, nothing so demeaning as having to go out with hat in hand, passing a tin cup around and saying, "Give me, give me, give me, give me." Not that old song, "Give me more and more of your kisses," but "Give me more and more of your money. Give me more and more of your money."

Sophocles said, "There's nothing in the world so demoralizing as money." And, indeed, in this Senate, the need for Members to constantly focus on raising the huge sums necessary to stay in office has taken a heavy toll.

The incessant money chase is an insidious demand that takes away from the time we have to actually do our job here in Washington. It takes away from the time we have to study and to understand the issues, to meet with our constituents, to talk with other Senators, and to be with our families and to work out solutions to the problems that face this Nation.

Mr. President, consider this: According to data provided by the Congressional Research Service, the combined cost of all House and Senate races in the 1994 election cycle was $724 million, a sixfold increase from 1976. Even more troubling, though, at least from the perspective of our colleagues, is that the average cost of a winning senatorial campaign rose from barely $600,000 in 1976 to more than $4 million in 1994. Four million dollars. And that, of course, is just the average.

In 1994, nearly $35 million was spent by the two general election candidates in California, while the candidates in the Virginia Senate race spent $27 million.

What do those astounding numbers say to someone who may wish to stand for election to the Senate? What does the prospect of needing $35 million, or $27 million, or even $4 million say to the potential Senate candidate? What it says, Mr. President, is that unless you win the lottery, or unless you strike oil in your backyard, or unless you are plugged into the political money machines, unless you actively compete to be part of the "aristocracy of the money bag" you are a long shot, at best, to win election to the United States Senate. And that fate is meted out to prospective candidates before they have even presented an idea, or given a speech, or offered a policy position.

The money chase is like an unending circular marathon. Since the share of money coming from small contributors has declined while the share contributed by big political action committees has increased, candidates have to look more and more outside their home States to raise big bucks. The traveling, the time away from the Senate, the time away from talking with constituents, the time robbed from reading and reflection, the personal time stolen from wives, children, and grandchildren, the siphoning off of energies to the demands of collecting what has been called campaign grease is making us all less able to be good public servants. Ironically, we spend much time and raise huge sums of money in order to be reelected to the Senate so we can serve our States and our country. Then, once here, we cripple our ability to serve our State and our country by spending an inordinate amount of our time on the money treadmill so we can come back for yet another try at serving our States and our country.

That kind of system sends the clear message to the American people that it is money, not ideas and not principles, that reigns supreme in our political system. No longer are potential candidates judged first and foremost on their positions on the issues, or by their experience and capabilities. No longer. Instead, potential Senators are judged by their ability to raise the millions of dollars that are needed to run an effective campaign. Publilius Syrus said that, "a good reputation is more valuable than money." Senators should stop and reflect on that observation because our reputations and the feeling that we can be trusted by the American people are both in severe free-fall.

The American people believe that the key to gaining access and influence on Capitol Hill is money. Can anyone blame them for coming to that conclusion?

Now, Mr. President, if I were starting out in politics today, with a background like mine—working in a gas station, being a small grocer, a welder in a shipyard, a meatcutter, just common ordinary trades—I could not even hope to raise the sums of money needed for today's campaigns. In 1958, when Jennings Randolph and I ran together for the two Senate seats that were open—he ran for the short term, and I ran for the full 6-year term—we ran on a combined war chest of something like $50,000 or less. When I first started out in politics, I would win a campaign for the House of Representatives and spend as much as $200, perhaps. Think of it. If I had been forced to raise $1 million, $2 million, $4 million, or $10 million the first time I ran for the Senate, in 1958, I would not have given it a second thought. In fact, I would not even have gotten past the first thought. I would not have been able to even contemplate running for office—a poor boy like myself.

The ever-spiraling cost of public office is not a healthy trend. The Congress could become the exclusive domain of the very wealthy. The common man, without the funds to wage a high-powered, media-intensive campaign could be removed from effectively competing in the political arena, reserving it for the exclusive use of the very wealthy and the well-connected.

That is why we must stop this madness. We must put an end to the seemingly limitless escalation of campaign costs. We must act to put the U.S. Senate within the reach of anyone with the desire, the spirit, the brains, and the spunk to want to serve once again. We must bring into check the obscene spending which currently occurs. The Bible says, "The love of money is the root of all evil." In politics, the need for huge sums of money just to get elected is certainly at the root of most of what is wrong with the political system today.

Mr. President, I congratulate Mr. MCCAIN and Mr. FEINGOLD. I urge my colleagues, for the sake of this institution if for no other reason, to support cloture on this vital legislation.

I yield the floor.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I thank the Senator from West Virginia. I cannot think of a more eloquent testimony to the need for this reform than the statement that this great Senator, if he were starting out today, probably would not even have considered running for the U.S. Senate because of the incredible barrier of the money to be raised.

Our bill is a voluntary scheme that allows people who would try to follow in Senator BYRD's tradition to raise a modest amount of money and have benefits for agreeing to do that. I greatly appreciate that.

Mr. BYRD. Mr. President, I thank the Senator.

Mr. FEINGOLD. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 82 minutes remaining, and Senator MCCONNELL has 89 minutes.

Mr. FEINGOLD. Mr. President, I now yield up to 15 minutes to the distinguished Senator from California, who has been a stalwart in support of campaign finance reform.

Mrs. FEINSTEIN. Thank you, Mr. President.

I thank the Senator from Wisconsin and the Senator from Arizona. I want to compliment both Senator MCCAIN and Senator FEINGOLD for this effort.

I intend to vote for cloture, and should cloture on this bill be successful, I will either propose a substitute of the whole or two second-degree amendments to this bill.

I would like to take the time allotted to me this morning, Mr. President, to explain my position on campaign finance reform.

I believe very strongly that the time has come to engage the debate. If nothing else, I believe I am kind of a walking, talking case for campaign spending reform. In the 1990 race for Governor, I had to raise about $23 million. In the first race for the Senate in 1992, $8 million; in the second race, $14 million.

One newspaper just estimated that in the big States a candidate really has to raise about $2,000 a day just to run for reelection to the Senate of the United States. It certainly should not have to be this way.

Essentially I agree with the basic tenets of the McCain-Feingold legislation. I agree that the time has come to try a system that would voluntarily cap campaign spending with a high of about $8.2 million in the big States like California, going down to $1.5 million in States with lesser population.

I believe that efforts should be made to limit the amount of personal funds that can be used in a campaign. I believe that an effort to promote honesty in advertising and reducing the influence of connected PAC's in the outcome of elections is important.

As always in an election year, we hear a lot of talk about Congress enacting meaningful campaign spending reform. But when it comes to actually doing something about it we tend to hide behind one procedural maneuver or another that allows us to vote the right way but gets us nowhere toward achieving a piece of legislation.

In the last Congress a campaign finance bill passed both the Senate and the House but got bogged down because the necessary 60 votes to invoke cloture on a motion to proceed with a conference were not present in the Senate. I understand that this will likely be the problem here today. I hope we do get the 60 votes for cloture, and I hope that in the ensuing debate a solid campaign finance reform bill can emerge.

Legislation I introduced last year and which, for the most part, forms the basis of McCain-Feingold, addresses what I believe are the areas most in need of reform: The limiting of spending; creating a level playing field between wealthy candidates who finance their own campaigns and candidates who rely on contributions; and finally ensuring honesty in campaign advertising.

One of the problems where I have a very real difference with the present bill is on the issue of a candidate using vast sums of his or her own money to finance a campaign. Either the substitute bill, or a second-degree amendment which I will offer if we gain cloture on this bill, mirrors parts of the campaign finance bill introduced by Senator Dole in the last Congress. It also attempts to limit the ability of a wealthy candidate to buy a seat in Congress. The provisions of the amendment I would propose are a little different than anything that has been introduced before now.

Under my substitute bill, after qualifying as a candidate for a primary, a candidate must declare if he or she intends to spend more than $250,000 of their own funds in the election. If the candidate says "I am going to spend more than $250,000 of my own money in this election" then the contribution limits on his or her opponent are raised from $1,000 to $2,000. If a candidate declares that he or she will spend more than $1 million on the race from their own pocket, then the contribution limit on his or her opponents would be raised to $5,000. This is different from McCain-Feingold where there is only the jump to $2,000. And the reason it is different is because in the larger States, if an individual is going to spend more than $1 million, as happened in my case where my opponent spent about $30 million of his own money, it is impossible to catch up with the smaller contributions. Therefore, raising the limit to $5,000 only in instances where in individual States they are going to spend more than $1 million of their own money would enable a more level playing field.

The amendment I will propose would also address the issue of PAC's. As you know, McCain-Feingold would prohibit all PAC contributions whether or not these PAC's are connected PAC's; that is, connected to a business or a labor union or a nonconnected PAC. By that, I mean organizations that are developed let us say to promote women for public office, or let us say to support a cause in candidates who support that cause for public office. The law permitting nonconnected PAC's would remain unchanged in my amendment. As a fallback, if the ban on connected PAC's is found to be unconstitutional, it provides that contributions from connected PAC's be limited to 20 percent of a campaign's receipts.

In my view, a blanket ban on all political action committees in a sense throws the baby out with the bath water. I think we need to be encouraging people to be involved in politics and not discouraging them. Virtually every legal scholar who has examined this question believes that a complete ban on all PAC's is unconstitutional.

The Congressional Research Service has advised the Senate, and I quote: "A complete ban on contributions and expenditures by connected and nonconnected PAC's appears to be unconstitutional in violation of the first amendment."

I support the ability of a group or organization to encourage small donations from their members to candidates of their choice. In some cases, these members send their contributions made out directly to the candidate's campaign to that organization to be gathered or bundled and presented collectively to the candidate. In other cases, the organization simply asks for donations to be made directly to the candidates they recommend. This is not the same as writing a check to an intermediary or to a political action committee and then having the political action committee decide how to disburse the funds.

The McCain-Feingold bill bans bundling in all political action committees. My amendment would not affect bundling, and I believe this is a crucial difference in these two bills.

For example, there are two organizations which have helped women run for political office. One is EMILY's List, and one is WISH List. One is a Democratic organization and one is a Republican organization. Both of these groups collect smaller donations primarily from women. They bundle those funds from many sources to a single candidate.

In the 1994 election cycle, EMILY's List members supported 55 women candidates. They raised a total of about $8.2 million. The average donation to EMILY's List was less than $100.

WISH List, a much smaller and newer organization than its Democratic counterpart, supported 40 Republican women candidates and raised approximately $400,000. None of these funds were given directly to either of these groups and neither group used the funds to lobby on legislation before Congress. Both EMILY'S List and WISH List researched the records of women candidates and advised their members which candidates they recommended supporting. Based on that information, the members decided who

to support and how much they wished to donate, and they donated directly to the candidates, sent their check to either WISH List or EMILY'S List who then put the checks together and sent them to the candidates.

I believe that has been helpful in electing women to both Houses of this Congress. Currently, there are nine women in the Senate. When I came to this body, there were only two elected women.

Groups like WISH List and EMILY'S List are an important factor in helping more women run for office. Frankly, I do not have a problem with any organization going out and endorsing candidates, writing to their members, and saying if you would like to contribute to these candidates, please go ahead and do so. I have no problem whether that group is the Christian Coalition, whether it is the National Rifle Association, whether it is EMILY'S List or WISH List. I think the encouragement of small contributions to candidates that support a cause that you believe in is important to the American political system.

My separation from what Senators MCCAIN and FEINGOLD have done is that this bill wipes out all PAC's, connected and unconnected. I would ban connected PAC's but permit unconnected PAC's to continue their bundling efforts.

The other difference I have would be in how you would voluntarily have the spending limits to create two different levels. If a wealthy candidate were to enter a race and say, I do not intend to adhere to the spending limits; I intend to spend $250,000 to $1 million of my own money, then your opponent's limit goes to $2,000. If the wealthy candidate says, I am going to spend more than $1 million, then the limit of the opponent goes to $5,000.

I strongly support the $50 disclosure requirement. I strongly support the incentives that are built into this bill which would provide free radio time, special mailing to those who do comply with the voluntary spending limits.

I believe this is an important bill. I am proud to vote for cloture. I hope that the Senators of this body would see some merit in either the two amendments I will offer as second-degree amendments or the substitute of the whole to do the two items that I mentioned.

I thank the Chair. I yield the floor.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. Who seeks recognition? The Senator from Kentucky is recognized.

Mr. MCCONNELL. Let me just say briefly in response to the speech of the Senator from California, which I listened to carefully, she also is a member of the Rules Committee and participated in the hearings. I do not remember whether she was there—she may have been—the day that Col. Billie Bobbitt, retired U.S. Air Force officer, testified before the committee in opposition to this bill. I want to take a minute to quote some of her observations. She is a member of EMILY'S List, which would effectively be put out of business by this legislation, as the Senator from California has, I believe, acknowledged. That might have been one of the amendments she would offer were she in a parliamentary position where that were permissible. But, in any event, Colonel Bobbitt, retired Air Force officer, said, "I'm in one of the organizations," referring to EMILY'S List, "35,000 active members from all 50 States, and along with voting, I haven't missed an election," she said, "in 51 years. EMILY'S List is the primary means through which I participate," said Colonel Bobbitt, "in the electoral process."

She goes on in her testimony, "In the decade since EMILY'S List began, more women than ever have been elected to Congress, and EMILY'S List is a big reason why. EMILY'S List has allowed women to compete and win."

She went on to say, with regard to the bundling, in effect, that EMILY'S List does—she describes it. She says, "This is what's called bundling, which I know Common Cause and some others have criticized, but to me it's just good old American democracy at work." So said Colonel Bobbitt.

She goes on to say, "That's not bad for the system. That's good for the system. Thousands of small contributions are able to offset the big money coming from the rich and powerful. We are making the system more participatory and more competitive," said Colonel Bobbitt.

Then she concluded by saying, "My membership in EMILY'S List is a way for me to be connected to the political life of the Nation and to my fellow citizens. It allows me to band together with others who share my views and work toward a common end. I do not pretend to be a constitutional scholar," she says, "but like most Americans, I carry within me an almost innate knowledge of the first amendment rights of citizenship—freedom to practice religion, freedom to speak my mind, freedom to assemble with fellow citizens in support of a common goal. I believe without a doubt that any membership in EMILY'S List is secured by such rights, and I believe that organizations like EMILY'S List, which encourage political participation by average citizens, are in the best tradition of American democracy."

I just wanted to quote what Colonel Bobbitt, an active member of EMILY'S List, had to say about the underlying legislation, which she obviously believes would greatly restrict her rights to participate in the political process.

Mr. President, I wanted to take a moment here to make some observations about the injunctive authority that I view in this bill as provided to the Federal Election Commission. As I read the underlying bill which we are debating, section 306, "Authority to Seek an Injunction," basically, what this section does is give to the Government, the Government of the United States, the right to step in and, prior to the issuance of speech, restrain it. It gives the Government the authority to engage in prior restraint of political speech by stepping in and getting a temporary injunction. This is but one of a number of clearly unconstitutional measures granted to the Government by this bill.

In addition, obviously, if this bill were somehow to pass constitutional muster, which is extremely unlikely, the Federal Election Commission, which today has great difficulty in auditing the races of the candidates running for the one race in America at the Federal level where we have, arguably, spending limits—it takes 5, 6 years to audit those few races that they have to audit—it is just, I think, reasonable to ask the question: How big would the Federal Election Commission be if it had to regulate the speech of 535 additional races as well as engage in the injunctive relief powers apparently given to it by the bill, as well as whatever additional regulatory authority it might be able to assert over independent expenditures?

In short, I think it is reasonable to assume, Mr. President, that we would have an FEC the size of the Veterans Administration. If there is anything this Congress is about, it seems to this Senator it is not building more large Federal bureaucracies.

We have been trying to balance the budget, to downsize the Government, to restrain our appetite for not only spending but for regulation, and, clearly, this is a regulatory power grab of enormous proportions, I would say, Mr. President—of enormous proportions. It could well be that is one of the reasons an awful lot of the groups in this country this time, across the ideological spectrum, have decided to get off of the sidelines and into the game and stand up for their rights to participate in the political process.

This bill is not just about us, that is, the candidates for office; it is also about all the groups organized that, under the first amendment, have a constitutional right to participate in the political process.

Let me just go down some of the letters that I have received on this bill, first from the Christian Coalition, a letter dated yesterday, June 24, 1996, in response to an effort to modify this bill, which was agreed to, and we do have a modified version in the Chamber today.

The Christian Coalition says it strongly urges a no vote on cloture.

Contrary to the letter sent out by Senators McCain, Feingold, and Thompson on June 19,

the amended version of S. 1219 still contains the flawed provisions that seriously threaten voter guides. The voter guide problem has NOT been corrected.

According to the Christian Coalition. The letter goes on:

The amended S. 1219 continues to place the First Amendment right to educate the public on issues in serious jeopardy. It redefines "express advocacy" so that for the first time ever the Federal Elections Commission would regulate issue advocacy by citizen groups.

The Supreme Court has repeatedly protected voter education from Government regulation unless it expressly advocates the election or defeat of a clearly identified candidate.

The letter goes on:

This interpretation ensures that the First Amendment right of like-minded citizens to discuss issues is not infringed by federal campaign law. But under S. 1219, this free speech would be subjected to great uncertainty, and as it is likely to be interpreted by the FEC, possible illegality. S. 1219 could effectively cripple the Christian Coalition's voter education activities, including the distribution of voter guides.

I will not read further from that letter, but I ask unanimous consent the entire letter be printed in the RECORD.

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

CHRISTIAN COALITION,
Washington, DC, June 24, 1996.

Vote No on Cloture on the McCain-Feingold Campaign Finance Bill.

DEAR SENATOR: Tomorrow the Senate will vote on whether to invoke cloture on S. 1219, the McCain-Feingold campaign finance bill. Christian Coalition strongly urges you to vote NO on cloture. Contrary to the letter sent out by Senators McCain, Feingold, and Thompson on June 19, the amended version of S. 1219 still contains the flawed provisions that seriously threaten voter guides. The voter guide problem has NOT been corrected.

The amended S. 1219 continues to place the First Amendment right to educate the public on the issues in serious jeopardy. It redefines "express advocacy" so that for the first time ever the Federal Elections Commission (FEC) would regulate issue advocacy by citizens groups.

The Supreme Court has repeatedly protected voter education from government regulation unless it "expressly advocates" the election or defeat of a clearly identified candidate. This interpretation ensures that the First Amendment right of like-minded citizens to discuss issues is not infringed by federal campaign law. But under S. 1219, this free speech would be subjected to great uncertainty, and as it is likely to be interpreted by the FEC, possible illegality. S. 1219 could effectively cripple the Christian Coalition's voter education activities, including the distribution of voter guides.

Although the sponsors of this legislation have amended the bill to exempt the distribution of *elected officials'* voting records (vote ratings and congressional scorecards), the new provision still threatens the distribution of *candidates'* positions on the issues (voter guides).

This new definition of express advocacy is but just one of the bill's many egregious provisions. Under subsection (a) of Section 241, the expenditures made by a Christian Coalition chapter leader for voter education could be considered contributions to a candidate if that same chapter leader happened to merely retain the same lawyer or accountant as a candidate, even though the chapter leader did not cooperate or consult with the candidate at all.

Section 211 is so broadly written that it could prevent a Christian Coalition chapter leader from also holding a local party position even though the two activities are separate and not interrelated.

Section 306 would give the FEC the authority to seek injunctions if it believes "there is a substantial likelihood that a violation . . . is about to occur." Such a prior restraint of free speech is unconstitutional. It is only justified in weighty cases such as national security concerns, but should never be permitted to prevent core political free speech. The free speech rights of citizen organizations should not be infringed by the FEC at the eleventh hour of an election.

The Christian Coalition does not have a political action committee. However, as a free speech issue, we believe citizens should be able to pool resources to form political action committees under reasonable restrictions. We therefore object to section 201.

On behalf of the members and supporters of the Christian Coalition, we strongly urge you to vote on the side of the First Amendment and free speech. Please vote NO on cloture. Thank you for your attention to our concerns.

Sincerely,

BRIAN LOPINA,
Director,
Governmental Affairs Office.

Mr. MCCONNELL. In addition to that, the National Right to Life Committee, in a letter dated June 22, says that it has "* * * analyzed the new substitute and finds that, to an even greater degree than the original bill, it rides roughshod over the First Amendment." The National Right to Life Committee also opposes this bill.

I will not read further from that letter, but I ask unanimous consent the entire letter be printed in the RECORD.

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

NATIONAL RIGHT TO
LIFE COMMITTEE, INC.,
Washington, DC, June 22, 1996.

Re In opposition to McCain-Feingold substitute (S. 1219) to regulate and restrict political speech.

Senator MITCH MCCONNELL,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCONNELL: On June 18, we sent you a letter expressing the strong opposition of the National Right to Life Committee (NRLC) to the McCain-Feingold "campaign reform" bill (S. 1219). Since then, the sponsors have produced a new substitute amendment, on which the Senate will conduct a cloture vote on Tuesday, June 25, at 2:15 p.m.

NRLC has analyzed the new substitute and finds that, to an even greater degree than the original bill, it rides roughshod over the First Amendment. Through multiple overt and covert devices, the substitute attempts to suppress advertisements, publications, and other forms of speech on federal public policy issues, including but not limited to speech that refers to candidates for federal office. Therefore, NRLC again urges you to vote No on the motion to invoke cloture on S. 1219, which will be scored as a key pro-life vote for the 104th Congress.

The substitute bans PACs and therefore bans independent expenditures—except for political parties and rich individuals. [Sec. 201] This ban would prevent citizens of ordinary financial means from effectively expressing their political viewpoints.

If the PAC ban is declared unconstitutional, the substitute contains "backup" provisions to suppress independent expenditures by requiring advance notice of intended expenditures—even though some of those expenditures will never actually occur [Sec. 242(3)]—and by rewarding candidates who are thought to be disadvantaged by independent expenditures [Sec. 101].

In addition, the substitute [Sec. 241] says that an independent expenditure can no longer be conducted at all by anyone who "has played a significant role in advising or counseling the candidate's agent at any time on the candidate's plans, projects, or needs relating to the candidate's pursuit of nomination for election, or election, to Federal office, in the same election cycle, including any advice relating to the candidate's desision to seek Federal office." [emphasis added] In other words, any person or group that remarked to a potential candidate, "We'd like you to consider running for Congress," would thereby trigger a "gag rule" under which any subsequent independent expenditure on behalf of that candidate would be illegal. Moreover, this clause could be triggered by even one-sided communication from an interest group to an incumbent, discussing (for example) public opinion in a given state regarding a piece of pending legislation.

The substitute [Sec. 241(a)] seeks to broaden the definition of "express advocacy" far beyond the definition enunciated by the Supreme Court in Buckley v. Valeo (1976). The bill would enact the "taken-as-whole' test that has been rejected by the federal courts on constitutional grounds. Under this expansive definition, the bill would restrict the distribution of issue-oriented material that does not, in fact, urge the election or defeat of any candidate.

In a June 19 "Dear Colleague" letter Senators McCain, Feingold, and Thompson said that they added a provision to exempt "voting guides" from the bill's restrictions, but the actual provision in the substitute is vastly narrower than what is described in the "Dear Colleague" letter. The purported "exemption" [see Sec. 241(a)] applies only to "a communication that is limited to providing information about votes by elected officials on legislative matters." On its face, this ostensible "exemption" does not apply to information regarding the public policy positions of non-incumbents, or to dissemination of any information on candidates' positions obtained from press accounts, candidate questionnaires, speeches, interviews, or a host of other sources. Moreover, even the purported exemption for information on "votes" is effectively meaningless because of other provisions and definitions in the bill, such as the definition of what constitutes a "contribution" to a candidate (see below).

The substitute [Sec. 241(b)(3)] would restrict ads and other forms of speech that contain no reference whatever to an election or even to any candidate, by defining certain speech on legislative issues as a contribution to a like-minded candidate with whom there has been communication regarding those issues. For example, if NRLC communicated with a senator regarding the merits of a certain abortion-related bill, which the senator

later voted for, and if NRLC later ran advertisements in that senator's state discussing that bill, this could be regarded as a "contribution" to the incumbent (even if the senator is not mentioned in the ad), and therefore subject to all of the other restrictions and penalty clauses in the bill. The costs of non-partisan voter guides that contain information obtained from candidate questionnaires or other communications with an incumbent or a challenger could also be regarded as "contributions" under this provision.

The substitute [Sec. 306] explicitly authorizes the Federal Elections Commission, if it believes "there is a substantial likelihood that a violation of this Act is occurring or is about to occur," to obtain a temporary restraining order or temporary injunction to prevent publication, distribution, or broadcast of material that the FEC believes to be outside the bounds of the types of political speech that would be permitted under the law. This authorization for prior restraint of speech violates the First Amendment.

The overall effect of the bill would be to greatly enhance the already formidable power of media elites and of very wealthy individuals to "set the agenda" for public political discourse—at the expense of the ability of ordinary citizens to make their voices heard in the political process.

Therefore, the National Right to Life Committee urges you to vote No on cloture on S. 1219. Because S. 1219's restrictions on independent expenditures and voter education activities would "gag" the pro-life movement from effectively raising right-to-life issues in the political realm, NRLC will "score" this vote as a key pro-life vote for the 104th Congress.

Thank you for your consideration of NRLC's concerns regarding this legislation.

Sincerely,

DAVID N. O'STEEN, Ph.D.,
Executive Director.
DOUGLAS JOHNSON,
Legislative Director.
CAROL LONG,
Director, NRL-PAC.

Mr. McCONNELL. Interestingly enough, a group with which I have not frequently been allied, and not many Members of this side of the aisle have been allied, the National Education Association, sent a letter to me dated yesterday, June 24, in which the NEA stated it opposed this bill and called upon all Senators to vote against cloture. The NEA pointed out, in referring to the ban on political action committees, that "The average contribution of NEA members who contribute to NEA-PAC is under $6." So, their question is, How in the world is that bad for the political process. So they, too, oppose this legislation and urge a vote against cloture.

I will not read further from that letter, but I ask unanimous consent the entire letter be printed in the RECORD.

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

NATIONAL EDUCATION ASSOCIATION,
Washington, DC, June 24, 1996.

U.S. Senate,
Washington, DC.

DEAR SENATOR: The National Education Association (NEA) opposes S. 1219, the Senate Campaign Finance Reform Act of 1996, sponsored by Senators John McCain (R-AZ) and Russell Feingold (D-WI). This measure would hamper the ability of citizens to participate in the political process in a meaningful way and limit the ability of organizations to make their voices heard in an open, democratic process.

Political action committees have encouraged millions of Americans to become involved in the political system, many for the first time. Many Americans are able to make small political contributions that serve as entree into greater political participation. Individuals are more likely to work for a candidate or issue when they have contributed money, and they are more inclined to make a contribution when they know it will make a difference in the outcome.

Political action committees stimulate small, individual donations. The average contribution of NEA members who contribute to NEA-PAC is under $6. These small contributions from middle-income citizens help counterbalance the ability of wealthy individuals to influence policymakers. Eliminating political action committees would not reduce the importance of money in politics. It would reduce the importance of working people in politics.

Political action committees also play an important role in communicating with members of organizations about issues that affect them. NEA would resist any effort to constrain the ability of the Association—or any other organization—to communicate with members and candidates about issues affecting children, public education, and education employees.

NEA strongly supports campaign finance reform that encourages participation and requires full disclosure of all sources of political financing. Moreover, we support partial public financing of election campaigns as a means of leveling the playing field for challengers and incumbents. S. 1219 would weaken efforts to increase voter participation, limit the involvement of low- and middle-income citizens in the political process, and discourage efforts to educate and engage the electorate. We urge you to oppose cloture on S. 1219, and should the Senate vote on the measure, to oppose it and its substitute.

Sincerely,

MARY ELIZABETH TEASLEY,
Director of Government Relations.

Mr. McCONNELL. The National Rifle Association, in a letter dated yesterday, said:

We have examined the draft text of that possible substitute [the bill that is actually before us today] and our opposition . . . is not only unabated—it is, if anything, stronger than before.

So the National Rifle Association also urges a vote against cloture because they believe it adversely affects their ability to participate in the political process.

I will not read further from that letter, but I ask unanimous consent the entire letter be printed in the RECORD.

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

NATIONAL RIFLE ASSOCIATION
OF AMERICA,
Fairfax, VA, June 24, 1996.

Hon. MITCH McCONNELL,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR McCONNELL: We understand that an amendment in the nature of a substitute may be offered during this week's debate on S. 1219, the Senate campaign finance bill. As you know, we have repeatedly expressed our opposition to S. 1219, as we believe it unjustifiably and unconstitutionally restricts the First Amendment right of organizations to communicate with their members and the general public in the political process.

We have examined the draft text of that possible substitute amendment and our opposition to S. 1219 is not only unabated—it is, if anything, stronger than before. The ban on activities of political action committees remains in the substitute, and would have a devastating effect on the ability of ordinary citizens such as our members to act jointly in support of candidates.

Additionally, the new proposed reporting requirements for independent expenditures, and the provisions intended to dilute the effect of such expenditures, would have a chilling impact on the effectiveness of such communications. Coupled with the continuing effort to broadly redefine "express advocacy," Sections 241 and 242 represent one of the broadest attacks on free speech rights seen in years, affecting not only electoral but other legislative communications. Giving the Federal Election Commission a power to engage in prior restraint makes the attack even more serious.

We appreciate the support for the right to free speech which you've shown in your opposition to S. 1219, and we urge you to continue your work on this very important issue. If there is anything we can do to be of assistance to you, please don't hesitate to call.

Sincerely,

TANYA K. METAKSA,
Executive Director.

Mr. McCONNELL. Also, obviously the National Association of Business PAC's, NAB-PAC, which would essentially be put out of business and lose their ability to participate in the political process, opposes the bill.

The American Conservative Union and the Conservative Victory Fund oppose it as well. I will not read from those letters, but I ask unanimous consent the letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE AMERICAN
CONSERVATIVE UNION,
Alexandria, VA, June 25, 1996.

Hon. MITCH McCONNELL,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR McCONNELL: On behalf of the one million members and supporters of the American Conservative Union, I urge you to oppose S. 1219, the McCain-Feingold campaign finance reform act.

As a party to the seminal Buckley v. Valeo decision, ACU has had a long-standing interest in our nation's campaign finance system. Over the years, we have worked with many Members of Congress on both sides of the aisle to try to reform the system in a manner consistent with constitutional guarantees of free speech—even as we have opposed efforts to change the system in a manner which abridges those freedoms.

McCain-Feingold does just that. Its fundamental reliance on spending limits—whether "voluntary" or otherwise—is merely the worst of its many wrong-headed provisions. The problem with our current system

is not that too much money is raised and spent; as countless studies have shown, we spend as a nation far more to advertise products such as soft drinks and potato chips in a given year than we do on all campaign spending combined. Do you really want to vote for spending limits and in effect tell your constituents that as far as you're concerned, their decision over which soft drink to purchase is more important than which leaders to choose?

Rather, the problem in our current system of campaign financing is that too much time is spent collecting the amounts of money needed to compete effectively in a competitive marketplace. Because of the contribution limits enacted in the Federal Election Campaign Act, too many candidates spend too much time chasing too few dollars—which is what gives special interest groups a disproportionate influence over legislators. If what you are really seeking is a way to reduce the influence of the special interests, simply lift the contribution limits.

But McCain-Feingold's reliance on spending limits is not its only fault. Other wrongheaded provisions include taxpayer subsidization of both print and broadcast communications, and the bill's outright abolition of political action committees. Public subsidies amount to partial taxpayer financing of politicians—something overwhelmingly opposed by the American people. Nor should PACs be abolished; to do so would be an unconstitutional infringement on the rights of free association and free speech.

McCain-Feingold is a bad bill. Kill it and start over.

Yours sincerely,

DAVID A. KEENE,
Chairman.

CONSERVATIVE VICTORY FUND,
Washington, DC, April 2, 1996.

House of Representatives,
Washington, DC.

DEAR CONGRESSMAN: I want to bring to your attention a bill that would bring irreparable damage to the political process. Congresswoman Linda Smith has introduced HR 2566 which bans contributions from political action committees to individuals running for Congress. I'm deeply concerned about this.

In 1976, the Supreme Court ruled in *Buckley v. Valeo* that campaign finance restrictions burdened First Amendment rights. The only purpose recognized by the Supreme Court to justify restrictions on PAC contributions is the prevention of real or apparent corruption.

Most of the arguments used for additional limits on political contributions from political action committees do not stand up under scrutiny. Originally, the goal of campaign finance reform was to reduce the influence of money, to open up the political system, and to lower the cost of campaigns. Since the 1974 amendments to the Federal Election Campaign Act, which were done in the name of "campaign finance reform", spending has risen sharply and incumbents have increased both their reelection rate and the rate at which they outspend their challengers.

As you know when you first ran for Congress, money is of much greater value to open-seat candidates or challengers than to incumbents. Studies show that added incumbent spending is likely to have less effect on vote totals than the challenger's added spending. Limits on political contributions hamper challengers from getting their voice heard while incumbents have significant advantages in name recognition. Campaign finance laws lock into place the advantages of incumbency and disproportionately harm challengers.

We oppose HR 2566 and any other such bills. The First Amendment is based on the belief that political speech is too important to be regulated by the government. The Conservative Victory Fund has helped you and hundreds of other conservatives since its creation in 1969. HR 2566 would eliminate the Conservative Victory Fund.

Sincerely,

RONALD W. PEARSON,
Executive Director.

Mr. MCCONNELL. So there are a number of groups who, in the past, have largely not been heard from during these debates who have decided to take a position, to get interested, and to express their views. This is, of course, something we greatly welcome since—the point I would like to make—obviously this bill not only affects candidates for office, it affects everybody's ability to participate in the political system. These groups do not like our effort to push them out of the process. They do not feel that their involvement in politics is a harmful thing. They think it is protected by the first amendment, and I think they are right.

Also, just in closing, I see the Senator from Utah is ready to take a few moments or more, if he would like. One of my biggest adversaries on this issue, over the last decade, has been my hometown newspaper, the Louisville Courier-Journal, which is the largest newspaper in our State. I was amazed to pick up the paper this morning and read an editorial in which they even think this is a bad bill. They even think this is a bad bill. This is the most liberal newspaper in Kentucky. I was astonished. Obviously, it made my day.

I would like to read a couple of comments. They are predicting the cloture will not be invoked. They say, "This outcome would be more regrettable if the bill were better." They go on to say:

[Most] . . . of the rest of the package would be a step back from real reform, while making the election finance regulatory effort more complex and of less service to the public.

Further, they say:

The abolition of those endlessly maligned PAC's would make special interest money harder to trace while denying small givers a chance to participate. A limit on out-of-state contributions sounds good, but it could cut two ways. Indeed, it would probably be more damaging to candidates who challenge the local powers-that-be than one who thrives on special interest support. Anyway, both provisions are surely unconstitutional.

They are right about that.

As for a scheme to lure candidates to limit spending by offering them free TV time contributed by the networks, it's simply wrong to foist the cost of cleaner government on a handful of businesses—and their advertisers, stockholders and viewers. If there's a cost to election reform, it should be borne by all taxpayers.

It is a curious ally but I am proud to have them on board.

Mr. President, I ask unanimous consent that other letters of opposition in addition to those I referred to a few moments ago, as well as the editorial of today in the Louisville Courier-Journal, be printed in the RECORD.

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

REFORM'S TIRED REFRAIN

As the U.S. Senate convenes today for yet another vote on election finance "reform," the setting is all too familiar.

The measure is backed by liberal and conservative members of Congress—including Republicans who, in response to public disgust with incumbent Democrats, promised to change the money system. Good government and citizens groups complain—legitimately—that the national legislature is awash in vast sums of money given by favor seekers.

The likely result? That's expected to be a rerun, too. Barring unexpected strength among the reformers, a filibuster organized by Mitch McConnell will halt Senate action. In any event, the House probably won't find time to act this year.

This outcome would be more regrettable if the bill were better. Sadly, it has only one good provision—an end to the "soft money" scam that allows corporations and labor unions to give political parties millions of dollars, purportedly for vague "party-building" activities. If this reform alone survives, Congress could claim some progress.

But much of the rest of the package would be a step back from real reform, while making the election finance regulatory effort more complex and of less service to the public.

The abolition of those endlessly maligned PACs would make special interest money harder to trace while denying small givers a chance to participate. A limit on out-of-state contributions sounds good, but it could cut two ways. Indeed, it would probably be more damaging to a candidate who challenges the local powers-that-be than to one who thrives on special interest support. Anyway, both provisions are surely unconstitutional.

As for a scheme to lure candidates to limit spending by offering them free TV time contributed by the networks, it's simply wrong to foist the cost of cleaner government on a handful of businesses—and viewers. If there's a cost to election reform, it should be borne by all taxpayers.

It may be, indeed, that Congress is incapable of devising workable change. And that may matter less and less.

The good news is that Kentucky and other states are experimenting with new approaches to paying for campaigns. To the extent that states are also developing solutions to welfare and other national problems—a positive trend in our view—a national political establishment wallowing in dollars showered on it by Philip Morris, RJR Nabisco and others becomes increasingly irrelevant.

NATIONAL RIFLE ASSOCIATION
OF AMERICA,
Fairfax, VA, June 24, 1996.

DEAR SENATOR: We understand that an amendment in the nature of a substitute may be offered during this week's debate on S. 1219, the Senate campaign finance bill. As you know, we have repeatedly expressed our opposition to S. 1219, as we believe it unjustifiably and unconstitutionally restricts the First Amendment right of organizations to communicate with their members

and the general public in the political process.

We have examined the draft text of that possible substitute amendment and our opposition to S. 1219 is not only unabated—it is, if anything, stronger than before. The ban on activities of political action committees remains in the substitute, and would have a devastating effect on the ability of ordinary citizens such as our members to act jointly in support of candidates.

Additionally, the new proposed reporting requirements for independent expenditures, and the provisions intended to dilute the effect of such expenditures, would have a chilling impact on the effectiveness of such communications. Coupled with the continuing effort to broadly redefine "express advocacy," Sections 241 and 242 represent one of the broadest attacks on free speech rights seen in years, affecting not only electoral but other legislative communications. Giving the Federal Election Commission a power to engage in prior restraint makes the attack even more serious.

We urge you to oppose S. 1219's attack on the right of free political speech. If there is anything we can do to be of assistance to you, please don't hesitate to call.

Sincerely,

TANYA K. METAKSA,
Executive Director.

CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA,
Washington, DC, June 24, 1996.

MEMBERS OF THE U.S. SENATE: The Senate will soon be asked to consider S. 1219, the "Senate Campaign Finance Reform Act of 1995." The United States Chamber of Commerce Federation of 215,000 businesses, 3,000 state and local chambers of commerce, 1,200 trade and professional associations, and 76 American Chambers of Commerce abroad urges your opposition to this legislation, which would restrict the participation by Political Action Committees (PACs) and individuals in the political process.

The U.S. Chamber of Commerce has long promoted individual freedom and broad-scale participation by citizens in the election of our public officeholders. In this regard, we oppose efforts to eliminate or restrict the involvement of PACs in our political process. We believe that PACs are a critical tool by which individuals voluntarily participate in support of their collective belief.

In addition, there are other proposals contained in the bill that would greatly inhibit long-standing protected freedoms. These attempts to further limit the ability of individuals or collective political participation should be defeated as an infringement on the basic principle of free speech. Further, a public mandate on the private sector to subsidize the election of public officials without regard to support for a candidate also must be defeated.

We believe that an indispensable element of our constitutional form of government is the continued power of the people to control, through the elective process, those who represent them in the legislative and executive branches of government. Any attempt to reform the system through eliminating PACs or further restricting contribution levels has the consequence of unreasonably restricting the rights of American citizens. Rather, we support a system that relies on accountability through public disclosure, voluntary participation without government mandates, and confidence in the electorate to make sound decisions through the free exchange of ideas and information.

Therefore, we urge your opposition to S. 1219, as well as your opposition to invoking cloture on such legislation, which seeks to restrict the participation of individuals or PACS in the political process.

Sincerely,

R. BRUCE JOSTEN.

NATIONAL RIFLE ASSOCIATION OF AMERICA,
Fairfax, VA, June 19, 1996.

DEAR SENATOR: It is our understanding that a cloture vote has been scheduled for June 25, 1996 on S. 1219, the Senate Campaign Finance Reform Act. We believe this will be the most critical vote that you will cast this year in protecting the constitutional rights of your constituents. Speaking for the more than three million members of the National Rifle Association (NRA), we strongly urge you to vote against bringing this measure, or this issue, before the Senate in any form. S. 1219 is a misguided attempt to limit participation in the political process, and represents a direct challenge to the right of free speech which we all should cherish and strive to protect.

Those who support S. 1219 have suggested that it will enlarge or enhance participation in the political process. We believe those who promote this view are either misinformed or unaware of the consequences of this legislation. In fact, S. 1219 will not level the political playing field, but will rather increase opporunities for political manipulation by those who have access to national media outlets, at the expense of those who do not.

The main focus of the NRA is in protecting the right to keep and bear arms. However, we believe that our system of government depends on preserving all of our Constitutional protections. Associations like the NRA facilitate participation by concerned citizens who otherwise would not have the resources to speak out on a national level. By removing their ability to offer their views in independent forums by combining their individual resources you would, for all intents and purposes, eliminate their First Amendment rights.

As we have noted in previous correspondence (letters dated 01/25/96 and 05/7/96), in the *Buckley v. Valeo* decision of 1976, the Supreme Court stated that "* * * legislative restriction on advocacy of the election or defeat of political candidates are wholly at odds with the guarantees of the First Amendment." S. 1219 contains the same kind of legislative restrictions, and we believe therefore that it is clearly unconstitutional.

Again, I urge you to reject S. 1219, and all other ill-conceived attempts at limiting free speech and participation in the political process.

Sincerely,

TANYA K. METAKSA,
Executive Director.

NATIONAL RIGHT TO LIFE COMMITTEE, INC.,
Washington, DC, June 18, 1996.

DEAR SENATOR: We understand that the Senate is likely to vote on or about June 25 on whether to invoke cloture on the McCain-Feingold bill (S. 1219), which would make sweeping changes in federal election laws.

The National Right to Life Committee (NRLC) is strongly opposed to S. 1219. In banning PACs, the bill also bans independent expenditures—except by wealthy individuals. This provision would flagrantly violate the First Amendment right of individual citizens who share a common viewpoint on an important public policy issue, such as abortion, to pool their modest financial resources in order to participate effectively in the democratic process. The average donation to NRL-PAC is $31.

The bill would also place severe new limitations even on issue-oriented voter education materials that do not urge the election or defeat of any candidate. This, too, violates the First Amendment. The overall effect of S. 1219 would be to greatly enhance the already formidable power of media elites and of very wealthy individuals to "set the agenda" for public political discourse—at the expense of the ability of ordinary citizens to make their voices heard in the political process.

Therefore, the National Right to Life Committee urges you to vote No on cloture on S. 1219. Because S. 1219's restrictions on independent expenditures and voter education activities would "gag" the pro-life movement from effectively raising right-to-life issues in the political realm, NRLC will "score" this vote as a key pro-life vote for the 104th Congress.

A vote in opposition to S. 1219 is consistent with the position taken by the U.S. Supreme Court in its 1976 Buckley v. Valeo decision: "In the free society ordained by our Constitution, it is not the government, but the people—individually as citizens and candidates and collectively as associations and political committees—who must retain control over the quantity and range of debate on public issues in a political campaign."

Moreover, the overwhelming majority of Americans oppose the concept embodied in S. 1219. The Wirthlin Worldwide firm conducted a nationwide poll on May 28–30, which included this question:

"Do you believe that it should be legal for individuals and groups to form political action committees to express their opinions about elements and candidates?"

Yes, should be legal: 83%.

No, should not be legal: 13%.

Thank you for your consideration of NRLC's concerns regarding this legislation.

Sincerely,

DOUGLAS JOHNSON,
Legislative Director.

CAROL LONG,
Director, NRL-PAC.

NATIONAL RIGHT TO LIFE COMMITTEE, INC.,
Washington, DC, June 7, 1996.

DEAR MEMBER OF CONGRESS: The House Oversight Committee will soon mark up some form of "campaign finance reform" legislation. The committee will consider, among other things, proposals to either (1) ban PACs and thereby also ban independent expenditures, or (2) not ban PACs, but place new restrictions on independent expenditures.

National Right to Life Committee (NRLC) is strongly opposed to any legislation that would further restrict independent expenditures, whether by banning PACs or in any other fashion. Such proposals would infringe on the First Amendment rights of individual citizens, sharing a common viewpoint on an important public policy issue, to pool their modest financial resources in order to participate effectively in the democratic process.

As you review various "campaign reform" proposals during the weeks ahead, please keep in mind the words of the Supreme Court in its 1976 Buckley v. Valeo decision:

"In the free society ordained by our Constitution, it is not the government, but the

people—individually as citizens and candidates and collectively as associations and political committees—who must retain control over the quantity and range of debate on public issues in a political campaign."

The Wirthlin Group conducted a nationwide poll on May 28–30, which included this question:

"Do you believe that it should be legal for individuals and groups to form political action committees to express their opinions about elections and candidates?"

Yes, should be legal, 83%.

No, should not be legal, 13%.

Thank you for your consideration of NRLC's concerns regarding this legislation.

Sincerely,

DOUGLAS JOHNSON,
Legislative Director.
CAROL LONG,
Director, NRL–PAC.

NATIONAL RIGHT TO LIFE COMMITTEE, INC.,
April 30, 1996.

DEAR SENATOR: You are being pressured by so-called "public interest" groups to pass campaign finance reform measures under the guise of "cleaning up the system." More specifically, you are being asked to support a floor vote on S. 1219, the McCain-Feingold-Wellstone bill.

We urge you to oppose S. 1219. Attorneys that span the ideological spectrum agree that S. 1219 would destroy free speech and grievously injure both the right to association and the right to petition government.

It is a myth that the American public is clamoring for campaign finance reform. In a recent poll conducted by the Tarrance Group, only one person, out of 1000, volunteered campaign finance reform as the biggest problem facing the country. When the poll respondents were given a list of 10 problems and asked to rank them, campaign finance reform came in last, with only 1% selecting that topic.

Under S. 1219, an individual would be able to make independent expenditures, but because of the ban on political action committees, a group of individuals would be forbidden to organize, pool their resources, and coordinate their activities. This would leave the political process open to very wealthy individuals and the media, but would prohibit the vast majority of citizens from effectively making their voices heard.

S. 1219 defines "express advocacy" so broadly as to sweep in "issue advocacy." Thus, citizens' groups would, in effect, be prohibited from publishing voter guides or giving candidates' voting records. Several federal courts have already struck down attempts by the Federal Election Commission to do the same thing.

Free speech is essential to democracy. It is important not only for the press and wealthy individuals, but also for ordinary citizens. We urge you to take any steps necessary, including opposing cloture, to prevent S. 1219 or any similar measure that infringes upon the First Amendment rights of citizens from being approved by the Senate.

We also oppose the appointment of any unelected commission that has the authority to issue a final report on campaign finance reform that would not be subject to the regular amendment process on the Senate floor.

CHRISTIAN COALITION.

NATIONAL RIGHT TO LIFE COMMITTEE, INC.,
Washington, DC, November 8, 1995.

Senator MITCH MCCONNELL,
Senate Office Building, Washington, DC.

DEAR SENATOR MCCONNELL: Campaign finance "reform" that destroys the freedom of speech is not reform.

Current measures under consideration in the Senate would largely prevent citizen involvement in the political process. We realize there is a lot of pressure from the press to "reform" the election process. However, limiting free speech for citizens, while it may please some elements in the press because it greatly increases their own power, is neither politically wise nor constitutional.

We have the three major objections to S. 1219, the "Senate Campaign Finance Reform Act of 1995" as sponsored by Senators McCain and Feingold, and therefore will vigorously oppose this measure.

1. S. 1219 WOULD ALMOST ELIMINATE INVOLVEMENT IN THE POLITICAL PROCESS FOR ORDINARY CITIZENS WHO ARE NOT INDEPENDENTLY WEALTHY

S. 1219 would permit only individuals, or political committees organized by candidates and political parties, to solicit contributions or make expenditures "for the purpose of influencing an election for Federal office."

Many political action committees (PAC), such as the National Right to Life PAC, exist because their members want to work together to elect candidates who share their views and beliefs. Under the current system, citizens are free to coordinate activities through PACs in order to discuss issues, express their views on positions taken by candidates, and urge voters to support or oppose certain candidates. This dialogue is very important to the political process and very important to the American system.

Under the Act, an individual can make independent expenditures, but a group of individuals cannot organize and coordinate their activities. This opens the political process to wealthy individuals, but prohibits the vast majority of citizens from pooling resources to make their voices heard.

If citizen groups and their political action committees are eliminated, the only entities left that are freely able to discuss candidates and the issues, except the candidates themselves, are a few wealthy individuals and the news media. That is not the intention of the First Amendment.

Another problem for you to consider is that many in the media have a bias against pro-life and pro-family candidates. If the media is allowed free speech and citizens groups are not, that will be a real disadvantage for pro-life and pro-family candidates.

2. THE NEW DEFINITION OF "EXPRESS ADVOCACY" IS UNCONSTITUTIONAL AND REPRESSES THE FREE SPEECH OF CITIZENS

Section 251 of S. 1219 attempts to "clarify" Independent Expenditures. However, it redefines "express advocacy" to now include protected "issue advocacy.". This extremely broad new definition of express advocacy would sweep in protected issue advocacy, such as voter guides which state the positions candidates have taken on issues or give candidates' voting records.

The new definition goes far beyond what the United States Supreme Court said was permissible to regulate as electioneering in the case of Buckley v. Valeo, 424 U.S. 1 (1976). In Buckley, the Supreme Court held that, in order to protect issue advocacy (which is protected by the First Amendment), government may only regulate election activity where there are explicit words advocating the election or defeat of a clearly identified candidate.

This new definition would expand the umbrella of "express advocacy" so broadly that citizen groups other than PACs would also be effectively prohibited from informing the public about candidates' positions on issues as well as voting records. This curtailment of citizens' freedom of speech would not affect the major media whose political power would be vastly enhanced, since one balancing force currently in the public forum would be eliminated.

The Supreme Court would, again likely find this new definition of "express advocacy" unconstitutional, and voters would find it exceedingly repressive.

3. S. 1219 AUTHORIZES UNCONSTITUTIONAL PRIOR RESTRAINT

Section 306 of the Act authorizes an injunction where there is a "substantial likelihood that a violation . . . is about to occur." The FEC would be authorized to seek injunctions against expenditures which, in the FEC's expansive view, could influence an election. Such a preemptive action against the freedom of speech is unconstitutional except in the case of national security or similarly weighty situations. Prior restraint should never be allowed in connection with core political speech. There simply is no governmental interest of sufficient magnitude to justify the government stopping persons from speaking.

This country's open system of representative democracy is the envy of the world. If you try to "fix" it by limiting people's voices, then you head towards totalitarianism. Whatever its flaws, democracy is the best system the world has seen to date.

Free speech is essential to democracy. It is important not only for the press and wealthy individuals, but also for ordinary citizens. The only way ordinary citizens can have any meaningful opportunity to exercise their right of free political speech in modern America is if they are allowed to pool their funds in PACs. For the record, the average donation from National Right to Life members to its PAC is $31.

The status quo on speech by membership organizations and independent expenditures by political action committees works. Disclosure laws governing PACs already provide detailed information on where the money came from and how it was spent. The current process allows citizens to be involved in their government. That it how it should be.

We are enclosing a copy of the legal analysis of S. 1219 by James Bopp, Jr., General Counsel for NRLC. National Right to Life urges you to protect the constitutional rights of your constituents and oppose S. 1219.

Respectfully,

WANDA FRANZ, Ph.D.,
President.
DAVID N. O'STEEN, Ph.D.,
Executive Director.
CAROL LONG,
PAC Director.

Mr. MCCONNELL. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 75 minutes.

Mr. MCCONNELL. Mr. President, I yield to the Senator from Utah, 10 minutes.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. BENNETT. Mr. President, I spoke at some length yesterday in a

philosophical fashion, going back to the Founding Fathers and the Federalist Papers, hoping to turn the debate into that kind of an analysis of our basic freedoms and our political approach. Today I want to get very down and dirty, as they say; very practical. It has been my observation throughout this entire controversy, and it goes back to the last Congress as well as this one, that the efforts at campaign finance reform really constitute an incumbent protection activity. The Senator from Arizona, my friend, Senator MCCAIN, said that if the challengers were voting here they would all vote for this bill because he showed the chart that showed most of the PAC money went to incumbents.

I have been a challenger. The memory is still fresh in my mind, even though I am now an incumbent. And I can assure all who do not know anything about the political process, that an incumbent comes into a race with incredible advantages. Let me give an example. I did not run against an incumbent Senator but I ran against an incumbent Congressman. These are the advantages he brought to the race.

He had a staff, paid for by the taxpayers, that was available to research every issue, provide him with a paper on every issue, and in the course of press releases give him the press support that he required.

He held a press conference late in the campaign in which he attacked me for a wide variety of things. The press person who scheduled that press conference, who wrote the press release, and who handled all press inquiries relating to it was paid by the taxpayer because he was on the Congressman's staff. I had to have people there to protect my interests. They were all paid for out of campaign funds because I had no congressional staff. I am not saying that he broke the law. I am not saying that he did anything improper. I am just outlining this is the way it is.

He had name recognition going back to 8 years of service in the House of Representatives. I thought I had some name recognition because my father had served in the Senate. I figured everybody would remember the name "BENNETT" favorably in connection with the Senate. Boy, did I find out differently. In the first poll that was taken, I was at 3 percent, with a 4-percent margin of error. I could have been minus 1. How do I counteract that 8 years of name recognition that he has built up? I had to raise the money. How did I pay for the people who were there to counteract the people that he had on his congressionally supported staff? I had to raise the money.

Is it a fair fight when you say the incumbent is at level x and the challenger must also be at level x, when the incumbent has all of these advantages that are worth money that the challenger has to raise money in order to produce? When you say, let us get a fair fight and let us do it by saying that the challenger is unable to raise money to take care of the things that the incumbent does not have to raise money for, you are automatically creating a circumstance in favor of the incumbent.

Some political observers have said to me, "Why are you opposed to this now that you are an incumbent? We can understand that you were opposed to campaign reform while you were a challenger because as a challenger you were at a disadvantage in the face of campaign reform. But now that you are an incumbent, and particularly now that your party has a majority of the incumbents, why isn't your party in favor of an incumbent protection act that will put all of these disadvantages on the backs of the challenger?"

Well, I go back to my statement yesterday. I have philosophical challenges with these attempts to do that which I consider would produce damage to our basic philosophical underpinnings in this country. I did not quote the Federalist Papers just to prove that I had read them. I went through that process to demonstrate that I have a philosophical objection to what it is we are trying to do here, even though, should this bill pass, I would be benefited as an incumbent. I am convinced, if this bill were to pass, that I would be benefited as an incumbent, that I would be in a circumstance where it would be impossible for anybody to challenge me. But I am willing to run the risk of having them challenge me because that is the American pattern and that is what is in the Constitution that all of us have sworn to uphold and defend here in this body.

So, Mr. President, I am not going to vote for cloture. I am not going to vote to support a bill that is an incumbent protection act. I am going to say we will all stand exposed to the challenge of challengers who have the energy and the message necessary to raise the money to challenge us and not hide behind limits that say that we can use the advantages of our offices and our challengers cannot. I believe it is as simple as that. I believe that honest fairness says we will oppose this bill, and, therefore, we oppose cloture on the bill. I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. FEINGOLD. How much time do the proponents have remaining?

The PRESIDING OFFICER. The proponents have 67 minutes 15 seconds.

Mr. FEINGOLD. I yield 10 minutes to the distinguished Senator from Florida, who has been one of the original supporters of this legislation and has helped us all through the difficult process of trying to get it up for a vote. I thank him very much.

Mr. WELLSTONE. Will the Senator yield me 5 seconds?

Mr. GRAHAM. I yield the Senator 5 seconds.

Mr. WELLSTONE. I thank the Senator.

PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. Mr. President, I ask unanimous consent that David Hlavac, who is interning with me, be allowed to be on the floor throughout the duration of this bill.

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

Mr. GRAHAM. Mr. President, I first will extend my commendation to Senators FEINGOLD and MCCAIN and the others who have worked so hard to craft what is truly a bipartisan proposal to deal with one of the serious cancers in our American democratic system, and that is the way in which we manage and finance campaigns for the Congress. This bill is another example that, if we are going to do the public's will, it must be done in a bipartisan spirit.

Mr. President, we have spent a lot of this year and last year talking about the creative energy of the States, the desire to return greater responsibility to the States for many of our most basic domestic programs. We have acknowledged that the States, given that responsibility, given their flexibility to respond to the specific circumstances that they face, would unleash a new wave of innovation to bring us creative solutions to some of our most vexatious problems.

Mr. President, I say that we can take some encouragement as to the legitimacy of that position by looking at what States have done in the area of campaign finance reform. States were faced with basically the same problem that we are dealing with this morning—the problem of campaign money run amok and the need to change campaign financing mechanisms in order to restore public confidence.

The experience of my State of Florida, I believe, is instructive in this regard. In 1991, the State legislature overhauled Florida's campaign finance system. It instituted a $500 cap on individual contributions. Prior to that it had been as much as $3,000. It provided for public financing of campaigns. It instituted overall caps on statewide races. It provided incentives to abide by the cap.

What has happened in the relatively brief period that Florida has had these campaign finance reforms? In 1990, there was an incumbent Governor running for reelection. That incumbent Governor spent $10,670,000. Four years later, there was a different incumbent Governor running for reelection. In that campaign he spent $7,480,000. I note that the incumbent in 1990, who spent almost a third more, lost. The incumbent in 1994, under the new standards, was reelected. Common Cause of

Florida attributes the decrease in campaign spending directly to Florida's enactment of campaign finance reforms.

Mr. President, the States can control the terms and conditions of elections for State officials. It is our responsibility to do likewise for the Congress. I applaud the effort that is before us today. It is a genuine, thoughtful response to a serious national problem. I do not pretend that it is perfect. We have already heard on the floor several persons who, like myself, will vote to invoke cloture and support this bill, but who also are prepared to support modifications that we think would perfect it.

For instance, I do not believe that political action committees are a poisonous political evil that should be banned. But, Mr. President, if accepting some restraints on political action committees is necessary to achieve the bipartisan consensus for the passage of this sorely needed legislation, I am prepared to vote to do so.

Mr. President, there are many infirmities in our current system which have already been identified. Remedies have been prescribed. I wish to focus on one of those infirmities. That is, that the enormous amount of money in political campaigns has fundamentally changed the nature and purpose of congressional campaigns.

What should be the purpose of a political campaign? In my opinion, it should include at least two dual relationships. First, there should be a duality of relationship in terms of education. Yes, the candidate is trying to educate the public as to who he or she is, what he or she stands for, what would be the objective of service in public office, what they would try to accomplish. But there is an equally important side of the education duality, and that is that the citizens are influencing the candidate. A campaign should be a learning experience. The campaign should better prepare the candidate to serve in public office by the experiences, the exposure, that the campaign will provide.

There is a second duality, and that is the development of a democratic contract. The citizens should have some reasonable expectation that if they vote for a particular candidate, the policies that candidate has advocated will, in fact, form the basis of the candidate's efforts once in office, and the public official should have the right to expect that in office he would have the support of the public, the mandate of the public to achieve those policies upon which his or her campaign was predicated. These dualities, a duality of education and a duality of the forming of a democratic contract, these are essential elements of our system of representative democracy.

However, Mr. President, the excess of money in campaigns has changed the nature and the purpose of the campaign. It has, in fact, allowed candidates to hide from the voters rather than to use the campaign to learn from and more effectively communicate with the public. Candidates now move from the television studio to record 30-second sound bites, often of a highly negative character, to the telephone to solicit campaign contributions to pay for those 30-second sound bites. There is little time left to interact on a personal level with the voter.

By providing for spending limits, this bill would direct voters from the television studio back to the street to look for ways other than money to appeal to voters, by interacting with them, discussing issues, debating of the candidates, so that voters can make an accurate assessment of who they wish to represent.

I personally, Mr. President, would like to see a requirement that one who participates in the public assistance to a campaign, whether Presidential candidates participating for direct-cash infusion or congressional candidates who, under this legislation, would benefit by preference in perks like postal and broadcast rates, that they would commit themselves to participate in a stipulated number of public appearances with their opponents. I believe that is the truest way in which the public can form an opinion as to the qualities and capabilities of the persons who seek to represent others.

Mr. President, providing for a voluntary system of spending limits, while simultaneously requiring candidates to raise at least 60 percent of campaign funds from their home State, are positive steps toward bringing candidates and voters together. Passage of this bill would be a positive step toward realizing the goal of our political process, allowing the voter to truly understand, truly assess the candidate's view, and thus to make an informed judgment, while simultaneously helping to prevent politicians from becoming insulated and mitigate voters' disaffection.

Mr. President, by passing this bill today, we can restore a meaningful dialog between the voter and the candidate. By doing so, we can all share in giving this country a great victory, and restoring the public's faith in the political process. I urge this bill's passage.

The PRESIDING OFFICER. Who seeks recognition?

Mr. FEINGOLD. Mr. President, I yield up to 5 minutes to the Senator from North Dakota.

Mr. DORGAN. Mr. President, I intend to vote for cloture today. I do not do so believing this is a perfect bill. There are some provisions in this measure I do not support. I do not support the complete abolition of PAC's, for example. But I believe we ought to be debating campaign finance reform. Therefore, I will vote for cloture to get a campaign finance reform bill on the floor of the Senate so we can offer amendments and see if we can perfect the bill in a way that will represent the public interest.

In my judgment, the financing of political campaigns is spinning out of control—more and more dollars in each campaign, more and more wealthy candidates financing their own campaigns. Campaigns in America have not so much become a competition of ideas—this is what campaigns ought to be—but a 30-second ad war. Not so much by candidates, but by the creators of the 30-second little "bomb bursts" that are put on television to try and destroy other reputations. These hired guns hardly serve the public interest, yet campaigns really have become a competition of 30-second ads.

When I last ran for the U.S. Senate, I was much better known than my opponent, so I made a novel proposal, which he did not accept, unfortunately. I wish he would have. I said: I am better known than you, but if we can agree to certain things, I think in many respects it will even things up. Let neither of us do any advertising at all. Neither of us will do any radio or television ads, no 30-second ads, no ads of any kind. You and I will put our money together, and we will buy an hour of prime time television each week for the 8 weeks prior to the election, and each week we will show up without handlers, without research notes, at a television studio with no monitor, and for an hour in prime time, statewide on North Dakota television, you and I will discuss the future. We will discuss whatever you want to discuss, whatever I want to discuss, such as why we are seeking a seat in the U.S. Senate, what kind of future we see for this country, what kind of policies we think will make this a better country.

I thought, frankly, 8 hours of prime time television, statewide, with both of us addressing each other and addressing why we were running for the U.S. Senate, might have been the most novel campaign in the country. My opponent chose not to accept that. Instead, we saw a barrage of 30-second ads. I do not think it provided any illumination for the North Dakota voters in that campaign. I think it would have been a better campaign had we had 8 hours prime time, statewide television, without handlers, to talk about what we thought was important for the future of this country. We did not have that kind of campaign.

So, the question for the Senate now is, what kind of campaign finance reform would be useful in this country? There are wide disagreements about how this ought to be addressed. For instance, I saved this article, the headline of which quotes my friend Speaker GINGRICH as saying, "Gingrich calls for more, not less, campaign cash." Speaker GINGRICH gave a speech downtown,

and he fundamentally disagrees with me that there is too much money in politics. He says there is not enough money in politics; there ought to be more money in politics.

I think that if we can find a way—and this bill provides one mechanism—to limit campaign spending and require full disclosure on all contributions, at that point you will start ratcheting down the cost of political campaigns in this country, and I think you will do this country a public service.

Last weekend when I was at Monticello, the home of Thomas Jefferson, I was reminded again of the work and words of this great American in the early days of this country. It seems to me Tom Jefferson would view what goes on in political campaigns in America today as a perversion of democracy. Today's campaigns are not, as I said earlier, a competition of ideas about how to make this a better country. They are much more a 30-second ad war that does not serve the public interest.

I intend to vote for cloture. I hope we will obtain cloture and have this important piece of legislation on the floor, open for amendments. I yield the floor.

Mr. FEINGOLD. Mr. President, I yield up to 15 minutes to Senator THOMPSON of Tennessee, who has been one of the main authors of this bill and has been key to making this a bipartisan reform effort. I thank him for his good work on this bill.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. THOMPSON. I thank the Senator. I thank the majority leader for bringing this matter to the floor at this time. I thank my distinguished colleagues, Senator MCCAIN and Senator FEINGOLD, for their leadership on this bill. I am proud to be one of the original cosponsors of this particular legislation.

Mr. President, after having listened to over a day of debate on this issue, I think the question now could be simply put. Are we satisfied with our current system of financing Federal campaigns in this country? Do we think it is a good system? If we are not satisfied, are we willing to at least take the first step—perhaps not a perfect step—toward doing something about it?

I approach this from the standpoint of one who was recently a challenger and who is now an incumbent running for reelection in 2 years, having gotten the unexpired term of the Vice President for a 2-year term. I am now running as an incumbent for a full term. So I have seen it from both sides.

I also approach it from the standpoint of one who made a commitment to the people of Tennessee that I will try to change the system that we have now working in Washington and that I was dissatisfied with the process by which our legislation is enacted. But I think it is fundamentally the business of the U.S. Congress to address how we elect our public officials, how long they stay, and what their motivations are when they get here. So I am delighted to be a part of this effort.

The system now—let us take a look at the system that we have now. I believe I can be objective in describing it. Elections certainly cost more and more and more. We see Senate campaigns now that cost $10, $20, and $30 million. The combined expenditures in one Senate campaign were over $40 million. We have a system where more and more time is taken by Members of Congress, at a time when technology and all the demands of modern campaigning require campaigns to cost more and more. More and more, we, the Members of, supposedly, the world's greatest deliberative body, wind up having no time to deliberate anymore because of the fractured nature of our lives. For someone to run in a State such as mine, I have calculated that now it would be about $15,000 a week that I would have to raise, year in and year out, to run the kind of campaigns that would be traditionally raised in a State such as mine.

Mr. President, that is not why I came to the U.S. Senate. We have a system now where more and more of the perception is that contributions are tied to legislation. Perhaps that was not a problem when the amounts were smaller. But now we see larger and larger contributions, usually soft money contributions, with regard to larger and larger issues, millions of dollars being spent, billions of dollars being decided by massive pieces of legislation in the U.S. Congress.

We have a system where it is no longer ideological. The money does not flow to ideas. The money flows to power. Whoever is the incumbent party likes the system. Whoever is not the incumbent party plans on being the incumbent party. Democrats have killed this legislation for years, and now that the Republicans are in power, we are trying to return the favor. We have a system whereby, in individual cases, people are drawing closer and closer relationships with individual pieces of legislation and massive amounts of money that are being spent by the people affected by the legislation.

We constantly see news stories, day in and day out. There is a strong perception among the American people that any system that costs so much money and any system that requires us to go to such great lengths to get that money cannot be on the level. We see, day in and day out, editorials across the country. Common Cause has compiled 261 editorials from 161 newspapers and publications. What they say is not a pretty picture. It is not that I necessarily agree with the analysis made of these articles, but this is the perception among editorial writers across the country—liberal papers and conservative papers. The most conservative paper in my home State, in Tennessee, the Chattanooga Free Press, a Republican paper, has one of the editorials contained in this compilation. What they say, I think, is what is perceived by the American people. They say that neither party wants to end the abuses. One of the editorials says, "In Congress, Money Still Talks." Another says, "New Year's Sale on Votes." Another says, "Money Brings Votes." Another says, "Congressmen Admit Being Bought by Contributions." Another says, "Republican Reform; GOP Already Bought Off."

Mr. President, that hurts. The Chattanooga Free Press in Tennessee says in its article—it entitles it, "The Campaign Money Evil." Another article says, "Getting What it Paid For," talking about American industry. Another says, "Feeding Frenzy on the Hill," talking about us and our fundraising activities. Another says, "Buying the Presidency." While we are not dealing with a Presidential campaign, if I heard it correctly on the Brinkley show, now, apparently, for $50,000 you can sleep in the Lincoln bed at the White House. Another says, "NRA Buys Recent House Votes." You can say that——

Mr. MCCAIN. Will the Senator yield?

Mr. THOMPSON. Yes.

Mr. MCCAIN. That is $130,000. It is not as cheap as $50,000.

Mr. THOMPSON. Well, that certainly seems more reasonable. Another says, "Big Money Talks." Another says, "Taste of Money Corrupts Politics." This is from Texas. Another says, "The Great 'Unsecret' of Politics." That is the relationship between contributions and votes. Another says, "Legal Bribery Still Controls Congress." I do not believe that, but a lot of people believe that, and we have to ask ourselves why. Another says, "Campaigns up for Sale."

Mr. President, how much more of this can we stand as an institution? How can we go before the American people with the tough choices that we are going to have to be leading on, convincing the people, with no credibility? Ten percent of the people in this country have a great deal of confidence in Congress. Twelve percent have a great deal of confidence in the executive branch. Eighty percent of the people, at least, favor major change here. We always want to be responsive to the American people, until it comes to something that affects us and our livelihoods—whether it is term limits, campaign finance reform, or some other issue that affects us directly as politicians. Then we come up with all kinds of excuses why it will not work.

We have a system where soft money, of course, has completely made a sham of the reforms that were put in place in earlier years. We all know that. It is a

bipartisan problem. Soft money now is up 100 percent—a 100-percent increase—with hundreds of thousands in contributions, in many cases that we see. So there has been a 100-percent increase since the last election cycle.

Now, that is the system, Mr. President. I do not think it is a very good one. I submit that it is not a good system. Some opponents of reform say there is not enough money in politics. It is not a question of too much; it is not enough; that $700 million spent in 1994 is not enough. They say that more money is spent on soap detergent advertisement, or whatever kinds of advertisement, than on political campaigning. I hope that that analogy will fall on its face without serious analysis, but a lot of people use that. No. 1, we are not in the soap-selling business. No. 2, if Procter & Gamble were advertising in a way that undermined the credibility of the company, they would not be doing it. No. 3, these businesses have only one goal, and that is profit. I would like to think that we have an additional goal in the U.S. Congress.

Other opponents say that it restricts freedom and the ability to participate. This is, of course, a voluntary system, No. 1. And No. 2, we are not talking about mom and pop sitting around the kitchen table deciding how to distribute their $100 or $250 to a Presidential campaign or a senatorial campaign. They can still do that any way they want to do it.

With regard to the PAC issue, which I will discuss in a moment, it simply means that if this legislation were passed, instead of sending it to a political action committee, they would have to make a decision themselves as to which candidate they wanted to send it to. There is no restriction of freedom here on anyone except those in Washington who receive all those minicontributions from various people and make the political decision as to how to use that money. Their freedom will be restricted somewhat. There is no limit whatsoever in this legislation on anybody's ability to participate in the process. People need to understand that.

The current limitation we have is $1,000 on individual contributions. That is a limitation. That is the same limitation that we have here; no new limitation.

Many people say that certainly we want reform. Everybody knows we need reform. "It is a lousy system but not this reform. I would support it, if this particular feature was in, or out," or whatnot. I think that it is tempting to want to have it both ways; to be for reform but never be for a reform measure. Some people say it is an incumbent protection business, like my friend Senator BENNETT. I take a different view from that. I think that under the system now he is certainly correct. Incumbents have substantial advantage. What this legislation would do is, let us say, at least place some limitation on the major incumbent advantage; and that is the ability to raise unlimited amounts of money. The incumbents are still going to have the advantages that they always had. But at least you are saying to that incumbent if he voluntarily chooses to participate that there will be some cap on the amount of money that you spend. You are an incumbent now. The money is going to come to you not because people believe in you in many, many cases any more but simply because you are an incumbent, and you have the power and authority at that point. They say, "Well, it restricts people from coming in and spending enough money to overcome the incumbent." How often does that happen in the real world? When it happens, it is somebody who is an extremely wealthy individual. And it happens then sometimes.

So you wind up with professional politicians on the one hand who are able to raise large sums of money because they are incumbents, and wealthy individuals on the other. That is what our system is becoming—those two classes of people and nobody else.

This legislation would level the playing field and let more people of average means participate. This bill is voluntary. Under it campaigns will cost less. I think that is the crucial feature. A lot of us who support this legislation have different ideas about that. To me the PAC situation is not a crucial feature.

Opponents are certainly correct when they point out that the PAC's were a reform measure in and of themselves in 1974 in the aftermath of Watergate. We thought that would substantially reform the process, and now PAC's are an anathema to a lot of people.

The fact of the matter is—and both sides should understand and know this—that people, whether they be businesses or labor unions or whoever, individuals can still send money in. They can still contribute. They can still get together and decide that they want to individually send contributions in.

In my campaign I ran against an individual that did not accept PAC money. He got all of the same kind of money that he wanted. It is a little more cumbersome. But we are not eliminating special interest money if we eliminate PAC's.

So to me that is more of a symbolic measure than it is anything else. The real crucial measure is limiting the overall amounts of money—that $500 million that was spent in congressional races in the last election time. It will take less time. It will allow my colleagues to spend the time on the things that they were elected to do.

I believe it would level the playing field; 90 percent of all incumbents—in this revolution that was supposedly having all this turnover of all of those who want to be reelected—90 percent are reelected. For those of my friends who always look and see who supports a piece of legislation before they decide whether they are for it or against it, and all of them who decry the trial lawyers and the AFL–CIO and the, well you finally found something that you all agree on because they are all in agreement with the opponents of this legislation that this is a bad piece of legislation. So maybe they will lay off those groups for a little while in the future.

Mr. President, this is not a division any longer of business versus labor or of Democrats versus Republicans. It is a division of people who want to change the system and those who genuinely do not believe that we ought to have it. I would like to think that this is reform time. I would think that this would do more to assist in our attempt to balance the budget than anything else because much of the pressure that this process has within, in it is pressure to spend money. It would be a genuine reform measure.

The lobbying and gift reform measures were something long overdue. We needed to do it. But we are in a situation now where you cannot buy me a $50 meal or a $51 meal but you can go out and get together a few hundred thousand dollars for me for my campaign. So that does not make a whole lot of sense.

I do not think that we ought to get in a situation where we are for reform until it affects us individually and our livelihood when we are affecting everybody else's livelihood on a daily basis. I think it should not be viewed with suspicion among my Republican colleagues. I think too often that we are trying to figure out how this is going to benefit them, or us. The fact of the matter is we do not know. There is no way to figure it. There is no way to tell. It depends on swings. Sometimes we are going to be in. Sometimes we are going to be out. Sometimes a new scheme might hurt us. Sometimes it might help us. But the bottom line is that we should not be afraid of fundamental reform that the American people want, that we all know that we need, and we should get back to winning not on the basis of who can raise the most money but on the basis of the competition of ideas.

That is what we pride ourselves in. That is why we think we were successful last time. That is why we think we will be successful again. Let us get back to that concept.

It is for those reasons that I support this legislation and urge my colleagues to do so.

Thank you, Mr. President. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, a couple of observations, and then I am going to yield 10 minutes to the distinguished Senator from Washington.

I have listened with interest over the years to the debate in this debate about the suggestions of the money chase and dividing up the amount of money one might raise in a campaign by every week of service. My good friend from Tennessee, for example, suggested that he would have to raise $15,000 a week throughout his entire term to be competitive in Tennessee.

I think it is important to remind everyone of the statistics which are irrefutable. Eighty percent of the money raised in a Senate reelection cycle was raised in the last 2 years. Senators are not out raising money every week through a 6-year term. In fact, in the last cycle 80 percent of the money raised by Senators was raised in the last 2 years.

So I am unaware of anybody here in the Senate that is working on fundraising week in and week out through the course of the 6-year term.

Second, let me just say again that I always find it somewhat amusing the extent to which the revelation that little is spent on campaigns relative to consumer items like yogurt tends to exercise the proponents of this bill almost to distraction. But, of course, it is absolutely appropriate when it is said too much is spent on campaigns. You would have to ask the question: Compared to what? Compared to what? For that observation to mean anything it has to be compared to something.

In 1994, in House and Senate races, about $3.74 per eligible voter was spent. We spent about on politics in the last cycle what consumers spent on bubble gum. Roughly $600 million was spent on bubble gum. In 1996, Americans will spend $174 billion on commercial advertising.

So it is appropriate when dealing with the basic premise underlying this measure that too much is being spent to ask the question about the premise: How much is too much? My view is that $3.74 per voter is pretty hard to argue is too much to spend communicating with the electorate.

Mr. President, my good friend from Washington has been quite patient, in the Chamber for some time now, and I will be glad to yield to him 10 minutes.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, I believe it important in discussing an issue of this significance to begin once more with fundamental principles. The most fundamental principle affected by this debate is found in the first amendment to the Constitution of the United States which in relevant part reads, "Congress," that is to say us, "shall make no law abridging the freedom of speech."

Mr. President, I turn to page 31 in this bill in section 201 and I read, "No person other than an individual or a political committee may make a contribution to a candidate."

"No person other than an individual or a political committee may make a contribution to a candidate." In other words, any voluntary association is entirely denied the right to participate in the most effective possible way in a political campaign by making any contribution to a candidate at all.

Here we live in the third century of a Nation, the particular genius of which has been the accomplishment of myriad purposes by voluntary associations, and we are seriously considering a bill that says no voluntary association can make a contribution to a candidate for the Senate.

Our opponents can read us 1,000 opinions of law professors to the effect that that does not violate the first amendment, but a third grader would understand that it does. It is a clear abridgment of the right of free speech. Moreover, that brief comment reflects the entire nature of this bill. Everything in it is designed to restrict political participation, to abridge the effective right of free speech in the political arena. But it does not restrict everyone's right of free speech in every fashion. No, it discriminates among methods of political speech. It imposes severe restrictions upon candidates who, while they may elect to stay out of the system, nonetheless are severely penalized by advantages given to their opponents if they repudiate this outrageous system. It not only prevents these voluntary associations from making any contribution but even an individual is likely to be prohibited from making a contribution to a candidate when that candidate has reached the rather modest maximum permitted under this law to gain certain other advantages.

It, of all things, severely restricts as a great evil political parties. For some reason or another, it is based on the proposition that both the Republican and Democratic Parties are highly undesirable organizations that must be severely restricted in their fundraising and prevented in many cases from providing support to their own candidates.

Now, while candidates have their rights abridged, organized groups have their rights abridged, individuals have their rights abridged, and political parties have their rights abridged, whose free speech rights are not abridged by this bill? Well, first, television networks and stations and their reporters and their editorial writers can continue to say as much as they want to say and to be as biased as they wish to be with respect to any election campaign, and not only are no restrictions placed on their ability to engage in those activities but the candidates who are their victims, whom they oppose, are not granted any ability to raise money to counteract what they may consider to be biased editorials or biased news stories. Newspapers fall into exactly the same category, whether in the reports of their political writers or the editorial support that they provide for candidates—no limitations there but severe limitations on the ability to respond to those newspapers.

And one other important element. All organizations, all groups that are willing to engage in the subterfuge that they are not endorsing candidates or promoting elections by simply reporting through 30-second commercials on their interpretation of the way in which candidates who hold office have voted, and so all of the commercials, the tens of millions of dollars of commercials we have seen in the last 6 months paid for by labor unions attacking Members of the House of Representatives for their votes on Medicare reform and the balanced budget, none of those are restricted in any way by the proposals in this bill. All that is restricted is the ability of a candidate attacked by these millions of dollars effectively to respond to those attacks.

Now, I do not know how much value there is in plumbing the motivations of the authors of the bill. Perhaps they feel that form of political participation ought not to be restricted in any fashion. Perhaps they feel that even though they cannot stand a political action committee giving money to a candidate's campaign, that same group ought to be permitted without limitation and without restriction to buy advertisements attacking candidates or incumbents on their lifestyle or their record, that that somehow or another is good policy. I think, however, the reason there is no limitation on this form of free speech is that they know perfectly well, the sponsors know perfectly well that such restrictions would be found to be unconstitutional. And so they only restrict free speech where they think they can get away with it, even though they make a situation that at the present time is unfair far more unfair than is the status quo.

Mr. President, acknowledge, those who oppose this bill, that the people of the United States by special interest groups that would be benefited by having their opponents removed from the equation and newspaper and television editorialists who would be benefited by having their views less effectively counteracted, have created a situation where a majority of the people of the United States do not like the present system and want reform. This bill is entitled "Reform," and we are, therefore, supposed to pass it. But we went through this experience more than 20 years ago when the present law was passed. Every argument that has been made here for 2 days was made then. That present system was terrible. We had to have limitations. We had to create things called political action committees in which people could engage in political action. We would restore confidence in the system.

Well, Mr. President, not a single one of the desires or the goals or the promises of those proponents has been accomplished at this point, and so what are we asked to do now? Back off and start over with a very simple proposition that just says everyone disclose where his or her money comes from and trust the intelligence of the people to sift through the arguments that they get? No. We are told if 1,000 restrictions were not enough, let us try 2,000 restrictions and see if it does not work better. That is the theory of this bill.

We hear a great deal about how terribly prejudicial in favor of incumbents the present system is. But, then, why do we wipe out the one organization that will always support a challenger in a race, the challenger's political party?

The Republican Party will support the challenger to a Democrat, the Democratic Party will support the challenger to a Republican, if they think that challenge is remotely viable. So this bill is not about incumbents and nonincumbents. If it were, it would encourage contributions to political parties. It would lift the restrictions on the amount of support that political parties can provide for its candidates. But, instead, it treats parties, if anything, as a greater evil than candidates themselves.

No, this is not campaign reform. This is a huge bureaucracy, the design of which is to abridge the freedom of speech of candidates for the U.S. Senate, exactly what the first amendment tells Congress it may not do.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. McCONNELL. Mr. President, I thank my distinguished colleague from Washington for an absolutely brilliant discourse on the impact of this bill on the political process. As usual, he is right on the mark, and I thank him for his important contribution to this debate.

My friend and colleague from New Hampshire has been on the floor for some time. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 51 minutes remaining.

Mr. McCONNELL. I yield 5 minutes to the distinguished Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GREGG. I thank the Senator from Kentucky. I also congratulate the Senator from Washington for his very thoughtful and concise discussion relative to this bill. I wanted to focus on a narrower issue which really plays out some of the points raised by the Senator from Washington.

I heard a prior Senator's statement, "This is a bill that levels the playing field." I only perceive this as leveling if you perceive the north slope of some mountain in the Himalayas, Mount Everest, for example, to be level. The fact is, this is not a leveling bill. The fact is, this bill, because it fails to address the independent expenditure issue, is a bill which, were this a teeter-totter, would have one side directly up in the air and the other side directly on the ground.

We have to realize that under this bill one of the core elements of what I consider to be inappropriate activity in the political area, but which others would consider to be good politics, as they are supported by it, is not addressed at all. It was in March, for example, that the AFL–CIO held a rather unique convention here in Washington, where they voted, as an institution, to levy a special assessment on their membership, which assessment was meant to raise approximately $25 million of a $35 million goal dedicated to defeating Republicans. There was no other purpose. It was openly stated. They were going to spend $35 million for the purpose of defeating Republicans. So they had this special assessment of $25 million which went out against all their union membership.

Someone took a poll of the union membership, and it turns out the union membership, at least 58 percent of the union membership, did not realize they were going to have to pay this mandatory fee; 62 percent of the union membership opposed this mandatory fee; 78 percent of the union membership did not know they had the right to get the fee back; 84 percent would support making union leaders here in Washington, the big bosses, disclose exactly what their money is spent for; and only 4 percent thought that engaging in political elections was the most important responsibility of major unions.

So, what we have here is an instance where the AFL-CIO is going to go out, and they have the right to do this, and raise $25 to $35 million and spend it against people who they, the union bosses here in Washington, do not agree with. It happens that the rank and file membership, to a large degree, do agree with the agenda of the Republicans here in Washington. In fact, 87 percent of the union membership supports welfare reform and 82 percent of union membership supports the balanced budget amendment and 78 percent happens to support tax reductions and the $500-per-child tax credit, all of which happen to be Republican initiatives, all of which are opposed by President Clinton, all of which have been opposed by Democratic Members. But, once again, the big bosses here in the unions in Washington have decided to assess, essentially, a tax against the union membership, and that tax, raising $25 to $35 million, is going to be used to attack Republicans who happen to support philosophies which are supported by a majority of the union membership.

Yet, this bill remains silent on this rather significant gap in the campaign election laws. If you were in the process of addressing campaign election laws, I think by the very fact it remains silent, you must ask: Why? Why would such a colossal amount of money that is going to be poured into the political system be ignored by a bill like this?

Well, folks, I think it is called politics. I think it is called political influence. I think it is because the majority of the sponsors of this bill happen to be mostly related in their political philosophy to the bosses of the unions here in Washington. As a result, there is no desire to address something which might affront that group of political forces in this country, who are significant. They have always been significant in this country. They have a major role to play, and always should have a major role to play. But there is unquestionably a significant issue of credibility raised by the failure to address this issue. In fact, it is such a significant issue of credibility that I think it brings down the whole bill, because it draws the whole bill into question, as to its integrity, as to its purpose—not integrity, wrong word—as to its purpose, as to its legitimacy.

It could be corrected rather easily, actually. You could simply put language in which would say union members shall have the affirmative right, which shall have to be confirmed or which shall have to be—let me restate that. Union members will have to approve how their dues will be spent when it comes to political actions and political activity.

The PRESIDING OFFICER. The 5 minutes of the Senator has expired.

Several Senators addressed the Chair.

Mr. McCONNELL. I yield the Senator 2 additional minutes.

The PRESIDING OFFICER. The Senator has 2 additional minutes.

Mr. GREGG. I have an amendment which proposes that: the Union Members Protection Act. It essentially says that before union members' dues can be spent in the manner in which these $25 million to $35 million are going to be spent, the union member will have the right to affirmatively approve that or disapprove it. In the case of disapproving it, the money will not be spent. That will bring into the process at least the ability of the union members to avoid this tax if they decide to avoid this tax; in the process, to direct the funds in a manner which they feel is appropriate to their own political position, not to those of a few bosses here in Washington.

That type of correction is not in this bill. Not only is it not in this bill, but were that amendment to be brought forward, this bill would be filibustered by the supporters of the bill, I suspect. Certainly, if there was a chance it was

going to be passed, it would be filibustered by the proponents of this bill. Why? Political interests.

So the credibility of this proposal, I think, is highly suspect, not only substantively on the grounds of constitutionality that was raised by Senator GORTON, but on the grounds of the politics of the bill, because when you leave this large a gap in the issue of how you are going to reform campaign financing, you basically are saying your intention is not to reform campaign financing; your intention is to tilt the playing field once again in favor of one political group which happens to have a significant amount of influence amongst the sponsors. Mr. President, I yield back the remainder of my time.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Very briefly, before I turn it over to the Senator from Massachusetts. I, too, listened to the constitutional analysis by the Senator from Washington and the strong agreement by the Senator from Kentucky. The one suggested that any third grader would know that the PAC ban, with a backup provision, is unconstitutional. I am sorry, but I will say one thing about that. The Senator from Kentucky and the Senator from Washington voted for precisely that proposal 3 years ago under the Pressler amendment. So, apparently, at that time they did not understand, apparently, what any third grader would understand, which is that this in fact is constitutional, because it provides that, if the PAC ban is found unconstitutional, there is a backup provision. So that entire analysis disregards their own voting record and their own past position, which is that that is constitutional.

Mr. President, I yield up to 10 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, thank you. I thank the Senator from Wisconsin.

Mr. President, I was really fascinated to listen to our colleague from New Hampshire. I really never knew, but now I guess the Senate has learned something new, that the Senator from Tennessee, Senator THOMPSON, and the Senator from Arizona, Senator MCCAIN, are the tools of the union bosses. That is a rather remarkable concept. I am sure the Senator from Arizona will struggle, as will the Senator from Tennessee, for years to get out from under that moniker.

I think that both that and the argument of the Senator from Washington just underscore what is really going on here today in the U.S. Senate. Every argument that can conceivably be laid out on the table in pretense on the merits is really just an effort to avoid what this vote today is really about. This vote today is about whether or not the U.S. Senate is willing to stay here and work to produce campaign finance reform or whether it is happier with the status quo. That is the vote. It is very simple.

Eighteen months ago we could have started doing campaign finance reform. I think it was 12 months ago there was a famous handshake between NEWT GINGRICH and the President suggesting there would be a commission to deal with campaign finance reform. But not only did Congress not follow through on the commission, as neither the President nor the Speaker did, but at the last moment here we are on day one of consideration of this bill and we have to have a cloture vote. That tells the whole story.

This is not a serious effort to legislate. This is not a serious effort to take an amendment from the Senator from New Hampshire and deal with this problem of constitutionality or of union bosses. After all, they only have 53 votes last time I counted. It seems to me that if it is truly an issue of the unions, that 53 Republicans are very quickly going to be summoned to the floor to vote against whatever union advantage is being built into this bill.

So let us cut the charade here. This is not a serious effort to legislate. This is, once again, the Senate's moment of tokenism to pretend or at least expose—because Senator FEINGOLD and Senator MCCAIN insisted on it—that there are a majority of Senators here who are unwilling to deal with the issue of campaign finance reform.

There is not even a serious discussion going on of an alternative. There is no alternative that has been proposed. There is no serious set of alternatives that have been put forward to try to say, "Well, if we don't want to do it your way, here's a better way of doing it." There is no better way on the table.

The Senate has been forced to bring one vehicle to the floor today, one effort, one pathetic gasp to try to suggest that we are prepared to deal with what the majority of Americans want us to deal with, which is the putrid stench of the influence of money in Washington that is taking away democracy from the people of the country. Everybody knows it. Every poll in the Nation just screams it at us.

Ninety-two percent of registered voters believe that special interest contributions affect the votes of the Members of Congress. Eighty-eight percent believe that people who make large contributions get special favors from politicians. The evidence of public discontent just could not be more compelling. It is now spoken in the way in which Americans are just walking away from the system. Only 37 percent turned out to vote in the last election. They are walking with their feet away from what they perceive as an unwillingness of the Congress to deal with this.

The vote today, Mr. President, is very simple. Do you want to deal with campaign finance reform or do you want to play the game again and be content and pretend that there is some great constitutional issue?

I listened to the Senator from Washington raise the first amendment. My God, three-quarters of the people today talking about the first amendment and no curbs on free speech are the first people to come down here and vote against the Supreme Court's decision with respect to the protection of free speech and the flag. So they choose it when it suits their purposes, and then they go protect it when it also suits their purposes. Selective constitutionalism.

Any third-grader does understand that if there is a voluntary system, purely voluntary, by which people participate in limits, there is no restraint on free speech. Anybody who wants to go out and spend their millions of dollars and avoid accountability within the rest of the system can do so under this bill. There is no limit.

If perchance there were to be some problem with the PAC's and constitutionality, because of the freedom of association, the House of Representatives, in their bill, has an alternative. It is perfectly legitimate for us to send this bill to a conference committee, work in the conference committee, come up with a reasonable alternative and come back here. It is really inconceivable that the Republican Party, which is the majority of the U.S. Senate with 53 votes, is going to be disadvantaging itself in any amendment on the floor of the U.S. Senate, because they can summon all 53 votes to beat back any amendment that does not draw away some measure of those who are reasonable on their side.

So this is not an effort to legislate. This is an effort to procrastinate once again. It is a vote on whether you desire to have campaign finance reform or whether you are content to suggest that there are problems with this bill sufficient that we cannot even deal with it on the floor or work through the legislative process.

I have some problems with this bill. I do not like every component of it. I personally would like to see more free time available. I think there are a number of other options that we could work on. But I am content to live with what the majority of the U.S. Senate thinks is appropriate. I am content to have whatever advantage to our side or their side be put to the test of the legislative process. That is what we are supposed to do. Instead, once again, the special interests are going to win here today. Probably most likely this issue will not be able to be seriously considered this year yet again.

I have worked on this since the day I came here with Senator BRADLEY, Senator BIDEN, Senator Mitchell, and Senator Boren. We have passed it in certain years here. But the game has been played with the House so it comes back at the last minute. Each side can blame the other for not really being serious about it or for filibustering it to death.

In the end, Mr. President, the American people lose again, because everyone knows that the budget deficit is partly driven by the interests that succeed in preventing any tough choices from being made. Everyone knows what the money chase and the money game in Washington is all about. We would all be better off if we were to reduce that. I hope that colleagues today will come together in an effort to try to say, let us at least legislate through the week and see if we could engage in a serious effort to try to deal with one of the most pressing problems facing America's fledgling democracy.

Mr. President, I yield back whatever time I may have to the manager of the bill.

Mr. MCCONNELL. Mr. President how much time do I have remaining?

The PRESIDING OFFICER (Mr. GREGG). The Senator has 43 minutes remaining.

Mr. MCCONNELL. I yield to the distinguished chairman of the Rules Committee—and we have listened to a great many hearings this spring on this matter—I yield 10 minutes.

Mr. WARNER. Mr. President, I thank the floor managers, both floor managers, and indeed my colleague from Kentucky. As a senior member of the Rules Committee he sat side by side with me throughout what I am sure will be reviewed as a very prodigious, fair, and balanced series of hearings, which I will cover, given that the Rules Committee has jurisdiction over this particular bill and like bills.

This morning, however, Mr. President, I make it very clear that while I support many areas of campaign finance reform, and I shall address those areas, this particular bill that is before the Senate is not one, in my judgment, which will solve any of the problems. Therefore, I shall be voting against it in accordance with the procedural votes.

I will start my comments by quoting from Thomas Jefferson. Virginians are very proud of our heritage of freedom which is reflected by Mr. Jefferson, who said: "To preserve the freedom of the human mind * * * and freedom of the press, every spirit should be ready to devote itself to martyrdom; for as long as we may think as we will, and speak as we think the condition of man will proceed in improvement."

Jefferson's thoughts on the first amendment reflect my own personal concern that our constitutional right to speak out as individuals and as groups receive the utmost protection as we labor as a legislative body to make badly needed reforms to our campaign finance system.

The pending bill would amend our campaign finance laws applicable to elections to Congress. This bill, S. 1219, was referred to the Committee on Rules and Administration some time ago. In addition to S. 1219, 14 other bills that would amend our campaign finance laws have also been referred to the committee. These bills address myriad issues and offer a variety of potential solutions to the concerns many of us have.

I am well aware that the calls for campaign finance reform have been heard for many years. I am well aware, also, of the many proposals this body has considered over the past sessions. I am also well aware these efforts were ultimately unsuccessful because they did not reflect the consensus of the American people. It is easy to label something campaign finance reform and immediately find support from those across this Nation, like myself, who have a level of frustration with the current framework of laws. Ultimately, however, each of those bills must stand on its own merits. I will not merely vote for something called reform without being convinced that the proposals are constitutional and beneficial to our political process.

Our committee gave careful consideration to a wide variety of issues. First, our committee heard from Senators MCCAIN of Arizona, FEINGOLD of Wisconsin, THOMPSON of Tennessee, WELLSTONE of Minnesota, FEINSTEIN of California, and BRADLEY of New Jersey. Members of the House of Representatives also appeared before our committee.

We then heard testimony from some of the foremost experts across our Nation on campaign finance reform, including Prof. Larry Sabato and Prof. Lillian BeVier from the University of Virginia; Norman Ornstein from the American Enterprise Institute; Thomas Mann from the Brookings Institution; Bradley Smith from the Cato Institute; David Mason of the Heritage Foundation; Prof. Herbert Alexander from the University of Southern California; Dr. Candice Nelson of American University; Prof. Michael Malbin from the Rockefeller Institute of Government; Ann McBride of Common Cause; and Joan Claybrook with Public Citizen.

We also heard from a number of citizens who participated in campaigns by contributing to political action committees—PAC's—or by making donations to be bundled. We heard these voters' worries that their voices would be greatly diminished if their ability to participate in PAC's and bundling were completely denied. In addition to these witnesses, we also asked the Chairmen of the Republican and Democratic National Committees, Mr. Haley Barbour and Mr. Donald Fowler to testify before our committee. Each party official testified to the need to strengthen—I repeat, strengthen—not weaken the political parties and enhance their links to their State counterparts.

Because several of the bills before the committee mandated some form of free or reduced-fee television time and reduced postage rates, as S. 1219 does, we also heard from representatives of the broadcast industry and parties affected by the health of the postal service. They advised us of the impact on these proposals, pro and con, on their operations.

Further, because of my personal belief that we should not pass legislation that has a high degree of likelihood of being struck down by the Federal court system as unconstitutional, we asked a number of legal experts and scholars to address the constitutionality of some of the various proposals before the committee, particularly the proposal to ban PAC's. Among those commenting on the issues were Joel Gora of Brooklyn Law School on behalf of the American Civil Liberties Union, Robert O'Neil of the Thomas Jefferson Center for the Protection of Free Expression, Archibald Cox of Harvard Law School, and Frederick Schauer with the Kennedy School at Harvard.

To date, the committee has held six extensive hearings on campaign finance reform—the most extensive, I repeat, the most extensive hearings on this subject of campaign finance reform, held here in the Senate since 1991. A number of conclusions were reached, although not formally, by the individual Members. I shall speak for myself.

First and foremost is the overwhelming consensus that the PAC ban contained in S. 1219 is unconstitutional. There is little doubt on this, with near unanimous agreement from the legal experts. Mr. President, we should not pass legislation in the name of reform, knowing that the Federal courts will strike down the bill. There is always the urge to try and create something to throw out there and go back and tell our constituents, "Well, we handled it—we handled campaign finance reform," but I personally cannot do that with clarity of conscience, knowing that there is a high likelihood that the Federal court system will strike it down.

A second point: in addition to the PAC ban, there are other serious constitutional concerns in S. 1219. One main problem lies in the extremely broad definitions of "independent expenditures" and educational advertising which would serve to greatly restrict information about the candidates. According to the Free Speech Coalition which represents groups from far left to far right, "This extremely broad definition of 'expressed advocacy' would sweep in protected issue advocacy such as voter guides."

Perhaps even more startling, S. 1219 allows the Federal Election Commission to obtain prior restraining orders against groups it suspects might violate the new, broader restrictions on presently-independent political activities. Let me emphasize this point. Federal bureaucrats would have the power to stop—I repeat, stop—somebody from exercising their first amendment rights before they say or publish anything. One commentator called this result "a grotesque legislative assault on bedrock American freedoms * * *"

The PAC and bundling bans, combined with the breadth of S. 1219's coverage and restrictions on independent expenditures violate a maxim clearly articulated by our Supreme Court in Buckley versus Valeo when the Court stated "The concept that government may restrict the speech of some elements of our society in order to enhance the relative voice of others is wholly foreign to the first amendment."

Make no mistake about it, S. 1219 would severely restrict the speech of many of our citizens, resulting in a terrific enhancement of others. This we cannot condone. Again, to quote Mr. Jefferson:

> There are rights which it is useless to surrender to the government, and which governments have yet always been found to invade. [Among] these are the rights of thinking, and publishing our thoughts by speaking or writing.

He made this observation in 1789, but despite the transformation of our country and the changes in our Government, it is as true today as it was in 1789.

A third observation is that, while reduced fee or free TV coverage and postage might serve to reduce the cost of campaigns, requirements such as these are not really free—they simply shift the costs from candidates to postal users, broadcast stations, and other television advertisers. To the extent candidates for political office are granted even more reduced fee postage rates than they already have, the postal user—virtually every American citizen and business—will bear the cost, for the Postal Service must make up the lost revenue from these users.

And, in addition to the lost revenues the TV broadcasters will face, there are extremely severe management problems associated with S. 1219's mandate for TV stations to provide coverage of political candidates. Not the least of these would be trying to offer television time to candidates in large population centers such as New York City where dozens of contested elections will take place in New York, New Jersey, and Connecticut—you might have more than 50 candidates each entitled to prime time TV coverage. And this doesn't even consider party primaries which might feature many candidates per election.

And, as I have noted in our hearings, how will local politicians react if they see candidates for Federal elections being offered extremely cheap ads and mailings. If we start down this road, how will we say no to the local sheriff or other State and local politicians who run for office? In sum, these reduced fee proposals—which are better described as cost shifting provisions—are not well thought out. More thorough analysis and understanding of the impact they will have on the postal and broadcast industries and the American people is necessary.

In addition, several of the provisions of S. 1219 could result in less information being available to voters. Spending caps obviously might cause cutbacks in campaign activity, whether advertising, traveling, or get-out-the vote activities. Bringing more independent expenditures under spending caps also could reduce the amount of information that is available. This concern has been voiced by others. David Frum of the Weekly Standard stated:

> [P]olitical reformers imagine that by capping campaign spending America could somehow purify its politics, replacing vulgar and deceptive radio spots with lofty Lincoln-Douglas-style debates and serious-minded presentations of positions in 30-minute unpaid public service announcements on television. The far likely effect of campaign expenditure caps, though, would be to invite cheating and to deprive less attentive voters even of what little information they now get to guide their vote.

This discussion of present reform proposals would of course be incomplete without mentioning the fact that the Federal Election Commission would need a veritable army of investigators and auditors to keep up with their new mandates. We know that the FEC has had difficulty winding up audits of Presidential campaigns in a timely process, and I hesitate to think about the prospect of the FEC trying to keep up with hundreds of congressional candidates every 2 years.

While these hearings result in the conclusion that S. 1219 will not produce the type of reform that is needed, they also have revealed many potential reforms which might be quite beneficial to our political process without trampling on the first amendment. The many experts who testified at these hearings provided us with a multitude of proposals that should be examined more thoroughly.

I was particularly impressed by some of the suggestions made by Prof. Larry Sabato of the University of Virginia, who has been at the forefront of campaign finance reform and is a well-renowned speaker and author on the subject. I ask unanimous consent that a statement submitted by Professor Sabato be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. WARNER. Professor Sabato's main focus lies in broadening and strengthening our disclosure laws, so that all types of significant political involvement are available for public inspection. The American people are the best judge of improper or excessive influence, and it may be time to require greater access to information about those who give to candidates for Federal office and those who spend more to influence campaigns. Of course, we would need to weigh the need for and degree of privacy that should be afforded to individual donors, but this is clearly a subject that should be addressed in any campaign finance reform.

I have been impressed with other suggestions which have been raised in our hearings, such as: limiting the amount of money a PAC can give to a candidate from funds raised out of State; raising the contribution limits for initial donations to challengers to facilitate their entry into the political campaign process; and permitting challengers to draw a salary from their contributions.

Then there is the sensible suggestion to index contribution limits for inflation—perhaps had this been done in the last reforms in the 1970's, candidates would have more time to debate the issues and meet the voters and need less time to raise money. This change would also reduce the growing tendency for rich candidates to use their money to buy credibility. As discussed by the eminent commentator, David Broder:

> All the contribution limits are accomplishing today is to create an ever-greater advantage for self-financed millionaire candidates. . . If we really want to be ruled by a wealthy elite, fine; but it is a foolish populism that insists it despises the influence of wealth, and then resists liberalizing campaign contribution limits.

While I disagree with their proposals, I commend my colleagues for making a commitment to this difficult issue. I can understand their frustration in attempting to craft legislation which might meet constitutional muster and find legislative support. Their bill has served the useful purpose of generating an extensive set of hearings on campaign finance reform and the many ideas I have mentioned.

Yet, the hearings which the Rules Committee held will be for nought if we proceed on S. 1219 today, in its present form. We must learn from these hearings. The committee should be permitted to proceed with its hearings. The Rules Committee will hold authorization and oversight hearings this coming Wednesday, June 26 on the Federal Election Commission [FEC]. These hearings will include a discussion of some 18 recommendations that would update the campaign finance laws and streamline the administration of the campaign finance laws. In addition, we are studying the possibility of

holding one more hearing on the Presidential election process and reform suggestions that might be beneficial. After that the full extent of the committee hearings will be made available to the entire Senate and to others for study and review, with the goal that this educating process will produce an effective and positive reform bill.

While I understand the frustration of some of my colleagues with this issue, I cannot shirk my duty with regard to this legislation—it contains unconstitutional and unwise provisions, and we should not pass this legislation into law.

EXHIBIT 1

TESTIMONY OF PROFESSOR LARRY J. SABATO[1]—HEARING OF THE SENATE COMMITTEE ON RULES AND ADMINISTRATION, MAY 8, 1996[1]

PHONY CURES VERSUS A WORKABLE SOLUTION: DEREGULATION PLUS

The campaign finance system's problems are vexing. Is it possible to fashion a solution to all of them simultaneously? Over the years, the reformers' panacea has been taxpayer financing of elections and limits on how much candidates can spend. Public financing is a seductively simple proposition: if there is no private money, presumably there will be none of the difficulties associated with private money. But in a country such as ours, which places great emphasis on the freedoms of speech and association, it is unrealistic to expect that the general citizenry or even many of the elite activists will come to support greater federal subsidization of our election system at the cost of their individual and group political involvements. Spending limits are also enticing. Are politicians raising and spending too much money? Let's pass a law against it! Yet such a statute may be difficult to enforce in an era when politicians and the public seek less regulation, not more—not to mention the serious, maybe fatal, problem of plugging all the money loopholes (the C(4)s; Supreme Court-sanctioned, unlimited "independent expenditures" by groups and individuals unconnected to a campaign, and so on). Once again, the biggest, the original, and the unpluggable loophole is the First Amendment.

Public financing and spending limits are both also objectionable on the basic merits: the right to organize and attempt to influence politics is a fundamental constitutional guarantee, derived from the same First Amendment protections that need to be forcefully protected. To place draconian limits on political speech is simply a bad idea. (The call for a ban on political action committees suffers from the same defect.)

Once again, even if candidates could be persuaded to comply voluntarily with a public financing and spending limits scheme, such a solution would fail to take into consideration the many ways that interest groups such as the Christian Coalition and labor unions can influence elections without making direct contributions to candidates. Even if we passed laws that appeared to be taking private money out, we would not really be doing so. This is a recipe for deception, and consequently—once the truth becomes apparent—for still greater cynicism.

In our opinion, there is another way, one that takes advantage of both current realities and the remarkable self-regulating tendencies of a free-market democracy, not to mention the spirit of the age. Consider the American stock markets. Most government oversight of them simply makes sure that publicly traded companies accurately disclose vital information about their finances. The philosophy here is that buyers, given the information they need, are intelligent enough to look out for themselves. There will be winners and losers, of course, both among companies and the consumers of their securities, but it is not the government's role to guarantee anyone's success (indeed, the idea is abhorrent). The notion that people are smart enough, and indeed have the duty, to think and choose for themselves, also underlies our basic democratic arrangement. There is no reason why the same principle cannot be successfully applied to a free market for campaign finance.[2] In this scenario, disclosure laws would be broadened and strengthened, and penalties for failure to disclose would be ratcheted up, while rules on other aspects—such as sources of funds and sizes of contributions—could be greatly loosened or even abandoned altogether.

Call it Deregulation Plus. Let a well-informed marketplace, rather than a committee of federal bureaucrats, be the judge of whether someone has accepted too much money from a particular interest group or spent too much to win an election. Reformers who object to money in politics would lose little under such a scheme, since the current system—itself a product of reform—has already utterly failed to inhibit special-interest influence. (Plus, the reformers' new plans will fail spectacularly, as we have already argued.) On the other hand, reform advocates might gain substantially by bringing all financial activity out into the open where the public can see for itself the truth about how our campaigns are conducted. If the facts are really as awful as reformers contend (and as close observers of the system, much of what we see is appalling), then the public will be moved to demand change.

Moreover, a new disclosure regime might just prove to be the solution in itself. It is worth noting that the stock-buying public, by and large, is happy with the relatively liberal manner by which the Securities and Exchange Commission regulates stock markets. Companies and brokers (the candidates and consultants of the financial world) actually appreciate the SEC's efforts to enforce vigorously what regulations it does have, since such enforcement maintains public confidence in the system and encourages honest, ethical behavior, without unnecessarily impinging on the freedom of market players. Again, the key is to ensure the availability of the requisite information for people to make intelligent decisions.

Some political actors who would rather not be forced to operate in the open will undoubtedly assert that extensive new disclosure requirements violate the First Amendment. We see little foundation for this argument. As political regulatory schemes go, disclosure is by far the least burdensome and most constitutionally acceptable of any political regulatory proposal. The Supreme Court was explicit on this subject in its landmark 1976 Buckley v. Valeo ruling. The Court found the overweening aspects of the Federal Election Campaign Act (such as limits on spending) violated the Bill of Rights, but disclosure was judicially blessed. While disclosure "has the potential for substantially infringing the exercise of First Amendment rights," the Court said, "there are governmental interests sufficiently important to outweigh the possibility of infringement, particularly when the free functioning of our national institutions is involved."

The Court's rationale for disclosure remains exceptionally persuasive two decades after it was written:

First, disclosure provides the electorate with information "as to where political campaign money comes from and how it is spent by the candidate" in order to aid the voters in evaluating those who seek federal office. It allows voters to place each candidate in the political spectrum more precisely than is often possible solely on the basis of party labels and campaign speeches. The sources of a candidate's financial support also alert the voter to the interests to which a candidate is most likely to be responsive and thus facilitate predictions of future performance in office.

Second, disclosure requirements deter actual corruption and avoid the appearance of corruption by exposing large contributions and expenditures to the light of publicity. This exposure may discourage those who would use money for improper purposes either before or after the election. A public armed with information about a candidate's most generous supporters is better able to detect any post-election special favors that may be given in return. And . . . full disclosure during an election campaign tends "to prevent the corrupt use of money to affect elections." In enacting these requirements [the Congress] may have been mindful of Mr. Justice Brandeis' advice: "Publicity is justly commended as a remedy for social and industrial diseases. Sunlight is said to be the best of disinfectants; electric light the most efficient policeman."[3]

A new disclosure-based regime, to be successful, would obviously require more stringent reporting rules. Most important, new reporting rules would require groups such as organized labor and the Christian Coalition to disclose the complete extent of their involvement in campaigns. Currently, such groups rely on a body of law that holds that under the First Amendment, broadly based "nonpartisan" membership organizations cannot be compelled to comply with campaign finance laws, nor can groups that do not explicitly advocate the election or defeat of a clearly identified candidate. However, expert observers of the current system, such as former Federal Election Commission chairman Trevor Potter, believe the Court has signaled that constitutional protection for such groups extends only to limits on how much they can raise or spend, not to whether they are required to disclose their activities.[4] The primary advantage of this step is that it would formally bring into the political sphere groups that clearly belong there. By requiring organizations such as the Christian Coalition and labor unions to disclose, their role in elections can be more fully and fairly debated.

Another possible objection to broadening the disclosure requirements would be the fear that the rules would drag a huge number of politically active but relatively inconsequential players into the federal regulatory framework. Clearly, no one wants the local church or the Rotary Club taken to court for publishing a newsletter advertisement that indirectly or directly supports candidates of their choice. To our mind, this is easily addressed by establishing a high reporting threshold—something between $25,000 and $50,000 in total election-related expenditures per election cycle. After all, the concern is not with the small organizations, but the big ones. The Christian Coalition, the term limits groups, and organized

Footnotes at the end of article.

labor have all raised and spent millions of dollars annually and operated on a national scale. It is not hard to make a distinction between groups such as these and benign small-scale advocacy.

Another necessary broadening of disclosure would involve contributions made by individuals. While most political action committees already disclose ample data on their backers and financial activities, contributions to candidates from individuals are reported quite haphazardly. New rules could mandate that each individual contributor disclose his place of employment and profession, without exception. The FEC has already debated a number of effective but not overly oppressive means of accomplishing this goal (although to date it has adopted only modest changes). The simplest solution is to prohibit campaigns from accepting contributions that are not fully disclosed. Disclosure of campaign expenditures is also currently quite lax, with many campaign organizations failing to make a detailed statement describing the purpose of each expenditure. It would be no great task to require better reporting of these activities as well.

The big trade-off for tougher disclosure rules should be the loosening of restrictions on fundraising. Foremost would be liberalization of limits on fundraising by individual candidates. This is only fair and sensible in its own right: there is a glaring disconnection between the permanent and artificial limitations on sources of funds and ever-mounting campaign costs. One of the primary pressures on the system has been the declining value in real dollars of the maximum legal contribution by an individual to a federal candidate ($1,000 per election), which is now worth only about a third as much as when it went into effect in 1975. This increasing scarcity of funds, in addition to fueling the quest for loopholes, has led candidates (particularly incumbents) to do things they otherwise might not do in exchange for funding. Perversely, limits appear to have increased the indebtedness of lawmakers to special interests that can provide huge amounts of cash by mobilizing a large number of $500 to $1,000 donors. By increasing contribution limits, candidates would enjoy more freedom to pick and choose their contributors. Given the option, we hope more candidates would turn primarily to those contributors whose support is based on values and ideological beliefs, spurning the favor-seekers. By lifting disclosure and contribution levels at the same time, politicians' access to "clean" funds would rise while scrutiny of "dirty" funds would be increased. The idea is to concede that we cannot outlaw the acceptance of special-interest money, but the penalties for accepting it can be raised via the court of public opinion. So at the very least, the individual contribution limit should be restored to its original value, which would make it about $2,800 in today's dollars, with built-in indexing for future inflation. We would actually prefer a more generous limit of $5,000, which would put the individual contribution limit on a par with the current PAC limit of $5,000 per election.

For political parties, there seems little alternative to simply legitimizing what has already happened de facto: the abolition of all limits. When the chairman of a national political party bluntly admits that millions of dollars in "soft money" receipts mean that the committee will be able to spend millions of dollars in "hard money," it is time for everyone to acknowledge reality. Moreover, such an outcome is not to be lamented. Political parties deserve more fundraising freedom, which would give these critical institutions a more substantial role in elections.

How would the new disclosure regime work? While the FEC has already moved to impose some tighter disclosure requirements, it lacks the resources as currently constituted to enforce the new rules across the board. However, the solution does not necessarily require a massive increase in funding. Under a disclosure regime, the agency could reduce efforts to police excessive contributions and other infractions, devoting itself primarily to providing information to the public. The commission's authority to audit campaigns randomly would have to be restored to ensure compliance, and sanctions for failure to disclose would have to be increased substantially. In addition, the commission should be given the power to seek emergency injunctions against spending by political actors who refuse to comply with disclosure requirements. And to move the FEC away from its frequent three-to-three partisan deadlock, the six political party commissioners (three Democrats and three Republicans) ought to be able to appoint a seventh "tie-breaker" commissioner. Presumably anyone agreeable to the other six would have a sterling reputation for independence and impartiality. Another remedy for predictable partisanship on the FEC would be a one-term limit of six years for each commissioner. Freed of the need to worry about pleasing party leaders in order to secure reappointment, FEC commissioners could vote their consciences more often and get tough with election scofflaws in both parties.

Finally, in exchange for the FEC relinquishing much of its police powers, Congress could suspend much of its power over the FEC by establishing an appropriate budgetary level for the agency that by law would be indexed to inflation and could not be reduced. Another way of guaranteeing adequate funding for a disclosure-enhanced FEC is to establish a new tax check-off on Form 1040 that would permit each citizen to channel a few dollars of her tax money directly to the FEC, bypassing a possible vengeful Congress's appropriations process entirely. The 1040 solicitation should carefully note that the citizen's tax burden would not be increased by by his designation of a "tax gift" to the FEC, and that the purpose of all monies collected is to inform the public about the sources of contributions received by political candidates. It is impossible to forecast the precise reaction of taxpayers to such an opportunity, of course, but our bet is that many more individuals would check the box funding the Federal Election Commission than the box channeling cash to the presidential candidates and political parties. In today's money-glutted political system, the people's choice is likely to be reliable information about the interest groups and individuals investing in officeholders.

CONCLUDING COMMENTS

The purpose of these reforms is to make regulation of campaign financing more rational. Attempts to outlaw private campaign contributions or to tell political actors how much they can raise and spend are simply unworkable. Within broad limits, the political marketplace is best left to its own devices, and when those limits are exceeded, violators would be punished swiftly and effectively.

Regarding the pro-incumbent bias of contributors, there is unfortunately no obvious practical solution. It is impossible to predict how a deregulated system would affect the existing heavy bias toward incumbents by contributors, both PAC and individual. In truth, there may be no way to eliminate pro-incumbent financial bias.[5] However, it is possible that expanding private resources through deregulation will actually end up helping challengers more than incumbents. A substantial body of research shows that the amount an incumbent spends is less determinative of election outcomes than the amount a challenger spends.[6] Simply put, challengers do not need to match incumbent spending, but need merely to reach a "floor" of financial viability. Deregulations's greatest impact could actually be in helping challengers reach this floor. If fears about the effects a free market will have on competition prove warranted, however, a modest federal subsidy in the form of discounts on mail or broadcast time—so that every nonincumbent candidate could at least reach the floor—would seem reasonable and might be acceptable even to some conservatives as long as it could be tied to deregulation.

If Deregulation Plus proves too radical, perhaps it is time to revive the sensible scheme proposed in 1990 by the U.S. Senate's Campaign Finance Reform Panel, which attempted to bridge the gap between partisans on the basic issues by suggesting many ideas, including so-called flexible spending limits.[7] These are limits on overall campaign spending by each candidate, with exemptions for certain types of expenditures by political parties (such as organizational efforts), as well as small contributions from individuals who live in a candidate's own state. Since the Supreme Court has ruled that spending limits must be voluntary, incentives such as reduced postal rates and tax credits for the small individual donations mentioned above should be offered. The flexible limits scheme represents a reasonable compromise between the absolute spending limits with no exemptions favored by Democrats and the opposition to any kind of limits expressed by Republicans.

Flexible limits or Deregulation Plus ought to be supplemented by free broadcast time for political parties and candidates, as well as strengthened disclosure laws that cover every dollar raised and spent for political purposes.[8] Detailed free-time proposals have been made elsewhere but ignored by a Congress fearful of alienating a powerful lobby, the National Association of Broadcasters.[9] Yet no innovation would do more to reduce campaign costs or help challengers than this one. Fortunately, technological advances such as "digital" television—which will multiply available "analog" TV frequencies by a factor of about six once it is available in 1997—are creating new opportunities to implement an old idea. Federal Communications Commission chairman Reed E. Hundt has recently endorsed the provision of free time for candidates and parties once digital TV comes into being, noting that free time was "not practically achievable in an analog age [but is] entirely feasible with the capacity and band width explosion of the digital era."[10]

In this area and others in the field of campaign finance, it is time for new thinking and creative ideas to break the old partisan deadlocks that prevent reform of an unsatisfactory system.

FOOTNOTES

[1] This is an excerpt from the just published book, "Dirty Little Secrets: The Persistence of Corruption in American Politics" (New York: Times Books), by Larry J. Sabato and Glenn R. Simpson. All rights reserved.

[2] We are indebted to attorney Jan Baran of the law firm Wiley, Rein & Fielding for this analogy.

[3] *Buckley* v. *Valeo*, 424 U.S.1, at 66-7 (1976).

[4]Interview with Trevor Potter, July 12, 1995.

[5]Frank Sorauf, one of the most astute students of campaign finance, has raised the possibility that "voluntary funding of campaigns for public office is intrinsically committed to the support of incumbents and likely winners." Frank J. Sorauf, "Competition, Contributions, and Money in 1992," in James A. Thurber and Candice J. Nelson (eds.), "Campaigns and Elections American Style" (Boulder, Colo.: Westview Press, 1995), p. 81.

[6]For a cogent review of the literature, see Frank Sorauf, "Inside Campaign Finance: Myths and Realities" (New Haven, Conn.: Yale University Press, 1992), pp. 215–16. There is an increasing number of dissenters to this view. For instance, Christopher Kenny and Michael McBurnett argue that those who say that the level of incumbent spending has no effect neglect the interrelationship of challenger and incumbent spending in producing the outcome of the election. Incumbent spending is at least partially a function of challenger spending, that is, when challengers spend more, incumbents respond to the increased competition with greater outlays. When this interrelationship is taken into account, both challenger and incumbent spending levels affect the outcomes of the races; Kenny and McBurnett provide empirical evidence to show the effect is statistically significant. (See Kenny and McBurnett, "An Individual Level Multiequation Model of Expenditure Effects in Contested House Elections." American Political Science Review 88 (September 1994): 699–707).

[7]See "Campaign Finance Reform: A report to the Majority Leader, the Minority Leader, United States Senate, by the Campaign Reform Panel," March 6, 1990, p. 41. Coauthor Sabato was one of the panel's six members, appointed by then Senate Majority Leader George Mitchell (Democrat of Maine) and then Senate Minority Leader Robert Dole (Republican of Kansas).

[8]See Larry J. Sabato, Paying for Elections: The Campaign Finance Thicket (New York: Twentieth Century Fund-Priority Press, 1989), esp. pp. 25–42, 61–64. For example, disclosure laws do not currently cover contributions to foundations that presidential candidates sometimes form. These foundations often pay for pre-campaign travel, and openly promote their candidate-creator.

[9]The Campaign Finance Reform Panel mentioned above endorsed the free broadcast time proposal in ibid, pp. 25–42.

[10]Remarks delivered at the Nieman Foundation, Harvard University, May 5, 1995, p. 7. Hundt has proposed making these new frequencies available under two government-imposed restrictions (1) some broadcast time must be devoted to educational programming for children, and (2) free broadcast time must be given to political candidates and parties. See also Max Frankel, "Airfill," New York Times Magazine, June 4, 1995, p. 26; and Mary McGrory, "The Vaster Wasteland," Washington Post, June 4, 1995, p. C1.

Mr. MCCONNELL. Mr. President, I thank my good friend, the chairman of the Rules Committee for his excellent statement and say again how much I enjoyed sitting to his right listening to the testimony this spring. Thanks for a very important contribution to this matter.

Mr. WARNER. Mr. President, I appreciate the sentiment. I commend the Senator for his corporate knowledge. Indeed, he is the Oracle of Delphi in this matter.

Mr. MCCONNELL. I yield 5 minutes to the distinguished Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, it seems to me we really cannot debate campaign finance reform without debating the way in which political funds are not only given to candidates but also acquired from people.

Campaign contributions are usually donated voluntarily. You can get an invitation to a fundraiser or a direct mail solicitation, and you can decide whether to contribute to that candidate, cause, or party.

We all consider this one of the basics of American democracy. Individuals must support it by supporting the candidates they believe in. But there are people in our country for whom this very fundamental freedom of choice is not given—members of labor unions. I may be one of the few ever in the history of Congress to actually have earned his union card and worked in the construction industry for 10 years.

It is certainly no secret that unions collect dues from their members and that, in many cases, an individual has to join a union in order to be employed in a particular industry or with a particular company. So there is no effective choice about paying union dues for these people.

But to add insult to injury, these Americans, who are forced to pay union dues, must also suffer the fact that unions donate millions of dollars to candidates that any individual may not support.

The recent announcement by the AFL–CIO that this big labor—you would have to say now mega-labor—organization would donate $35 million to candidates this year may be welcomed by some—certainly all Democrats—but disappointing to any who may not agree with the choices.

Take President Clinton, for example. I daresay that there may be any number of union members out there who do not support President Clinton's reelection.

In my view, this violation of fundamental choice and freedom of speech is compounded by the fact that labor unions do not even disclose their soft money contributions, which amount to millions.

At this particular time, I would like to place in the RECORD a Congressional Research Service report for Congress entitled "Political Spending by Organized Labor: Background and Current Issues." This report is astounding. They indicate that in Presidential elections, it is estimated that from $400 to $500 million in moneys go basically to the Democratic Party.

I ask unanimous consent that that report be printed in the RECORD at this point.

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

POLITICAL SPENDING BY ORGANIZED LABOR: BACKGROUND AND CURRENT ISSUES

(By Joseph E. Cantor)

SUMMARY

Labor unions have traditionally played a strong role in American elections, assisting favored candidates through their direct and indirect financial support, as well as through manpower and organizational services. While direct financing of federal candidates by unions is prohibited under federal law, unions can and do establish political action committees (PACs) to raise voluntary contributions for donation to federal candidates. This PAC money is also known as "hard money," because certain federal limits on contributions make it harder to raise. It is also fully disclosed under federal law. Other aspects of labor's political support take the form of "soft money," which is not limited by federal law and is not as hard to raise. Soft money is generally considered to be a formidable factor in organized labor's political strength. This spending is largely unregulated, either because it is restricted to seeking to influence only its members and their families or because it does not advocate specific candidates' election or defeat. The soft money aspect of labor's political activity has aroused controversy because of fundraising methods and the relative dearth of disclosure.

ORIGIN OF DISTINCTION BETWEEN HARD AND SOFT MONEY

During World War II, the War Labor Disputes Act of 1943, known as the Smith-Connally Act, prohibited unions from making contributions in federal elections.[1] In 1947, the Taft-Hartley Act made this wartime measure permanent and expanded it to include primary elections and any expenditures in connection with federal campaigns.[2]

Organized labor responded to the 1943 prohibition on donating union treasury money be creating the first separate segregated fund (SSF), commonly known as a PAC. Through CIO–PAC, the Congress of Industrial Organization established the precedent of collecting voluntary contributions from its members, which could be dispensed to favored candidates. Other national and local unions followed suit: 17 national labor PACs gave $2.1 million to federal campaigns in 1956, and 37 such PACs spent $7.1 million in 1968.[3] This money, raised and spent according to federal regulation, came to be known as hard money.

The concept of soft money arose during the several decades before the Federal Election Campaign Act (FECA) of 1971 was enacted [P.L. 92–225]. During that period, unions used money from their treasuries—as opposed to PAC money—for political activities other than donations in federal elections. These included: (1) contributions to state and local candidates, where union donations were allowed; (2) such "educational," "non-partisan," activities as get-out-the-vote and registration drives and distribution of voting records; and (3) public service activities to promote their philosophy through union newspapers and radio shows.[4] It was generally understood at that time that spending on such activities might influence federal elections less directly or overtly than candidate contributions; hence, it was not subject to federal limits or disclosure rules. Thus, the term soft money has come to mean money that is raised and spent outside the purview of federal election law and that is not permitted in federal elections, but which might have at least an indirect impact on those elections.

The 1971 FECA incorporated the concept of union and corporate SSFs in federal law for the first time. This landmark legislation also distinguished between political activities that were and were not to be federally regulated and thus, without using the term, provided the legal basis for union (and corporate) soft money. The Act amended 18 U.S.C. 610 (which banned union, corporate, and national bank spending in federal elections) to give specific authority for these organizations to use their general treasury

Footnotes at end of article.

money for political activities. It thus exempted certain union and corporate activities from FECA definitions of "contribution" and "expenditure," if the activities are aimed at restricted classes (for unions, members and their families, and, for corporations, stockholders and their families). The specified activities were communications (including partisan ones), nonpartisan registration and get-out-the-vote drives, and costs of establishing, administering, and soliciting contributions to an SSF. The 1976 FECA Amendments (P.L. 94–283) recodified this provision as 2 U.S.C. 441b, added executive and administrative personnel and their families to corporations' restricted class, and allowed membership organizations, cooperatives, and corporations without capital stock to set up SSFs.

The FECA thus created a legal framework for unions to set up PACs to raise and spend money directly in federal elections, subject to federal regulation (hard money), and to use its treasury money for specified activities aimed only at its restricted class and not subject to federal regulation (soft money).[5]

CURRENT REGULATIONS

Under recently amended regulations, unions (and corporations) were acknowledged to have great latitude in communications with their restricted classes. Under these regulations, unions are exempt from FECA definitions of "contribution" and "expenditure" for communications on any subject, registration and get-out-the-vote drives (not just "nonpartisan" efforts), and costs of setting up, administering, and fundraising for an SSF. Such efforts, however, may only be aimed at union members, executive or administrative personnel, and their families.[6]

New regulations, promulgated to implement the intent of various Supreme Court decisions,[7] also introduced the standard of express advocacy in deciding what types of communications are permitted by and to whom.

"Expressly advocating means any communication that . . . uses phrases . . . which in context can have no other meaning than to urge the election or defeat of one or more clearly identified candidate(s) . . . ."[8]

Communications containing express advocacy are permitted by unions if limited to the restricted class; correspondingly, communications without express advocacy may be made to the public, if done independently of any candidate.[9]

HARD MONEY ACTIVITY: UNION PACS

Given the rising costs of elections and the higher contribution limits for PACs than individuals in federal elections ($5,000 versus $1,000), PACs became a growing source of campaign funds in the past 20 years.[10] As the pioneers in the PAC field, labor PACs grew in both overall numbers and money contributed, although by both measures, they have been increasingly overshadowed by corporate and other types of PACs.

When the Federal Election Commission (FEC) first recorded PAC activity in January 1975, 201 of the 608 PACs (one-third) were labor PACs. As of January 1996, there were 334 labor PACs, only 8.3% of the total 4,016 PACs.[11]

Another common gauge of federal PAC activity is the money contributed to congressional candidates (relatively little is given to presidential candidates). In 1974, Labor PACs contributed $6.3 million to congressional candidates, half of the $12.5 million from all PACs;[12] in 1994, labor PACs gave $40.7 million, 23% of the $179.6 million from all PACs.[13]

While union PACs do not play as large a role among all PACs as they did 20 years ago, they have been able to remain competitive by giving larger donations than most PACs. While there are far fewer labor than corporate PACs, the average labor PAC contribution of federal candidates in 1994 was twice the average for a corporate PAC. Given labor's traditional ties with the Democratic Party, it is not surprising that labor PAC donations are largely directed the Democrats. In 1994, for example, 96% of labor PAC contributions went to Democrats, compared with 49% for corporate PACs, 60% for nonconnected (unsponsored) PACs, and 54% for the trade/membership/health category.[14] The relative political uniformity among labor PACs is viewed by some as another way in which labor maximizes its political power.

SOFT MONEY ACTIVITY: UNION TREASURIES

Although there are no complete, publicly available data on amounts of union treasury money spent. One press account expressed a widely held view:

"Labor's real importance to candidates, though, is not so much the PAC dollars unions contribute directly to campaigns as the expenditures they make from their treasuries to lobby among their members. In each election, labor spends millions of dollars in advocating its preferred candidates before the union rank and file, but how many millions is unknown, and estimates vary widely."[15]

Forms of support

Two major types of activities are financed by union treasuries which promote labor's political philosophy: (1) the exempt activities aimed at their restricted class (as described); and (2) non-express advocacy communications aimed at the public (also referred to as issued advocacy or public education).

In the exempt activities category, unions have a ready infrastructure (phone banks, office space, etc.) and a ready pool of volunteers to make their internal communications and voter drives a significant force. While these efforts may only involve a restricted class and while corporations have the same rights as unions in all soft money activities, the Bureau of Labor Statistics (BLS) reports that labor's restricted class totaled 16.4 million people in 1995, plus families.[16]

In terms of public education and issue advocacy, unions engage in the same type of efforts as many other groups in the public arena. These often involve media ads to influence public opinion on policy issues. By avoiding overt appeals to elect or defeat specific candidates, these groups may promote their political and philosophical goals without triggering federal campaign finance regulation.

Source of funding and compulsory dues issue[17]

Union treasuries are financed in large part through dues paid by members. In addition, under some union security agreements, workers who do not join a union must pay a form of dues called agency fees. There are no available data on how many workers pay agency fees, but the BLS data indicate that some 2 million workers were represented by unions but who were not union members. Some portion of these workers pay agency fees as a condition of employment.

Due to the compulsory nature of agency fees, some workers have objected to the unions' political uses of their payments. Among several relevant rulings, the Supreme Court, in *Communication Workers of America* v. *Beck* [487 U.S. 735 (1988)], said that a union may not, over the objections of dues paying nonmember employees, spend funds collected from them on activities unrelated to collective bargaining. Hence, objecting employees could get a pro rata refund of their agency fees representing costs of non-collective bargaining activities.

While the court rulings have left no doubt that dissenting workers are entitled to such refunds if requested, issues have arisen as to the extent to which unions should notify such workers of these rights. On April 13, 1992, President Bush issued Executive Order 12800, requiring federal contractors to post notices to employees informing them of "Beck" rights; this was rescinded by President Clinton on February 1, 1993 (Executive Order 12836). Bills have been introduced in recent Congresses to either prohibit the use of "compulsory union dues" for political purposes or to require greater notification of all workers' (not just non-members') rights regarding the use of their dues or agency fees.

Dollar value of union soft money

The only soft money unions must disclose under the FECA are express advocacy communications with members, but only when they exceed $2,000 per candidate, per election, and excluding communications primarily devoted to other subjects.[18] In 1992, unions reported $4.7 million on such activities.[19]

While unions are required to file financial reports under the Labor Management Reporting and Disclosure Act of 1959 (P.L. 86–257), these reports are arranged by type of expenditure (e.g., salaries, administrative costs) rather than by functional category (e.g., contract negotiation and administration, political activities). Under President Bush, the Department on Labor proposed regulations to change reporting to require functional categories (October 30, 1992); in a proposed rulemaking notice on September 23, 1993, the Department, under President Clinton, rescinded the change to functional categories.[20]

Due to the limitations of public disclosure, one must look to estimates of the total value of labor soft money. Such estimates, which amount to educated guesses and may be influenced by the political orientation of the observer, range from the $20 million labor supporters claim is its value in presidential campaigns,[21] to the $400–$500 million critics estimate for total labor soft money in a presidential election year.[22]

[1] 57 Stat. 167. Earlier in the century, the Tilman Act of 1907 [34 Stat. 864] had banned contributions from corporations and national banks.

[2] The Labor Management Relations Act of 1947; 61 Stat. 159.

[3] Alexander, Herbert E. "Financing the 1976 Election." Washington, Congressional Quarterly Press, 1979. p. 559.

[4] Alexander, Herbert E. "Money in Politics." Washington, Public Affairs Press, 1972, 1972. p. 170; Heard, Alexander, "The Costs of Democracy." Chapel Hill, University of North Carolina Press, 1960. p. 177–8.

[5] The 1976 FECA Amendments required disclosure of internal communications once they exceed $2,000, the only exempt activity subject to federal disclosure requirements.

[6] 11 C.F.R. §114.1(a)(2)(i)–(iii)

[7] Most notably, *FEC* v. *Massachusetts Citizens for Life, Inc.* [479 U.S. 238 (1986)].

[8] 11 C.F.R. §100.22

[9] 11 C.F.R. §114.3(a), (b), (c)(1) and 114.4(c)(1). (If public communications are coordinated with a candidate, they would constitute prohibited in-kind contributions, regardless of content.)

[10] 2 U.S.C. 441a(a)(1) and (2); to be eligible for the $5,000 limit, most PACs easily meet the criteria for "multicandidate committees" (i.e., they must be registered for at least 6 months, receive contributions from more than 50 persons, and donate to 5 or more federal candidates).

[11] U.S. Federal Election Commission. FEC Release Semi-Annual Federal PAC Count (press release): Jan. 23, 1996.

[12] Common Cause. Campaign Finance Monitoring Project. 1974 Congressional Campaign Finances. Vol. 5—Interest Groups and Political Parties. Washington, 1976. p. xii.

[13] U.S. Federal Election Commission. 1994 PAC Activity Shows Little Growth Over 1992 Level, Final FEC Report Finds (press release): Nov. 1995.

[14] Ibid.

[15] Brownstein, Ronald, and Maxwell Glen. Money in the Shadows. National Journal, v. 18, Mar. 15, 1986. p. 633.

[16] U.S. Department of Labor. Bureau of Labor Statistics. Employment and Earnings, v. 43. Jan. 1996. p. 210.

[17] For fuller discussions of these issues, see: U.S. Library of Congress. Congressional Research Service. "Use of Compulsory Union Dues for Political and Other Ideological Purposes." CRS Report 94-565A, by Thomas M. Durbin and Margaret Mikyung Lee. Washington, 1994.; —. "Labor Controversies: Suspension of Davis Bacon"; "Open Shop Bidding Requirements"; and "'Beck' Rights." CRS Report 93-458E, by Gail McCallion, Vince Treacy, and William Whittaker. Washington, 1993.

[18] 11 C.F.R. §100.8(b)(4) and 104.6.

[19] U.S. Federal Election Commission. "Communication Cost Index." July 7, 1993.

[20] U.S. Department of Labor. Labor Organization Annual Financial Reports. Federal Register, v. 58, no. 243, Dec. 21, 1996. p. 67595.

[21] Alston, Chuck. Republicans Seek to Reduce Labor's Clout at the Polls. Congressional Quarterly Weekly Reports, v. 48, Mar. 31, 1990. p. 963.

[22] Testimony of Reed Larsen (National Right To Work Committee) and Professor Leo Troy (Rutgers University). U.S. Congress. House of Representatives. House Oversight Committee. March 19, 1996.

Mr. HATCH. Mr. President, let me reiterate: in my view, this violation of fundamental choice and freedom of speech is compounded by the fact that labor unions do not even disclose their soft money contributions, which amounts to hundreds of millions of dollars. That $35 million which we have all been reading about in the newspapers is really nothing. It is almost a wash compared to what they really spend. The unions pull in somewhere, it is estimated, around $4 to $6 billion a year, and up to 85 percent of that money, according to some estimates, is used for political purposes on local, State and Federal levels.

The Supreme Court, in 1988, in Beck versus Communications Workers of America, declared that workers were entitled to know how much of their dues were being directed to political uses and to receive a refund for that portion of dues paid.

I think a brief description of the Beck case is useful. Harry Beck was a telephone company technician working for the Bell Telephone System. He was not a member of the Communications Workers of America, but was required to pay agency fees to the union under the labor contract it negotiated with American Telephone & Telegraph Co.

In June 1976, 20 employees, including Mr. Beck, initiated a suit challenging the CWA's use of their agency fees for purposes other than collective bargaining, contract administration, or grievance adjustment. Specifically, Mr. Beck and his coworkers alleged that the expenditure of their fees on activities such as organizing the employees of other employers, lobbying for legislation, and participating in political events violated the union's duty of fair representation and section 8(a)(3) of the National Labor Relations Act.

The Supreme Court agreed that Mr. Beck and other objecting employees had a right to a refund from the union for the portion of their fees being used for political and other noncollective bargaining or representational purposes. This decision was, of course, significant for its holding that unions in the private sector are not permitted, over the objections of employees such as Mr. Beck, to expand funds collected from them for political and other activities unrelated to collective bargaining. In that regard, the Beck decision was a logical and reasoned follow-on to prior Supreme Court cases regarding the rights of employees covered by the Railway Labor Act to object to that portion of their dues or fees expended for noncollective bargaining purposes. See *Machinists* v. *Street*, 367 U.S. 740 (1961) and *Ellis* v. *Railway Clerks*, 466 U.S. 435 (1984).

The Beck decision was significant in its affirmation (1) that the Federal courts properly exercised jurisdiction over such cases as a violation of the unions' duty of fair representation and, (2) that such union conduct was also prohibited under the National Labor Relations Act, enforcement of which is charged to the National Labor Relations Board.

The rest of the system really is this. Regardless of what the court ruled—and it took some 8 years before the NLRB even got around to issuing its first ruling on a Beck-related case in 1995—all of the burden is being placed on the employee instead of on the union. For an employee to be able to withdraw his or her dues and to require disclosure, the employee has to go to court, file a claim before the NLRB, and/or has to go through all kinds of procedural maneuvers, and basically has to resign from the union and lose all of that employee's democratic rights to vote for or against strikes, for or against contract ratification, et cetera. In the end, the employee is basically out of a lot of money, out of his power of representation, and out of his right to vote. Why? Simply because one employee, pitted against a powerful union, has sought a voice in how his or her union dues is being spent for political purposes.

I do not see how we can consider campaign finance reform without correcting this injustice.

Nothing should be a more fundamental American right than political expression. Those Americans whose union dues are diverted for political purposes—without disclosure and without an adequate rebate system—have been treated as second-class citizens.

The NLRB has not only failed to implement the Beck decision, but the executive order issued by President Bush was rescinded during President Clinton's first days in office. That is amazing to me. If we want true campaign finance reform, why would we not clarify this injustice to individual workers all over America?

What is even more amazing to me is that my colleagues on the other side of the aisle have fought any attempt to deal with this issue. Several years ago, I oferred a simple and straightforward amendment to campaign finance reform that would merely have required that unions disclose to dues paying members how their dues money is being spent. It was defeated.

It is about time that we realize that mega-labor unions are among the biggest—they are the biggest—special interests in the electoral system, and that their political capital was not always given away freely.

Unless this issue can be addressed, I do not see how we can call this campaign finance reform. It is more a continuation of campaign finance coercion.

Employees have a right to know how much of their moneys are used for partisan political activities with which they disagree. That is what the Supreme Court said, and that ought to be enforced. This bill will do nothing about that.

Mr. President, I yield back whatever time I have.

Mr. McCONNELL. Mr. President, I yield the Senator from Colorado 2 minutes.

Mr. BROWN. I will take 1 minute. I ask unanimous consent that the Brown amendments 4108, 4109, as offered to S. 1219, be withdrawn because they were improperly drafted.

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

Mr. BROWN. Mr. President, I want to indicate my highest praise and respect for the authors of the underlying bill. I think they come with good intentions and an honest bipartisan effort. I am concerned about the bill. I am concerned about the prospect of us dividing up broadcast time. It does seem to me that that is a taking of property without compensation, and I believe it is a major flaw in the plan before us.

I yield the floor.

Mr. FEINGOLD. Mr. President, I yield 30 seconds to the Senator from Arizona.

Mr. McCAIN. Mr. President, not for the first time I have heard complaint about the power of unions and how this bill does not address that appropriately. It just came from the Senator in the chair. If do you not like it, come to the floor and propose an amendment and do something about it. There are 53 votes on this side. Do not refuse to move forward with the bill. If you do not like the bill—everybody comes down here and says, "I am for campaign finance reform, but just not this one." If you are not for this one, come to the floor after we invoke cloture,

and propose your amendments. We have 53 votes on this side, 47 on that side. If they share the view of the Senator from Utah, then you can amend it and take care of it. But do not expect the American people to accept this story about "I am for campaign finance reform but not this one," and then not vote to cut off debate because it is a filibuster, and then we cannot move forward with the bill.

Mr. HATCH. Mr. President, will the Senator yield on that point?

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, let me reiterate what the Senator said. It was not our idea to have a cloture vote up front so there could not be amendments. That was the idea of the other side. That is the only way we could get the bill up for a vote.

I yield 5 minutes to the distinguished Senator from New Jersey.

Mr. HATCH. Will the Senator yield for 10 seconds?

Mr. BRADLEY. Not out of my time.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. HATCH. If it is on our time?

Mr. BRADLEY. I would be prepared to yield on the manager's time.

Mr. McCONNELL. Mr. President, I yield the time out of my time.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, let me say this up front. If cloture is invoked, that type of amendment would not be germane and would not be permitted. If cloture is not invoked, I intend to bring up the amendment.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. BRADLEY. Mr. President, I think it says a lot if the Senate is not able to move forward on this good piece of legislation. I think this inability to move forward says two things.

The first thing it says is that fundamental campaign finance reform will not begin in Washington. It will begin in the States. The opponents of this bill like the status quo. They do not want to change the status quo. They have not offered an alternative. They have only picked at the bill. They want to keep money and politics just as it is today because they know how to work the system.

The fact is the American people have a different view. I am astounded how much opposition to this bill is rooted in a kind of Washington understanding of this country. The people in this country look at elected Representatives and Senators and they think we are controlled. They think we are controlled by special interest money. Some think we are controlled by parties that blunt our independence. Some think we are controlled by our opposition that prevents us from saying what we really believe and only saying things that will advance us to the next level of office. Some even think we are controlled by pollsters who give us focus views and phrases and paragraphs, that we do not think for ourselves, saying things because we have convictions in our heart.

The fact is that the opponents of this provision do not get it. This year there will be referendums in California, Colorado, Alaska, Arkansas, and Maine, and all of those referendums will be sending one message: reduce the role of money in politics; cut back on the role of money in politics.

Those referendums will be followed in the years to come by other referendums, and maybe after another 2 or 3 years the people in this body who like the status quo will change. I hope they will, because I believe money and politics today distort democracy.

That leads to the second point. We need to confront the central issue. The central issue is Buckley versus Valeo. The only way to confront Buckley versus Valeo directly is with a constitutional amendment.

The distinguished Senator from South Carolina and I have offered such an amendment for a number of years that would say simply that the Congress and the States may limit what is spent in a campaign in total and what an individual may spend on his or her own campaign. Until we take that step, we are going to be constructing Rube Goldberg types of contraptions to try to get around the central issue, which is, money is not speech. Anybody who believes that money is speech, in my opinion—the Supreme Court said it was, and, therefore, it is the law of the land. That is why we need to amend the Constitution. But I do not believe that a rich man's wallet in free-speech terms is the equivalent of a poor man's soapbox. We have to confront that issue directly. Otherwise, we are going to be in these debates about antacid and bubble gum. Even that debate is a diversion from the central issue, which is changing the way we now do politics in Washington, but even that issue is based on a confusion.

Capitalism is different than democracy. The distinguished Senator from Kentucky said, "Well, we have to compare antacids and bubble gum because"—compared to what? I would suggest you compare the amount of money in politics in 1980 versus the amount of money in politics today and the size of the contribution and the sources of the money.

Without question, money is distorting democracy. And, indeed, we have had other times in American history where there have been distortions in our democracy. We have changed it by recourse of the constitutional amendment.

Many people will remember earlier in this century when women did not have the right to vote. The absence of that voice in the polling booths distorted democracy. We passed a constitutional amendment giving women the right to vote in order to restore a broader participation.

I believe today money is playing the same role. The fact of the matter is that until we confront this issue, skepticism is going to be high. People say, "Well, it is not the No. 1 issue on people's minds." That is true. The No. 1 issue on people's minds is, how do I put bread on the table? How do I pay the utility bill? How do I send my kids to college? They are dealing with the economic transformation which we are in. That is the No. 1 issue. But when they say, "Do any of the politicians have any relation to my dealing with these issues," people say no, because politicians are controlled by money. That is why this is a linchpin issue.

Mr. FEINGOLD. Mr. President, I thank the Senator from New Jersey.

Mr. President, I yield 3 minutes to the distinguished Senator from Connecticut.

Mr. DODD. Mr. President, I thank the Senator.

Mr. President, let us be very clear. I think we all get a sense of what is going to happen here in about 3 hours and 45 minutes, and that is cloture, instead of being invoked, is not going to be invoked.

Everyone ought to understand this. This is the vote. This will be your vote in this Congress on campaign finance reform. It is going to come down to this. It will get obscured so much because it is a procedural vote. But how you vote on this will be determined on how you are judged on the issue of campaign finance reform.

The idea that we ought to reject the effort to invoke cloture here because we want to make perfect the enemy of the good, I think is a great tragedy. I think it is so transparent that anyone watching this will see right through it—to come up and say, "I don't like this aspect or that aspect," therefore denying the opportunity for cloture to be invoked. As I listened to our distinguished colleague from Utah suggest an amendment that might have something to do with whether or not organized labor would be able to participate with soft money, or that independent campaigns will not be allowable in a postcloture environment, it is ridiculous on its face.

So I want to commend our colleague from Arizona and our colleague from Wisconsin for bringing this up. I am proud to be a cosponsor of it. I have believed for years that we had to move directly and aggressively in this area of campaign finance reform.

Mr. President, in Connecticut, it is $16,000 a week. That is what you have to raise over a 6-year period every week, week in and week out, if you are going to be successful in taking on or waging an effective campaign.

We know today—quite candidly, all of us in this Chamber know—that the respective leaders of our campaign committees are out recruiting affluent candidates. Go out and buy a candidate who is well-heeled financially, and you have a pretty good candidate, someone who can write their own checks. Why seek those kind of candidates? Why? Because you understand that it is money. It is money that allows you to ante up and to get an entry fee into the contest.

There is a woman by the name of Linda Sullivan who a few weeks ago in Rhode Island—and I do not know much about it, what the issues are or what she stands for—said: "I took my race out of Congress because Mr. and Mrs. Smith can no longer be candidates of the Congress of the United States on an average basis in their finances."

So we all know her situation. Every single one of us knows that the debates around here are directly affected by it. Positions people take are directly affected by this issue.

This is not a sweeping piece of campaign finance reform legislation, but it is the first effort we are going to have to make a difference in this area. After years of talking about it we now have a chance to do something about it.

Mr. President, I am general chairman of the Democratic National Committee. I just want to say, while not everyone in my party agrees with this, that I happen to believe this is important. This is the one opportunity we are going to have to make a true difference on how we wage campaigns in this country.

I plead with our colleagues on both sides of the aisle. We have never had a bipartisan proposal here before. It has always been partisan. This is a chance to go on record. This is a vote on campaign finance reform.

Mr. President, I rise on the floor today for what I believe is a truly historic debate.

As America's elected leaders we play a critical role as guarantors and protectors of our Nation's democratic institutions.

And with this legislation today, we have a unique opportunity to fulfill that mandate as leaders—by beginning the long and arduous process of restoring the American people's faith in their Government and their democracy.

The McCain-Feingold bill will not change the American people's seemingly inherent cynicism toward their Government overnight.

That is an ongoing process—and one that should be of paramount concern to every Member of this body.

However, by reducing the role of money in our campaign system, this legislation takes a critically important first step toward cleaning up our political process.

In my view, there are few issues we in Congress consider that have as overwhelming and direct an impact on the functioning of our democracy than the laws governing how we run campaigns in this country. For many of us, campaigns are often the most direct means by which we, as elected representatives, communicate with our constituents.

But, today those lines of communications are frayed by a political process that rewards those with money and influence, rather than working families and Americans struggling to make ends meet.

Created as a Government of the people and for the people, our Government today seems to operate more for the well-connected few than the country as a whole.

That's why, more than any other time in our history, the American people's confidence in their Government and its elected leaders is abysmally low.

Poll after poll provides ample evidence that the American people believe special interests and lobbyists have a greater influence on our endeavors than the will of the voters.

I believe wholeheartedly that the vast majority of those who serve in the U.S. Congress are well-intended and responsive to the varied needs of their constituents.

However, I think I speak for many of my colleagues when I say it is becoming more and more difficult to make that argument to the American people.

Because, when the American people look to Washington they do not always see citizen-legislators who focus their full energies on tackling the problems impacting America's working families.

Instead, they see corporate lobbyists working hand-in-hand with lawmakers to turn back the clock on 25 years of environmental protection.

They see special interest lobbyists with unfettered access to committee rooms drafting legislation that fails to keep our workplaces safe and protect the food we eat.

When they look to Washington, they hear politicians in positions of great power and influence bemoaning the lack of money in our political process.

They see leaders who insist that the political process is starving even though $724 million was consumed on House and Senate campaigns in 1994 alone.

When they look to Washington they see unlimited access and influence given to the fewer than 1 percent of Americans who can, and do, give more than $200 a year to political campaigns.

And, when they look out on the campaign trail they see a political process dominated by candidates with deep pockets, instead of those with new ideas.

Whatever one may think of Steve Forbes' ideas on the flat tax or economic growth, it is doubtful that most Americans would know about them if he were not a multimillionaire.

Consider that in his run for the Republican Presidential nomination, Forbes spent $400,000 per delegate that he won in the Republican primaries. Our colleague Senator PHIL GRAMM, spent $20 million to win 10 delegates. For Bob Dole, his victory in the Iowa caucuses cost him about $35 a vote.

In fact, Presidential candidates spent more than $138 million by the end of January 1996—all before a single American voter had stepped into the voting booth to cast their ballot.

Is it any wonder the American people are cynical and disenchanted with their elected leaders?

But, the vast sums of money needed, for even unsuccessful runs for public office, are simply out of reach of the average American.

Eighty-five years ago, former President Theodore Roosevelt said "the Representative body shall represent all the people rather than any one class of the people * * * ."

But today, not only are we becoming more responsive to one class of citizens, but the reins of leadership are increasingly available to only a select few Americans.

Throughout my more than 21 years of public service, it has been my great privilege to serve the people of Connecticut in the U.S. Congress.

Every time I come to the floor of this body I am humbled by the great men and women who came before me: Daniel Webster, Henry Clay, Everett Dirksen, Lyndon Johnson, Richard Russell, and the list goes on.

But today in America, I genuinely fear that the next generation of Clays, Websters, Doles, and Byrds will be excluded from a process that favors the privileged few.

This is not just partisan rhetoric. There are real Americans who are being thwarted from seeking public office.

Just a few weeks ago, I read about Linda Sullivan, president of the Warwick City Council in Rhode Island.

Ms. Sullivan considered seeking the Democratic Party's nomination for the seat of Congressman JACK REED, who is running for the Senate.

But, she decided against it because she simply couldn't raise the $450,000 needed to seek the nomination.

And I want everyone to hear what she said, because it says a lot about our current campaign system.

> Unfortunately, my campaign has come face to face with the financial reality that governs today's politics in America. Sadly, Mr. and Mrs. Smith cannot go to Washington anymore.

Now, I do not know Ms. Sullivan personally. I do not know anything about her ideas, her policy prescriptions or her capability as an effective legislator.

But, what I do know is that the exclusion of an entire segment of the population from the political process

threatens to undermine the whole notion of participatory democracy in this country.

What is more, it fundamentally limits the choices of the American people to politicians who, more and more, are incapable of understanding the problems of working class Americans.

Aristotle once said that; "Democracy arises out of the notion that those who are equal in any respect are equal in all respects."

But, when it comes to political campaigns in this country and the access that working Americans have to their lawmakers, those words ring hollow.

Mind you there are no silver bullets for ending the American people's inherent cynicism or feeling of disempowerment toward their government.

But the legislation we are debating today is the foundation by which we must begin this process of change.

First of all, by limiting overall campaign spending, the McCain-Feingold bill would allow candidates to focus less time on raising money and more time on tackling the issues that truly affect the American people.

Now, I know some of my colleagues argue that this provision of the bill violates the 1976 ruling that political campaign spending is a form of political speech, and thus protected by the first amendment.

But, this legislation imposes only voluntary limits on campaign spending. No candidate would be mandated to accept them.

In fact, no provision in this legislation would prevent a candidate from spending as much money as they wanted to.

However, if they chose to abide by these voluntary limits, candidates could receive free television time, could purchase advertisements at lower rates, and could send out mail at cheaper rates.

Additionally, the bill would tackle the issue of millionaire candidates by exempting candidates from the bill's benefits if they spend more than $250,000 of their own money.

The McCain-Feingold bill is by no means perfect. In particular, we need to be sure that working people are not restricted from participating in the political process and that grass-roots and volunteer activities are not constrained.

However, it is an excellent place to start in reforming the means by which we fund political campaigns in this country.

Let me clear on one point: I am not a Johnny-come-lately to this debate. In 1985, I sponsored one of the first legislative proposals to reform campaign finance laws.

And as a Congressman, Senator, and now general chairman of the Democratic party I have flourished within the framework of the current system.

But, after 20 years of public service I am more convinced than ever that the current approach to funding political campaigns in this country is broken and desperately in need of reform.

Time after time, we have talked about reform—particularly when it is an election year—but in the end we have done nothing. We have appointed commissions, we have proposed legislation, we have ordered reports, analyses and studies, and yet in the end, it seems that it is just business as usual.

Well today, I call on all my colleagues to chart a new course, to put aside their partisan differences, to ignore how this bill affects our reelection chances and put first and foremost in our deliberations the good of the Nation.

Let us not forget that a Government that is viewed with suspicion and mistrust by its own people cannot sustain our Democratic institutions.

As Henry Clay, a former Member of this body once said:

> Government is a trust, and the officers of the government are trustees; and both the trust and the trustees are created for the benefit of the people.

Let us remember that: our democracy exists for the benefit of the people—and not their elected leaders.

As leaders, we must not shirk our responsibility to do all we can to restore that sense of trust to the American people. The McCain-Feingold bill begins that process and I believe that as a body we have a solemn responsibility to embrace this legislation.

Mr. FEINGOLD. Mr. President, I yield 30 seconds to the Senator from Arizona.

Mr. McCAIN. Mr. President, I ask unanimous consent that in the event that cloture is invoked, that two amendments be made in order and germane, one on the Beck decision and the other on allowing unlimited spending on campaigns.

The PRESIDING OFFICER. Is there objection?

Mr. McCONNELL. Mr. President, I have no objection.

Mr. McCAIN. Mr. President, I withdraw the unanimous consent request, but I want to make it clear that in the event that cloture is invoked, that the unanimous consent proposal made would make those amendments germane to this bill. But I withdraw the unanimous consent request.

The PRESIDING OFFICER. The request is withdrawn.

Mr. McCONNELL. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. There are 24 minutes and 23 seconds.

Mr. McCONNELL. I yield to the distinguished Senator from Oklahoma 5 minutes.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. I thank the Senator for yielding. I do not think I will even take that much time. I know time is very precious right now. I have been listening to the debate, and I am the first one to say I am not on any of the committees that deal with this, so it is not that I have been entrenched in this issue. I agree with one thing the Senator from Connecticut said, and that is it is very transparent, the things that are going on around here.

The Senator from Utah was very specific and I think very articulate in the way that he addressed how this would affect labor unions. It is my understanding that even in the reporting aspects of soft money each local could give up to $10,000 without even reporting it. So let us assume that they report accurately and that someone who says that a local says it is contributing less than $10,000 is in fact correct. I am not ready to accept that. But let us assume that is right. If you have a hundred locals, you are talking about a million dollars. No one will ever know where it came from. This is money that is used very effectively in campaigns.

So as far as I am concerned, one of the big areas that should be regulated is left out of this thing, and that is labor unions. And then there is trial lawyers. I have to tell you that every time I run for office there are thousand-dollar checks coming from all over, from trial lawyers from all over America because I am the one who has on his agenda a desire that I am going to fulfill to see to it we have real meaningful tort reform in this country, to make us competitive again. So we have the trial lawyers out there with the ability to send in, on their own contributions of $1,000 apiece, to maybe six different campaigns. Maybe there are 100 of them who are out there. All you have to do is look at an FEC report and you can see that they are doing it.

Let me make one comment about PAC's. Everyone assumes that political action committees are something evil. Political action committees allow small people to get involved, people who are of low incomes to get involved in the process, and there is not any other way they can get involved. I have been a commercial pilot for I guess 38 years. I have been active in aviation. I believe that aviation makes a great contribution to the technology of aerospace and many other things, and consequently I am supported by the Aircraft Owners and Pilots Association, AOPA, 340,000 members. Each one puts in about $5 and they do contribute to people who are supportive of the industry that they believe in.

The NRA, they have taken a lot of hits recently. Who are the NRA? When you sit up here, you are looking at millions of dollars in Washington, but if you were with me last weekend in Hugo, Cordell, Lone Grove, Sulphur, those are people who belong and they

might give $5 a year because they honestly in their hearts believe in the second amendment rights to the Constitution. I do, too. They contribute. These are not big fat cats, wealthy people. So I think to categorize PAC's as being something that is evil in our society is wrong.

The third thing I do not like about this legislation that is coming up, and I will be opposing it, is the arrogance that is there. We have reduced postage for us—not for you, not for anybody else but for us. Now, what happens when you reduce our postage? It is all out of one fund. So other postage is going to end up going up. It is just sheer arrogance that we should be treated differently than everybody else.

We passed legislation, a very good bill through this Chamber at the very first of this Congress and that was the bill which made us live under the same laws as everybody else. All of a sudden people around here are looking, pointing fingers, saying, should we have done that? Here we are again, coming right on the heels of that, saying we are going to give us a benefit nobody else has.

The Senator from Massachusetts a minute ago stood up and said we ought to have more free time on TV. Who are those broadcasters out there? Are they all fat cats? I go around Oklahoma. We have small stations. They are going to give time, and if they do not give free time, they are going to have to give a reduced rate, 50 percent of the lowest rate. That is for us because we are in Congress. We are important people. We are supercitizens—not everybody else, just us.

The arrogance in the way we are approaching that, saying we are entitled to things other people are not entitled to I find to be very offensive.

Mr. President, I conclude by saying I agree with the Senator from Connecticut. This is transparent. The two biggest offenders, the ones who contribute the most to campaigns—and I would categorize them as organized labor and trial lawyers—are not going to be inhibited in any way by this bill.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. McCONNELL. I thank my good friend from Oklahoma for his important contribution to this debate.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 19 minutes.

Mr. McCONNELL. I yield 5 minutes to the distinguished Senator from Georgia.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. COVERDELL. Mr. President, I thank the Senator from Kentucky for his diligent and dedicated efforts to this debate for a long, long period of time—probably longer than he wishes.

I know it has been said many times but I think everybody should see a caution flag go up when the Republican National Committee, the National Taxpayers Union, the National Right to Life Committee, the National Rifle Association, the American Civil liberties Union, the Christian Coalition, Direct Marketing Assocation, National Association of Broadcasters, National Assocation of Business PAC's, National Education Association, the complete political spectrum, all are opposed to this legislation. Why? Because it is an infringement on the first amendment of the Constitution of the United States. It is that simple.

Just moments ago I was at a hearing where a former Presidential candidate, Gov. Lamar Alexander, said it best. He said these efforts to regulate and restrict have left labor with full constitutional rights of the first amendment, political parties with full constitutional rights of the first amendment, the entire media of the United States with the full rights of the first amendment, and only one category is being denied their rights under the first amendment, and who is that? It is the candidates, the candidate for President, the candidate for Senate, the candidate for Congress. The only class for which we restrict first amendment rights, the people who will ultimately represent America are the single class we carve out to deny first amendment rights.

Mr. President, this kind of legislation envisions a very narrow sanitized environment, almost like a prize fight with two contestants inside a defined ring, and there are rules that define how that combat will be conducted. But in the case of American politics, vast resources affect the outcome of the election. Take my State. The largest newspaper in the State is the Atlanta Constitution. It has a circulation of a half a million, on Sunday 750,000, and they can say anything they choose and meddle in every political race, and with everybody's acknowledgment, and even theirs, with a very biased and fixed agenda.

So in seeking office a candidate who might not agree with that agenda is not simply dealing with his or her opponent; they are dealing with the extraneous factors—the media itself, the State's largest daily newspaper. Why is it that this corporation, the Atlanta Constitution—it is a corporation, I might add—is not restricted under campaign finance? Why are their first amendment rights protected but Ace Hardware's are not? They can say anything they choose. They can put an editorial in their editorial page every day for a month. They can comment, as they do, on the fortunes of a political campaign every day. To buy an ad in that paper might cost, one page, $14,000, or a half a page $7,000. So think of the enormous resources that are being invested in meddling or commenting, however you want to put it, on the outcome and fortunes of a political race.

We take the candidate and draw narrow parameters around that candidate in terms of how he or she can communicate.

Frankly, I think it is the candidate that should be the freest to express him or herself, to talk about and interpret his or her beliefs. The idea of restraining that candidate's capacity only enlarges the forces of those who do not ultimately represent the people—the journalists, the media. Would it not be far better to let the person who is going to represent the American people, the person who is going to represent the people from the good State of Georgia, to be on equal footing with all these other resources? The answer to that question is yes.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. COVERDELL. I ask for 1 additional minute.

Mr. McCONNELL. I yield my colleague 1 minute.

Mr. COVERDELL. I think the Governor of Tennessee said it best. The first amendment is protective for the labor movement, for the media, for special interest groups, and one class in American politics has been carved out for denial of first amendment rights: the candidates. That is not appropriate.

I yield the floor.

Mr. McCONNELL. Mr. President, I say to my friend from Georgia, special thanks for a superb presentation.

I just want to make one additional comment to follow on. The proponents of this kind of legislation have said over the years they wanted to level the playing field. I would say to my friend from Georgia, he and I compete in the political arena in the South. In order to level the playing field in my State, not only would you have to get a number of the newspapers sold to different kinds of owners, you would also have to change the voter registration and history of the State in order to create a remotely level playing field upon which a person with the disability that the Senator from Georgia and I share, that disability of being registered Republicans, so we could compete on a truly level playing field.

In fact, even the attempt to create a level playing field is constitutionally impermissible. Buckley verus Valeo addressed that particular issue. So I thank my friend from Georgia for a remarkable contribution to this debate.

Mr. COVERDELL. I thank the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Wisconsin has 15 minutes.

Mr. FEINGOLD. I yield 1 minute to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, it has been my honor to work with Senator FEINGOLD and Senator MCCAIN from the very beginning, and Senator THOMPSON. I spoke yesterday, so I will be very brief, less than a minute.

The way in which big money has come to dominate politics, I believe, is the ethical issue of our time. Too few people have way too much power and say, and the vast majority of the people in our country are not well represented.

The standard of a representative democracy is that each person should count as one and no more than one. That standard is violated every day by the way in which big money dominates politics in our country today. I say to my colleagues, I have worked on gift ban. I have worked on lobby disclosure. This is the reform vote of the 104th Congress. We are just asking for an opportunity to have the debate, move the bill forward, and make it better.

Mr. President, to go to a commission—I say to my colleagues, do not look for cover, because a commission to study the problem is not a step forward, it is a great leap backward.

Ms. MOSELEY-BRAUN. Mr. President, I rise today in support of the McCain-Feingold-Thompson bill, S. 1219. Although this bill is not the ideal resolution of this complicated issue, it is clear that the time has come to reform the campaign finance architecture.

Campaign finance reform is needed to restore the American people's faith in the electoral process. Americans are frustrated; many believe that the current system cuts them off from their Government. A recent League of Women Voters study found that one of the top three reasons people don't vote is the belief that their vote will not make a difference. We saw the result of this cynicism in 1994 when just 38 percent of all registered voters headed to the polls.

Voters, and not money, should determine election results. The money chase has gotten out of control, and voters know that big money stifles the kind of competitive elections that are essential to our democracy. The effort to raise the money needed to run for election ends up making it more difficult to make needed reforms in a whole range of areas. This system must be reformed.

The effort needed to raise the average of $4.3 million per Senate race in the last election decreases the time Senators need to meet their obligations to all of their constituents. Furthermore, when voters see that the average amount contributed by PAC's to House and Senate candidates is up from $12.5 million in 1974 to $178.8 million in 1994—a 400-percent rise even after factoring in inflation over that period—there is a perception that lawmakers are too reliant on special interests to make public policy that serves the national interest. More and more voters believe that Members of Congress only listen to these special interest contributors, while failing to listen to the very constituents who put them into office.

That is part of the reason why there is overwhelming public support for reform. And make no mistake, there is a real public consensus that reform is needed—now. Ordinary Americans want—and deserve—Government that is responsive to their needs and problems. The way to do that is through spending limits. Spending limits will make our system more open and more competitive. Spending limits can help focus elections more on the issues, instead of on advertising.

Unfortunately, however, for all of its strengths, S. 1219 does not cure all the flaws of our current campaign finance system. The legislation has gaps, and in some areas, it has made mistakes, mistakes that deserve the Senate's attention before this bill becomes law.

When the Senate considered campaign finance reform in the 103d Congress, I quoted a column by David Broder. He made the point that many of the reforms that resonate strongly with the public "have a common characteristic: they would all increase the power of the economic and social elite that most vociferously advocates them. And they might well reduce the influence of the mass of voters in whose name they are being urged."

I think that we need to take Mr. Broder's warning to heart. We must be sure that we don't have a process that only further empowers political elites that are already empowered. We want campaign finance reform that allows candidates more time to talk to voters. Voters want to know that the system works for ordinary Americans and not just those few who can devote substantial time and money to politics. They deserve better than the present system.

The inordinate effort required to raise massive amounts of money within the strictures of contribution limits make fundraising a continuous and time consuming condition of elections.

It is also worth keeping in mind that campaign finance reform cannot work for every American unless it also works for every candidate, including minority candidates and women. Minority and women candidates currently have less access to the large sums needed to run for office today than other candidates. That financial inequity is one of the primary reasons both women and minorities have long been under-represented in both the Senate and House. The spending limits in S. 1219 are very important in addressing their concerns, but reform will only be truly successful if it increases opportunities for candidates from all walks of life and our society. Campaign finance reform will be counted as a failure if the numbers of women and minorities in Congress goes down, rather than up, under a new system.

S. 1219 attempts to level the playing field for all competing candidates. It establishes a voluntary system by which candidates who agree to limit their overall spending receive certain benefits, including 30 minutes of free broadcast time, television and radio time at 50 percent off of the lowest unit rate, and reduced postage rates.

If a complying candidate's noncomplying opponent has raised or spent 10 percent more than the State spending limits, then the complying candidate can spend 20 percent more than the spending limit and still be in compliance with the bill. If a noncomplying candidate raises or spends 50 percent more than the spending limits, the complying candidate's limits increase 50 percent without penalty.

Furthermore, complying candidates cannot spend more than the lesser of 10 percent of their spending limit, or $250,000, from their personal funds. When a candidate declares their intention to spend more than $250,000 of personal funds, the $1,000 contribution limit for individuals is raised to $2,000 for complying candidates, and the noncomplying candidate does not qualify for any of the bill's benefits.

These steps represent real progress, but the problems here are very serious, and need much more attention. Those who are independently wealthy have unequal access to the political system, and if reform is to work, we have to do something about that.

Self-financing candidates are a rapidly growing phenomenon in our current political system. In 1994, one candidate for the Senate spent a record setting $27 million, almost all of which was his own money. And over the last year, a Presidential candidate spent $30 million of his own money for the primary elections alone. Without workable spending limits that apply to every candidate, those who can break the limits by dipping into their own deep pockets will end up dominating our politics, even more than is the case now. Talented, but less wealthy candidates will have it tougher than ever. The trend toward a Congress comprised disproportionately of millionaires does a disservice to representative democracy. Such trends are a very troubling aspect of the loss of confidence in our system. This bill does not resolve that fundamental flaw.

Imposing spending limits on millionaire candidates is very difficult, given the Supreme Court's decision in the case of Buckley versus Valeo, which used a first amendment justification to invalidate a congressional attempt to impose limits on the amount a candidate can contribute to his or her own campaign. However, there are things that Congress should consider that

might be able to bring self-funding candidates into a campaign spending limits regime, or at least provide enough disincentives so that these candidates will no longer profit politically by using their own resources to finance their campaign cash flow.

The relevant provision of the 1971 Campaign Act that was invalidated in Buckley provided that a Presidential candidate could spend no more than $50,000 out of personal resources. It is at least possible that with a much more generous, though not unlimited, opportunity for candidates to spend their own money, the infringement of individual freedom is less severe, and perhaps not substantial as stated by the Court in Buckley. After all, it is one thing to tell a candidate that he or she can't spend more than $50,000 of personal money; it is quite another to say he or she can't spend more than $1 million—and that the rest must be raised from small contributors in order to demonstrate broad political support.

If candidates were required to seek and demonstrate support from a broad range of individuals—an important component of the democratic process—the Supreme Court might see the first amendment issue somewhat differently. An appropriate analogy would be the laws that require candidates to obtain a certain number of signatures as a requirement for access to the ballot. In other words, the reason for this limit would not be to equalize resources, but to ensure that the amounts candidates spend have some relation to breadth of support. This proposal may be at least arguably consistent with Buckley, since the Court in that case recognized that the Government has "important interests in limiting places on the ballot to those candidates who demonstrate substantial popular support."

In fact, it is that statement by the Court which demonstrates the flaw in the Buckley versus Valeo decision. In the not too distant past, a candidate had to have the endorsement of a political party, or have his or her own strong, grass roots organization in order to have the large number of people it takes to gather sufficient petitions to be put on the ballot. Now, however, it is actually possible to hire people to collect petition signatures, so petitioning does not necessarily demonstrate broad support the way it used to. In fact, a wealthy candidate, under the current state of the law, doesn't have to have any broad support at all to gain access to the ballot, only enough money to hire enough petition collectors. If the important government interest the Buckley Court acknowledged is to be protected, therefore, some limits on the use of money by wealthy candidates is required. The use of money by wealthy candidates has to be brought into the bill's reforms.

Bringing self-funded candidates completely under the bill's reform umbrella is a necessary step, but another area of the bill also needs another look—the treatment of groups such as EMILY's List and WISH List. EMILY's List and WISH List have helped bring women into politics. EMILY's List and the efforts of the women's fundraising organizations is one of the main reasons there are now 33 Democratic and 16 Republican women in the House, 8 women Senators instead of just 1, and 2 Democratic women governors.

EMILY's List has energized women; it has given more women a way to participate in our political system—women who have never participated before. As the New York Times noted, "alone among fund-raising organizations, EMILY's List doles out millions of dollars and then seeks nothing back from its beneficiaries. Its only mission is to get women elected to Congress and the State houses." I think that kind of activity should be encouraged, and not limited.

EMILY's List has helped open up our system; it has showed more women that the system can work for them. I think that EMILY's List is American democracy in its purest form. EMILY's List should be applauded and encouraged, and not terminated.

I want to conclude, Mr. President, by returning to where I began. I think that it is long past time for Congress to reform the campaign financing system. This bill goes a long way toward making some real changes to our current system. It is far from perfect, but it is a work in progress. The bill's flaws can be corrected as we move forward through the remainder of the legislative process. I am therefore voting today to take the next step, to invoke cloture, because the bill cannot be corrected if it is not considered by the Senate. And if we fail to invoke cloture, this bill will fail. I do not want to see that happen, and neither do the American people. They expect us to act on real campaign finance reform this year. I will cast my vote to meet that expectation; I hope all of my colleagues will do likewise and that this Senate will meet its duty to the American people to change campaign finance.

Mr. BIDEN. Mr. President, here we go again, Mr. President. Another chapter in the never ending effort to reform the way we finance political campaigns.

I feel like I am driving a race car around a track and no matter how long and how far I drive, the checkered flag just never seems to come down. We never seem to reach the finish line. We are never able to finish what we start.

And, now, today, the question before us is whether we will even be allowed to start—whether we will even be allowed to debate the issue of campaign finance reform.

I have been on this track for almost 24 years now. One of the first things I did as a new Senator back in 1973 was to testify before the Senate Rules Committee on the need for campaign finance reform—on the need for spending limits and public funding of congressional campaigns; on the need for equal competition based on ideas, not money, between challengers and incumbents. Let me tell you, I did not make many friends.

But, I believed then—and I believe as strongly today—that campaign finance reform is the single most significant thing Congress could do.

The American people have come to believe the system has failed. The American people have lost faith in their leaders and in their Government. The American people feel alienated and distant from the very people who represent them.

There are several reasons for this. But, the biggest—and probably what all others boil down to—is the way we fund our elections: the influence of money; the influence of special interests; the influence of everyone, it seems, except the average middle-class American.

A middle-class American does not make a $1,000 contribution. A middle-class American does not hire a lobbyist to wander the Halls of the Capitol and make $5,000 campaign contributions. A middle-class American does not ask a Congressman to hand out campaign contributions on the floor of the House of Representatives.

No. A middle-class American walks into the voting booth on election day, if he or she has not been turned off by that time, and engages in the most important exercise in a democracy. He or she casts a ballot for a person to represent them.

But, when it is all said and done, many middle-class Americans feel that they are not being represented. They have become apathetic, cynical, and distrustful. And, I'm afraid this is not a whim or a passing feeling. It may be wrong in reality—it may be right—but it should not be taken lightly by those of us in Congress. There is a major crisis of confidence in the American electorate, and it puts at risk everything else we attempt to do. That is why I believe campaign finance reform is the crucial issue of our time.

So, Mr. President, our mission is clear. We must restore integrity and confidence in the political process. And, to do that, we must have comprehensive campaign finance reform.

Unfortunately, today, we are not even voting on a campaign finance reform bill. This is a vote on whether we will be allowed to vote on the bill. And, you wonder why the American people are so sick of this system.

The special interests have circled the wagons. They are on the warpath to kill campaign finance reform.

So, I implore my colleagues: stand today with the American people. Let us take up this bill—the first bipartisan campaign finance reform bill in nearly a generation. Let us debate the issue. And, let us decide the issue on the merits, not on inside-the-beltway maneuvering.

The American people demand no less.

Mrs. MURRAY. Mr. President, this past February, over 4 months ago, I took the Senate floor to announce my cosponsorship of S. 1219. As I spoke about how unique this bill is—one of the only truly bipartisan attempts to reform campaign laws in two decades—I could not help thinking to myself, "here we go again."

I have only been a Senator for a little over 3 years. In Senate terms, that is not very long. But I have been here long enough to see campaign finance reform come up, and be killed. In the 103d Congress, shortly after the 1992 elections, I proudly cosponsored campaign reform legislation. I was eager to answer the voters' hopes for cleaner, more thoughtful politics.

I watched colleagues come to the floor, proclaim the need for reforms, and declare their support for good legislation. The Senate passed that bill, S. 3, and sent it to the House. A short time later, I saw it killed amidst partisan bickering, despite the mad scramble of Senators wanting to be seen as leading the charge for reforms.

In the end, nothing was accomplished, and here we are today living under the same campaign system that has created so much cynicism and mistrust among the voters.

So when I endorsed S. 1219, I thought "here we go again" because I was embarking on my second attempt to reform campaign laws. But this time, instead of thinking we could simply pass a bill and send it to the White House, I knew we had our work cut out for us.

Now it is June, and the 104th Congress will adjourn in a few months. While we are only now taking up campaign reform, I am still encouraged. For the first time in a long time, the Senate is considering a truly bipartisan bill. It has not been drafted by one party or another to give themselves a leg up.

It has been drafted by a Republican and a Democrat, JOHN MCCAIN and RUSS FEINGOLD, because they know that until the two parties come together and focus on common sense reforms we can all agree on, nothing will get done. It is supported by thoughtful new Senators like FRED THOMPSON of Tennessee and CAROL MOSELEY-BRAUN of Illinois who, like me, were elected to make changes in the political system.

We have a very narrow window of opportunity today. It is narrow because we have only a few months left in this Congress, and we have a lot of work to do. It is an opportunity because it is a bipartisan bill, free of taint, and maybe—just maybe—capable of restoring some faith to the people. In light of this, it is critical that we move quickly.

I urge my colleagues to stop, look, and listen. Listen to people at the coffee shops. Talk to friends, to family members. Walk through a neighborhood. A basic, fundamental lack of faith in Government lays at the root of peoples' concerns about the future. Until something dramatic happens to address public confidence in the political system, we can expect the gap between the people and their Government to widen.

There is nothing I can think of that would be worse for this country; for alienation breeds apathy, and apathy erodes accountability. America is the greatest democracy the world has ever known, and it was built on the principle of accountability: government of the people, by the people, for the people. We simply must restore peoples' faith in their Government.

At the core of the problem is money in politics. Right now the system is designed to favor the rich, at the expense of the middle class. It benefits the incumbents, at the expense of challengers. And most of all, it fuels the special interest, inside-the-beltway machine at the expense of the average person back home.

The average person feels like they can no longer make a difference in this system. Earlier this year, my campaign received a $15 donation from a woman in Washington State. She included a note to me that said, "Senator MURRAY, please make sure my $15 has as much impact as people who give thousands."

She knows what she is up against, but she is still willing to make the effort. Unfortunately, people like her are fewer and farther between, and less willing than ever to try to make a difference.

We see her problem when people like Ross Perot or Steve Forbes are able to use personal wealth to buy their way into the national spotlight. Ninety-nine percent of the people in America could never even imagine making that kind of splash in politics. Should we rely only on the benevolence of a few wealthy individuals to ensure strong democracy in this country? I don't think that is what the Founding Fathers had in mind.

The political consultants will say negative ads work, because they, quote, "move the numbers." They will say we need to raise millions of dollars because that is what it takes to get a message out.

But that ignores the reality in Main Street America every day. The very campaigns they say we need to run to win are bleeding the life out of our political system. Every time we go through an election with expensive, negative campaigns, we pay a severe price in voter participation and citizen apathy.

Add up election, after election, after election in the modern political era, and elected officials are facing a huge bill for accountability they may not be able to pay. I fear that once lost, citizens may never re-engage in their democratic system.

During this debate, I have heard Senators take issue with certain provisions in S. 1219. I have heard colleagues question the constitutionality of spending limits. I have heard them make the case that this bill takes the wrong approach. I have heard them argue for reform, but not this way.

Mr. President, these arguments miss the point entirely. The upcoming vote is not about whether you agree with every provision of S. 1219. It is about whether this Senate is willing to step up and pass campaign reform legislation this year.

I myself am not completely satisfied with S. 1219. The McCain-Feingold bill is very broad, and does something about nearly every aspect of the system: It restricts political action committee contributions; it imposes voluntary spending limits; it provides discounted access to broadcast media for advertising; it provides reduced rates for postage; it prohibits taxpayer-financed mass mailings on behalf of incumbents during an election year; it discourages negative advertising; it tightens restrictions on independent expenditures; and it reforms the process of soft money contributions made through political parties.

Mr. President, these are very strong, positive steps, especially the ones addressing independent expenditures. Over the past few years, through the so-called Gingrich Revolution, we have seen an explosion of campaign spending by special interest groups, many from Washington, DC, attempting to swing elections in their own favor. These expenditures are ideologically driven, often highly partisan, and serve only to manipulate voters in the most sinister way. They corrupt our elections. They are not disclosed, so we do not know who makes them, and they violate the spirit of every disclosure requirement in law today.

If enacted as a package, all the steps I just mentioned would make our system of electing Federal officials more open, competitive, and fair. I feel strongly that we must take such steps to re-invigorate peoples' interest in the electoral process, and in turn to restore their confidence in the system.

There are some provisions in S. 1219 that could be problematic, however. For example, the bill would require 60 percent of a candidates' donors to reside within his or her State. This might work fine for someone from New York or California. However, it could put small-state candidates at a real disadvantage, particularly if their opponent is independently wealthy.

I also question the ban on PAC's. Under the right regulations, I believe PAC's have a legitimate role in the process, for two reasons. First, PAC's are fully disclosed, and subject to strict contribution limits. That means we have a very detailed paper trail from donor to candidate for everyone to see. Second, they give a voice to individual citizens like women and workers and teachers who, if not organized as a group, might not be able to make a difference in the process.

A serious question about PAC's remains, however: do they unfairly benefit incumbents at the expense of challengers? This is a legitimate question, and one I think we should focus on closely in this debate.

Finally, I am deeply concerned about how this bill would effect organized fundraising by third party groups that do not even lobby Congress. Groups like EMILY's List and WISH List support pro-choice women candidates of both parties, though they do not actually lobby Congress on legislation.

They give people of modest means like me an opportunity to compete on the electoral playing field. For too long, this field has been dominated only by wealthy, well financed candidates, establishment candidates, or incumbents. In my 1992 campaign I was out-spent nearly three-to-one. Without the support of groups like this, I would not have even been able to make the race.

By banning these groups, S. 1219 would send a signal to people everywhere: do not even think about playing this game unless you can afford the price of admission.

However, as I said a moment ago, this vote is not about every little detail. Let us remember something: this whole debate—arguments for and against—comes against the backdrop of a campaign finance system that has not been reformed since Watergate, over 20 years ago. Public faith in government today has sunk below what it was in 1974. So in spite of my personal concerns, I will vote to invoke cloture on the McCain-Feingold bill. And after cloture is invoked, I will support amendments that address the issues I have raised.

Right now, we need to move forward. People in this country want to feel ownership over their elections; they want to feel like they, as individuals, have a role to play and can make a positive difference. Right now, for better or worse, not many people feel that way, and the trend is going the wrong direction. Real campaign reform will be the strongest, easiest step this Senate could take to begin restoring peoples' faith in the process.

Set aside the legalistic, technical arguments for a moment. Get out from behind all the procedural maneuvering. Put aside partisan leanings. We have an opportunity right now, today, to show the voters something. We can put pressure on the other body to act on similar legislation. We can actually move reform efforts forward in a credible way, and get something done this year.

A citizen from New Hampshire, Frank McConnell, made a good case just the other day. He came to Washington to push this bill, and he said if Congress wanted to, if it really wanted to, it could do the work and have a bill to the President's desk in a couple weeks.

We know the President would sign it, because he said so in his State of the Union Address earlier this year. Frank McConnell was right: if we want to, we can just do it. Here we are again. We are considering campaign reform legislation. There is not much time left. I thank the two sponsors of this bill, Senator MCCAIN and Senator FEINGOLD, and I urge my colleagues to step up and support the motion to invoke cloture.

Mr. BINGAMAN. Mr. President, I rise today to speak briefly on S. 1219, the Campaign Finance Reform Act and to discuss two amendments I intend to offer to the bill if the Senate invokes cloture on the bill tomorrow.

As a cosponsor of S. 1219, I am pleased to join with my friend and colleague from Arizona, Senator MCCAIN, and my friend and colleague from Wisconsin, Senator FEINGOLD, in supporting this legislation. I want to commend Senators MCCAIN and FEINGOLD for their efforts in bringing this measure to the Senate for its consideration. They have been tireless champions of the need to reform our campaign finance system and I am encouraged by the way they have worked together to develop a bipartisan approach to a problem that has escaped solution for so many years.

As my colleagues know, 2 years ago I completed an expensive and negative campaign. The only positive thing that I brought from that experience was the time I was able to spend listening to the concerns of New Mexicans and traveling around the State.

Unquestionably, one of the most significant recollections I have of the campaign is the enormous amount of money that I was forced to raise and spend to defend against a wealthy opponent who attacked early and continued with a negative campaign until the votes were counted.

That is one of the reasons why I support S. 1219 and why I have supported every serious attempt to fix our campaign finance system. Clearly, Mr. President, the system is broke and anyone who thinks otherwise simply has not looked at the facts. More and more of our time is spent raising money, special interest groups have too much influence at the expense of the individual American, and, most important, the American people have lost confidence in their elected officials because they no longer believe that we have time to listen to them. Instead they believe that only the wealthy can serve in Congress and that we are engaged in an endless pursuit of special interest money. While this is not true in all cases, I am very concerned that if we do not reform the current system soon, the fears of average Americans will become real.

Mr. President, we need to change the system and I believe that the bill offered by Senators MCCAIN and FEINGOLD offers us a chance to regain the confidence of those who sent us here.

If cloture is invoked tomorrow, I intend to offer two amendments to this legislation. These amendments are contained in legislation I offered earlier this year with my friends and colleagues Senator PELL and Senator CAMPBELL, S. 1723.

The first amendment requires that if a qualified candidate for Federal office references his or her opponent in a TV advertisement they must do so themselves if they want to take advantage of the lowest unit-rate charge provided to candidates for Federal office under the Communications Act of 1934. If the candidate voluntarily chooses not to make the reference herself, or himself, the candidate would not be eligible for the lowest unit rate for the remainder of the 45-day period preceding the date of a primary or primary runoff election or during the 60 days preceding the date of a general or special election. The candidate would, of course, continue to have access to the broadcast station and would be able to air whatever advertisement they wish, but they would not be eligible for the special benefit that Congress has provided under the Communications Act.

The second amendment requires that broadcasters who allow an individual or group to air advertisements in support of, or in opposition to, a particular candidate for Federal office, allow the candidate in the case where a candidate is attacked, the same amount of time on the broadcast station during the same period of the day.

Mr. President, these are not new concepts. In the 99th Congress, Senator Danforth offered a bill to require a broadcast station that allowed a candidate to present an advertisement that referred to her opponent without presenting the ad herself, to provide free rebuttal time to the other candidate. Since then, other variations of what has become known as talking heads legislation have been incorporated in overall campaign finance reform bills and introduced as free standing bills.

In a little over a month, both national parties will be holding their conventions. After that the race will be on, not only for the White House but also for 435 House seats and 33 Senate seats and untold number of State and local elections. I can say in all honesty

that I do not envy my colleagues here in the Senate, whether they are Republican or Democrat, because I now that they will soon be subjected to the same type of negative attacks ads that I had to face in my last election. Many of these ads will contain misrepresentations, distortions, and outright untruths. A voice will appear on the television but it will not be the candidate's. Perhaps an image will appear but it will not be the candidate's either. Instead, the candidate will be hiding behind the message and that message will undoubtedly be negative.

Mr. President, I am told that public opinion polls show that politicians are held in only slightly higher esteem than lawyers and journalists. While that may be true, I know that my colleagues, regardless of their political affiliation, are honorable men and women who care about their respective States and our Nation. They are also courageous. It is not easy putting your reputation and privacy on the line to run for public office at any level. Unfortunately, the negative perception persists. I believe that one of the reasons for that is the trend in today's campaigns to attack, attack, and attack, to go negative early and stay negative until the votes are counted. As Senator Danforth noted, legislation requiring the candidate himself to present ads that reference his opponent would serve the purpose, "to open up speech, open up the ability to respond, the ability to defend oneself. In the case of a candidate making a negative attack, we try to improve the sense of responsibility and accountability by making it clear that the candidate who makes the attack should appear with his own face, with his own voice."

I believe that the amendment I am discussing today, just like the legislation by Senators MCCAIN and FEINGOLD, will begin the process of restoring the confidence of the American people in public service as an honorable endeavor and in the election process as one where ideas and platforms, not the candidate's personalities, are debated.

Mr. President, I would again like to commend my colleagues Senators MCCAIN and FEINGOLD for their commitment to bringing this legislation to the floor of the Senate and I hope that we will all vote tomorrow to allow debate and votes on amendments and the underlying legislation. The American people deserve nothing less.

Mr. FRIST. Mr. President, I rise to discuss the important issue of campaign finance reform. I applaud the efforts of my colleagues on both sides of the aisle for bringing this issue to the forefront of our public policy debate.

The sole objective of any serious campaign finance reform must be to open up the political process—to make it easier for more Americans to get involved, to have more competitive races, to increase the free exchange of ideas and debate, and to make our elections more reflective of the will of the people.

To that end, I strongly support the following steps and believe they are a sound foundation for campaign finance reform:

First, we should insist on full disclosure of all campaign spending, by candidates, parties and nonparties alike. Currently, many special interest groups have a huge impact on elections yet are not required to and don't disclose anything about their political spending. Full and fair disclosure will let the voters weigh the relative influence of all who participate in the process.

Second, we should place PAC's and individuals on an even footing by increasing the individual contribution limit to $5,000 and indexing it for inflation. This will reduce both the influence of PAC's and the amount of time elected officials must spend fundraising;

Third, we should ban the use of franked mass mailings by incumbents in the calendar year of an election—although I would ban them completely; and

Fourth, we should require candidates to raise a stated percentage, for example 60 percent, of their individual contributions from people residing within their home States.

The first amendment is the starting point for any discussion of campaign finance reform. It ensures that, among other things, citizens can participate in politics through publicly disclosed contributions to the campaigns of their own choosing. It also permits citizens to spend their own hard-earned dollars, independent of any candidate, to influence elections via letters to the editors of their local papers, pamphlets, and even television, radio, and newspaper advertisements. This is a precious right to Americans. It sets us apart from many other countries.

Many, however, believe that we spend too much money on this first amendment right. Yet, given the importance of such speech, it is surprising to find that in the 1994 House and Senate races, said to be among the most expensive ever, we spent roughly $3.74 per eligible voter. According to columnist George Will, this is about half as much as Americans spend annually on yogurt.

Simply put, Mr. President, the amount of money spent in campaigns should not be the focus of our debate—that is not the problem. Let a well-informed public, not a Federal bureaucrat, decide whether a candidate has spent too much in a campaign or has accepted too much from a particular source. I believe there are significant negative consequences to current efforts to reduce campaign spending. First, significant restrictions on the amount of money that can be spent by a candidate will reduce the amount of information available to voters. Less information means a less-informed electorate. That is the opposite of what we want to accomplish. More importantly, spending limits on candidates will merely increase the influence and power of special interests because they are not subject to spending limits and aren't required to disclose their election financing efforts.

Second, limits on campaign spending would overwhelmingly benefit incumbents. Congressional spending limits are subject to manipulation that sets the spending threshold just below the amount that the challenger must spend to have a legitimate shot at defeating the incumbent. In testimony before the Senate Committee on Rules and Administration, Capital University law professor, Bradley A. Smith, said that in the 1994 Senate elections, the successful challengers spent more than would be allowed under the legislation currently being debated by this body, S. 1219. Thus, the spending limits proposed in S. 1219 would have worked to the incumbent's advantage in each case. Overall, every 1994 Senate challenger who spent less than the ceiling set in S. 1219 lost; every incumbent who spent less than that ceiling won.

Finally, spending limits reduce the ability of campaigns to speak directly to the voters, without the filter of the media. The news media does play a critical role in the election process, but further increasing their control over the flow of political information is not positive reform.

Similarly, a limitation on contributions, like spending limits, is inherently biased in favor of incumbents. Incumbents with high name recognition and existing voter data bases are able to raise necessary campaign dollars, in small amounts, with far more ease than no-name challengers. Therefore, challengers must look to a small number of large contributors to launch a campaign. This initial seed capital is essential for challengers to get their name and message out to the voters. The limits on contributions imposed by the 1974 amendments to the FECA have limited the ability of challengers to raise seed capital.

I believe that further restrictions on contributions will force candidates to spend more time fundraising and less time meeting voters and discussing the issues. Contribution limits are a significant cause of the drain that fundraising has become on a candidate's time. Instead, I favor placing PAC's and individuals on an even footing. The existing $1,000 limit placed on individuals should be raised to $5,000—the same level as PAC's—and indexed for inflation. The $1,000 contribution limit established by FECA in 1974, had it kept pace with inflation, would be worth approximately $3,000 today.

Raising the individual contribution limit will help level the playing field between challengers and incumbents. It will put individuals on an even par with PAC's, reduce the time candidates need to spend raising campaign funds, and reduce the emphasis on a candidate's personal wealth.

Yesterday and today, I've heard the arguments concerning other aspects of the current legislation before us, namely provisions that mandate free air time and greatly reduced postage rates to candidates. I am opposed to those provisions, however good intentioned they are, because they would place a greater burden for funding Federal campaigns on the backs of American taxpayers.

Proposals to force American businesses to give away their products free of charge are misplaced and run counter to a free-market society. Accordingly, I oppose attempts to mandate that private broadcasters be forced to give free air time to candidates. Similarly, allowing deep discounts in postal rates is merely a subsidy paid for by the general taxpayers. These are not sound reforms.

As I mentioned earlier, strong campaign finance reform should also mandate the complete and full disclosure of all funds that unions and other special interest groups spend for political activity. This is a critical point. We cannot outlaw special interest money, but the potential penalties for accepting it can be raised via the court of public opinion.

We are all aware of the current multimillion dollar effort by organized labor to spend upward of $35 million to try and buy back control of the House for the Democrats. They are getting the money for this massive, partisan campaign through compulsory union dues, even though 40 percent of their membership voted for Republicans in 1994.

No union member should be forced to make compulsory campaign contributions to support any candidate or issue unless they freely choose to do so. That is the foundation for our constitutional form of government and the first amendment freedoms we enjoy as citizens. To be forced, as a condition of employment to do otherwise, is wrong.

As unfair as this is to union members, it is even more poisonous to our political process. There is no disclosure or reporting of the sources or the expenditures paying for these activities. Under current law, the unions are not required to file and do not file any disclosure to report these political expenditures. This should be changed.

In closing, I would like to quote a section of the 1976 decision by the Supreme Court in the Buckley versus Valeo decision:

> In the free society ordained by our Constitution it is not the government, but the people—individually as citizens and candidates and collectively as associations and political committees—who must retain control over the quantity and range of debate on public issues in a political campaign.

Our system is not perfect, and we do need meaningful campaign finance reform. But, placing artificial limits on spending sends the opposite message of what we should be saying. We should not drive spending control away from candidates and parties and to special interests. We should not enact reforms that will result in less information to the public. We should open up the system to allow for maximum dissemination of information and maximum exchange of ideas and debate. I intend to work toward this type of campaign finance reform, and I urge my colleagues to do likewise.

Mr. BAUCUS. Mr. President, I rise in support of the important campaign finance reform legislation that is before us today.

I support this legislation because I believe it represents the right kind of change. While not a perfect solution, it will help put our political process back where it belongs: with the people. And it will take power away from the wealthy special interests that all too often call the shots in our political system.

Yet, ironically, by failing to act; by failing to pass this legislation; we will also be opening the door to change—the wrong kind of change. Our political system will continue to drift in the dangerous direction of special interest.

Over the years since 1971, when Congress last enacted campaign finance reform, special interest groups supporting both political parties have found creative new ways, some of questionable legality, to get around the intent of our campaign finance laws. Things like soft money, independent expenditures, and political action committees all came about as a consequence of very well-intended attempts at campaign finance reform.

NEED FOR REFORM

This is an arcane subject, but it hits home. One of the benefits to walking across Montana, in addition to the beautiful scenery, is that I hear what real people in Montana think. Average folks who do not get paid to fly to Washington and tell elected officials what they think. Folks who work hard, play by the rules, and are still struggling to get by.

People are becoming more and more cynical about government. Over and over, people tell me they think that Congress cares more about fat cat special interests in Washington than the concerns of middle class families like theirs, or that Congress is corrupt.

EFFECT ON THE MIDDLE CLASS

Middle-class families are working longer and harder for less. They have seen jobs go overseas. Health care expenses rise. The possibility of a college education for their kids diminished. Their hope for a secure retirement evaporate. Today, many believe that to make the American dream a reality, you have to be born rich or win the lottery. Part of restoring that dream is restoring confidence that the political system works on their behalf, not just on behalf of wealthy special interests.

I believe that this Congress has taken some small but important steps in that direction:

First, we passed a tough, fair gift ban to ensure that special interests are not out wining and dining Members of Congress and executive branch officials. Helping to reassure folks that individuals in Government, whether you agree with their policies or not, are acting in what they sincerely believe is the country's best interest. I am proud to say that my office has taken this one step further—and instituted a tougher than required gift ban—months before the Congress voted.

Second, we passed a comprehensive lobbying disclosure bill—eliminating the cloak of secrecy which lobbyists once operated under, by requiring greater disclosure of lobbying activities by both the individuals conducting and contracting the lobbying.

Now it is time for us to take the real step to win-back the public trust—it is time for us to pass a tough, fair, and comprehensive campaign finance reform bill. That bill must accomplish three things. First, it must be strong enough to encourage the majority if not all candidates for Federal office to participate. Second, it must contain the spiraling cost of campaign spending in this country. Finally, and most importantly, it must control the increasing amounts of undisclosed and unreported soft-money that is polluting our electoral system.

REFORM MUST REDUCE COSTS OF CAMPAIGNS

Under the current campaign system, the average cost of running for a Senate seat in this country is $4 million. In 1994, nearly $35 million was spent between two general election candidates in California. And nearly $27 million was spent in the Virginia Senate race.

There are some in Congress, I believe House Speaker NEWT GINGRICH is one, who say we do not spend enough on campaigns in this country.

When a candidate is faced with the daunting task of raising $12,000 a week—every week—for 6 years to meet the cost of an average campaign, qualified people will be driven away from the process. If we allow ideas to take a back seat to a candidate's ability to raise money—surely our democracy is in danger.

Let me be clear—my first choice would simply be to control campaign costs by enacting campaign spending limits. However, the Supreme Court, in Buckley versus Valeo, made what I believe was a critical mistake—they

equated money with free speech—preventing Congress from setting reasonable State-by-State spending limits that everyone would have to abide by.

I have voted several times to overturn the Buckley decision and allow Congress to set limits that everyone would have to obey.

WHAT'S RIGHT WITH THE BILL

While I must admit this bill is not perfect, compromise never is, it will do several crucial things to reign in campaign spending. First is, that it is the first bipartisan approach to campaign finance reform in more than a decade.

Second, the bill establishes a system that does not rely on taxpayers dollars to work effectively.

The bill encourages campaigns to accept a voluntary spending limit in exchange for free and reduced cost access to television advertising, and postal rates.

Last, the bill bans both PAC contributions, and indirect soft-money campaign spending, while at the same time increasing disclosure and accountability in political advertising.

Every election year, in addition to the millions of dollars in disclosed contributions, there are the hundreds of millions in unreported, undisclosed contributions spent by independent expenditure campaigns and issue advocacy funded by soft-money contributions to national political parties.

Where out-of-State special interest groups can spend any amount of money they choose, none of which is disclosed, all in the name of educating voters—when, in fact, their only purpose is to influence the outcome of an election. More times than not the seesawing 30-second sound bites do more to confuse than to educate.

This lack of accountability is dangerous to our democracy. These independent expenditure campaigns can say whatever they wish for or against a candidate, and there is little that candidate can do—short of spending an equal or greater amount of money to refute what are often gross distortions and character assasinations.

However, as I said earlier, the bill is not perfect. As currently written, it fails to address critical issues in campaign reform.

WHAT'S WRONG WITH THIS BILL

I am concerned that this bill forces an unfunded mandate on television broadcasters by requiring them to donate up to 30 minutes of free prime time advertising air time to each candidate who abides with the limits in the bill. While I believe this free and reduced cost air time is critical to encouraging campaigns to accept spending limits, I don't believe that broadcasters should be forced to bear the entire burden.

I'm pleased that the sponsors have included language to provide broadcasters with an exemption in the case of economic hardship, however, it is my belief that we should do more.

Last, but perhaps most importantly, this bill does not contain the strong enough enforcement provisions that are critical to ensure that individuals who promise to abide by the spending limits don't dump large sums of money into the campaign weeks or even days before the election.

Since 1985 I have fought to limit the spiraling cost of Federal elections in this country by cosponsoring five different campaign finance reform proposals, as well as supporting efforts to amend the Constitution to allow the Congress to set reasonable spending limits.

I remain committed to this cause and will do everything in my power to ensure that the Congress passes meaningful campaign finance reform, this year.

Mr. DOMENICI. Mr. President, those who follow campaign finance reform are well aware of my thoughts on this issue. I have long advocated four very straightforward and specific changes in reforms in campaign finance law:

First, a flat-out prohibition on House and Senate candidates raising money outside their home State;

Second, the abolition of PAC's as we know them;

Third, the creation of a strong disincentive to super-wealthy candidates throwing masses of family money into a campaign;

Fourth, the elimination of "soft-money:" contributions to political parties for activities such as voter registration drives and political advertising which indirectly—but intentionally—help one particular candidate;

I am pleased to see that this year's legislation includes campaign finance reform ideas I initiated many years ago, specifically, a limitation on the amount of personal or family funds a wealthy candidate may contribute to his or her own race; and a limitation on the acceptance of out-of-State contributions.

Unfortunately, this year's legislation also includes deeply problematic provisions. These provisions, so called voluntary restrictions on spending, are based on the premise that spending caps are the solution to the problems with our campaign system.

The taxpayers will end up helping finance these campaigns because by accepting spending caps under this bill, candidates would receive steep discounts from the Federal Government in postal rates, as well as from television and radio broadcasters for advertising time. In addition, once candidates exceed voluntary spending limits, the Federal Election Commission [FEC] would raise the contribution limits for the opponents of these candidates.

These spending caps threaten first amendment free speech rights. Moreover, these voluntary spending limits create burdensome new regulatory responsibilities and powers for the FEC. If enacted, the legislation before us today will create a quagmire of regulations making Federal campaigns even more dependent upon professional campaign strategists and lawyers, and less dependent upon, and more distant from, our constituents.

For these reasons, while I firmly believe that we need campaign finance reform, I cannot support today's proposed legislation in its current form.

Mr. SMITH. Mr. President, I rise in opposition to S. 1219, the Senate Campaign Finance Reform Act of 1996.

There are several major campaign finance proposals that are now being considered by the Congress. I am pleased to offer my views on each of them.

The most far-reaching campaign finance reform proposals involve the taxpayer financing of congressional campaigns. I do not favor that approach. I do not think that liberal Democratic taxpayers should be forced to finance my political campaigns any more than conservative Republican taxpayers should be forced to finance the campaigns of liberal Democratic politicians.

Other campaign finance proposals have sought to place limits on how much money campaigns can spend. Such proposals raise serious constitutional questions. In the case of Buckley versus Valeo, the U.S. Supreme Court held that it is unconstitutional for Congress to limit the ability of individual candidates to spend their own money to finance their own political campaigns. How is it fair, then, for Congress to limit the ability of candidates who are not wealthy to raise campaign money? If wealthy candidates can spend all of the money that they want while candidates of modest means cannot, then we will soon have a Congress made up almost exclusively of wealthy individuals.

Still another approach is that which is embodied by S. 1219. Under the McCain-Feingold bill, voluntary campaign spending limits would be adopted and candidates who complied with those limits would be provided with free and-or sharply reduced rates of advertising by the news media. I do not favor this approach because I do not think that Congress should compel private entities to offer their services at below-market rates. Therefore, I simply cannot support this bill.

The McCain-Feingold bill, as well as others, also proposes the elimination of political action committees [PAC's]. I have voted for this reform in the past.

I believe that the best way to reform our system of campaign finance is to find ways in which to encourage more participation by small donors. I am proud to say that in my political campaigns over the years, I have been supported by many thousands of small contributors.

I also strongly support the current system under which congressional campaigns must disclose the sources and amounts of financial contributions from all entities—large and small. I believe that the public has a right to this information.

I believe that a responsible and meaningful package of campaign finance reform legislation can and should be developed and passed by the Congress. I support that effort.

Mr. ABRAHAM. Mr. President, I rise today to express my concerns regarding S. 1219, the Campaign Finance Reform Act of 1996, and to explain my vote against the cloture petition.

Let me begin by stating that I support campaign finance reform. However, the reform we need is not to be found in S. 1219. In my view, the biggest problem with the way our political campaigns are financed is that it gives rise to the perception that special interest donations are dominating the political agenda. Indeed, many Americans believe that special interest money is the source of great corruption in our political campaign system.

While we should try to address this problem statutorily, I feel it is unnecessary to wait for legislation before those of us concerned act. To that end, when I ran for the Senate in Michigan in 1994, I personally imposed my own limits on the amounts I would accept from both out-of-State sources and political action committees, and they were as strong or stronger than those in S. 1219. I lived up to that pledge and still won my seat.

Now I recognize that not everyone will disarm unilaterally, so I do believe we must seek to achieve a similar outcome legislatively. Unfortunately, S. 1219 is overly broad and, if anything, likely to tilt the field even further in the direction of special interest influence.

In my view the central question we must address in reforming campaign financing is "whose voice shall be heard during the campaign?" The proposals set forth in S. 1219 would have the ironic effect of limiting the speech of the candidate while expanding the speech of the special interest groups. The proposed legislation would encourage candidates to abide by certain expenditure limits, thereby restricting their ability to communicate with the voters. Conversely, the legislation does little to curb the ability of special interest groups to spend their money independently of any restrictions. This allows interest groups to define the central issues of the campaign. It forces candidates to follow the lead of these interest groups, preventing the voters from hearing directly from the candidates and judging for themselves which candidate has the proper positions and the proper priorities.

I believe that the solution begins with limiting the amount of out-of-State/district contributions and PAC donations as I did in my own campaign. By limiting out-of-State/district contributions we can address the perception that House and Senate Members are not primarily focused on the priorities of their own constituents. Similarly, by placing a limit on the amount of PAC contributions a candidate may receive, we can address the concern that public officials are unduly influenced by special interest groups.

Mr. President, I am also concerned about provisions in S. 1219 which shift resources from the private sector to the candidates. These provisions, in effect, allow candidates to do as they please with other people's involuntarily extracted money. The idea that taxpayers, through special postage rates, should subsidize complying campaigns, seems to me wrong. And, just as the taxpayers should not be obligated to finance someone else's political speech I feel it inappropriate to extract such subsidies from the owners of broadcast entities.

Mr. President, I believe that campaign finance reform should focus on limiting PAC and out-of-State/district money. I have codified these limits in my own campaign finance reform bill which I believe has the effect of permitting candidates to speak freely while curbing the influence of special interest and out-of-State moneys. In contrast, S. 1219 permits the increased influence of special interest money while curbing candidates' ability to communicate with the voters. For these reasons, I have voted against cloture and look forward to advancing my own legislation in the future.

Mr. MCCONNELL. Mr. President, I have just been handed two very timely additions to this debate: an editorial in today's Wall Street Journal entitled "Muzzling Campaign Speech" and a letter dated today from the American Civil Liberties Union noting in some detail their many objections to the McCain-Feingold bill.

I would note for the benefit of those who persist in mischaracterizing the proposed spending limits as "voluntary" that the first point in the ACLU letter is the emphatic assertion that they, in fact, are not. The bill would severely handicap a noncomplying candidate relative to a complying candidate so there really would be no choice other than to comply. At this point, I ask unanimous consent that the ACLU letter and the Wall Street Journal article be printed in the RECORD. For the benefit of colleagues who have not yet read the editorial I would note that the closing sentence captures the essence of the bill before us today: "The Senate should vote down the McCain-Feingold bill before it does to American democracy what Clinton-Care would have done to medicine."

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

[From the Wall Street Journal, June 25, 1996]

MUZZLING CAMPAIGN SPEECH

Some 20 years after Congress first restricted campaign speech, the Senate will vote today on a campaign finance proposal that suggests the way to correct the problems those misguided "reforms" have created is with more restrictions. We don't think so.

To the government goo-goos, led by Common Cause, money is the root of all evil in politics and should be pulled out regardless of the cost or the Constitution. They have convinced GPO Senator John McCain and Democrat Russ Feingold to propose a bill that would pass out subsidies for low-cost mail and television advertising to candidates who abide by "voluntary" spending limits. This is public financing under another guise. Subsidizing the mailing of more campaign literature alone could cost $100 million, money the Postal Service would have to recover by raising rates for other customers.

Having created a permanent entitlement to cut-rate campaign ads, the goo-goos would then ban contributions from political action committees. Advocacy organizations from Emily's List on the left to the Christian Coalition on the right would see their activities scrutinized by the Federal Election Commission, which lately has seen one after another of its edicts struck down by the courts.

In 1976 the Supreme Court ruled in *Buckley* v. *Valeo* that political contributions and spending are the equivalent of political speech. Giving the FEC more control over politics will limit speech. The McCain-Feingold bill would cede authority to the FEC over any "expression of support for or opposition to a specific candidate" and permit it to block such expression with an injunction if the agency believes there is a "substantial likelihood that a violation . . . is about to occur." The prospect of this enhanced federal power had driven groups as disparate as the American Civil Liberties Union and the American Nurses' Association to oppose the bill.

The desire to police politics better by making the federal government a meaner watchdog with a longer leash is based on flawed premises. The first is that the influence of money in politics is excessive and out of control. In fact, House and Senate races, which unlike Presidential races don't rely partly on public financing, saw about $700 million spent on them in 1994. As George Will has pointed out, that's about half of what Americans spend on yogurt every year.

What is excessive in politics is not the money spent, but the amount of political power that government in our time has to direct economic outcomes and regulate behavior. Given that Congress can either put whole industries at risk or hand them a subsidized bonanza, what's surprising is that more money isn't spent trying to influence the people running for Congress. The reformers, especially inside the Beltway, give the clear impression that the government is so indisputably virtuous in its every mandate that private parties should bow before it, rather than spend money to defend themselves, an effort almost always seen by the Beltway as the work of non-virtuous "special interests."

The second mistaken premise behind campaign reform is that the country is clamoring for it. We're told, for instance, that 1992 Perot voters will have the heads of elected

officials on a platter if they don't crack down on campaign cash. But there is little evidence of that. A Tarrance Group survey in April found that just one voter out of a thousand identifies campaign reform as the country's most pressing problem. Voters are justifiably skeptical of political reforms proposed by incumbent politicians.

This is not to say that nothing can be done. We are attracted by the realistic ideas of Larry Sabato and Glenn Simpson in their new book "Dirty Little Secrets." They conclude that individual limits on campaign contributions, which haven't been indexed for inflation in 22 years, should be raised and a regime of full disclosure on all political spending should be created. That will let the voters both hear from candidates other than incumbents and let them weigh the relative influence of everyone participating in the process.

The current effort at campaign finance reform has a lot in common with the failed Clinton health-care plan, which sought to "fix" the problems created by government involvement in health care by having the government micromanage the entire health care sector. The Senate should vote down the McCain-Feingold bill before it does to American democracy what ClintonCare would have done to medicine.

AMERICAN CIVIL LIBERTIES UNION,
New York, NY, June 25, 1996.

Dear Senator:

The American Civil Liberties Union had the privilege of testifying before the Senate Rules Committee on February 1, 1996 and at that time we elucidated our objections to the "reform" proposals set forth in the Feingold-McCain bill, S. 1219. Throughout the current Senate debate, our opposition has been repeatedly referenced. Rather than reiterate all of our objections in detail in this letter, I encourage you to read the testimony prepared on our behalf by Professor Joel Gora, of the Brooklyn Law School.

Congress is endeavoring to reform current campaign finance laws and regulations in an effort to reduce the perceived adverse impact of monetary contributions on federal elections. The call for reform is also punctuated by cries of corruption. If there is corruption then Congress does have the obligation to correct systemic problems, and to ensure that the Federal Election Commission is exercising fair and consistent enforcement of the existing laws. But influence is not synonymous with corruption, and labeling certain monetary contributions as such perpetuates notions of corruption that have not been, in our view, adequately borne out by the hearings before the Senate Rules Committee.

While rooting out corruption is a worthwhile objective, S. 1219 goes much further than merely attempting to eliminate perceived corruption. Current proposals before the Senate dramatically change the rules concerning financing of federal campaigns in ways that do greater harm to civic participation in the federal electoral process than good. Most importantly S. 1219 directly violates First Amendment guarantees of freedom of speech and freedom of association.

Some of our specific objections to the Feingold-McCain (S. 1219) and similar proposals include:

The bill's "voluntary" expenditure limits are coercive and violate First Amendment principles. The bill requires the receipt of public subsidies to be conditioned by a surrendering of the constitutional right to unlimited campaign expenditures. The bill grants postage and broadcasting discounts only those candidates that "volunteer" for spending limits. The bill raises an individual's contribution limit from $1,000 to $2,000 for those candidates that agree to spending limitations and therefore fiscally punishes those candidates who wish to maintain their constitutional right of unlimited spending.

The bill's ban of Political Action Committees are a violation of freedom of association and is therefore unconstitutional. Such a provision would result in a restriction in protected speech for any group the Federal Election Committee deemed a "political committee." All relevant constitutional precedent, including Buckley v. Valeo 424 U.S. 1, 57 (1976) and FEC v. National Conservative Political Action Committee 470 U.S. 480 (1985), clearly suggest that the Supreme Court would overturn such a ban.

The limitation on out-of-state contributions is constitutionally suspect and is disturbingly insular. In-state limitations potentially deny underfinanced, lesser-known insurgent candidates of the kind of out-of-state support they may need. As long as citizens in the affected district are the ones who select the candidate, how the candidate is financed is a less compelling concern. After all, Congress is our national legislature, and although its representatives are elected from separate districts and states, the issues it debates and votes on are of concern to citizens from all over the nation.

The bill's disclosure requirements and regulations on "soft money" do not take into consideration the constitutional divide between candidate-focused expenditures and contributions, which are subject to some regulation, and all other non-partisan, political and issue-oriented speech, which are not. This restriction does not live up to the "most compelling government interest" standard in regards to electoral advocacy as required by the Supreme Court in Buckley v. Valeo, 424 U.S. at 14–15, 78–80. This restriction also does not satisfy the minimum scrutiny of a "compelling" state interest in the regulation of political parties as required by the Supreme Court in Tashjian v. Republican Party, 479 U.S. 208 (1986).

The bill's new provisions governing the right to make independent expenditures unconstitutionally invades the absolutely protected area of issue advocacy. By broadening the definition of "express advocacy" the bill would encompass the kind of essential issue advocacy which Buckley has held to be completely immune from government regulation and control.

The bill so broadly defines "coordination" that virtually an individual who has had any interaction with a candidate or any campaign officials, in person or otherwise, is barred from making an independent expenditure. A disaffected campaign worker or volunteer for example, who leaves the campaign because he or she thinks a candidate has acted improperly, is barred from making independent expenditures against the candidate, for, ironically, they will be deemed a contribution.

The bill gives unacceptable new powers of political censorship to the Federal Election Commission. The FEC would be permitted to go to court and seek an injunction on the allegation of a "substantial likelihood that a violation . . . is about to occur." This is fraught with First Amendment peril because individuals and groups will face "gag orders" until a determination of wrongdoing is made.

This bill serves the purpose of unfairly protecting incumbency by further limiting the overall amount of speech allowed during a campaign. A limitation in the quantity of speech makes the incumbent's name recognition and ability to create free press and media attention all the more valuable.

This bill unfairly hinders access to the political process of independent and third party candidates by limiting access to public financing and avenues for receiving private donations.

Constitutionally acceptable campaign finance reform proposals could include the following elements:

Uncoerced public financing that include the following provisions: Floors or foundations upon which candidates can build their campaigns, not ceilings to limit them, the availability of public financing to all legally qualified candidates who have demonstrated an objective measure of support, the availability of matching funds without unconstitutional conditions attached, institution of the frank to all legally qualified federal candidates.

Raise individual contribution limits. This will serve to decrease reliance on PAC sources of support.

Modest tax credits of up to $500 for private political contributions.

Public access and timely disclosure of large contributions. This is the most appropriate way to deal with problems of undue influence on elected officials.

Thank you for your consideration of our views.

Sincerely,

LAURA W. MURPHY,
Director.

Mr. FAIRCLOTH. Mr. President, first and most importantly, I strongly support reform of our campaign finance system. Regrettably, there are several broad problems with McCain-Feingold bill.

First, I have serious concerns that this bill does more to limit the rights under the First Amendment, than it does to reform our campaign finance laws. It bans political action committee contributions—but it does nothing to empower the individual by raising individual campaign contribution limits.

Second, as we have come to learn, it is impossible to plug all of the money loopholes in politics. This legislation bans outside expenditures by political action committees and other interest groups, yet it does nothing to limit the use of labor union dues for political purposes.

Finally, there are unintended consequences of well-intentioned reform. After all, the present system we are attempting to change is a product of earlier "reforms" from the post Watergate years.

Mr. President, specifically, I have concerns that spending limits function as an incumbent protection act. Further, the spending limits aid those without a primary. Look at the recent Presidential election. Senator Dole spent the maximum to get the GOP nomination—and is now virtually out of money with respect to the spending limits.

If we really want to change our system, we should have enacted term limits. Members of Congress should be

more concerned with the next generation than the next election but the constant pressure of re-election affects votes and contributions.

Mr. President, any reform system should be tilted more in favor of public disclosure of campaign contributions. The Federal Election Commission's main mission should be to publicize campaign finance information to the people.

Finally, contributions limits from individuals should be adjusted to keep pace with inflation. The declining value in real dollars of the maximum contribution from an individual to a Federal candidate is now worth only about a third as much as when it went into affect in 1975. This change would lessen reliance on political action committee contributions and shorten the time candidates must spend asking for money.

Remember, State candidates in North Carolina can accept $4,000 contributions per election while Federal candidates can only receive $1,000. Adjusting the contribution limits for individuals coupled with greater disclosure would be a significant improvement.

For this reason, Mr. President, I cannot support the McCain-Feingold bill in its present fashion. We share the goal of reforming the campaign finance system but there is a difference in the details. My suggestion for reform includes term limits, greater public disclosure of contributions, and increasing the limits on contributions from individuals to lessen reliance on political action committees.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, to make concluding remarks, and later Senator MCCAIN will make other concluding remarks, let me again clarify the point about constitutionality. The Senator from Virginia said clarity of conscience prevents him from working for this bill because of the PAC ban. But the fact is the Senator from Kentucky and the Senator from Virginia and the Senator from Washington all voted for the Pressler amendment 3 years ago that does exactly what our bill does. It bans PAC's, but if the courts say PAC's cannot be banned, it has a voluntary limit on PAC's. The reason they voted for it then, the reason it is OK now, is because it is constitutional, and this is a red herring.

The real issue here is what this vote is going to be. This is the vote on campaign finance reform. I admire the candor of the Senator from Kentucky, who simply says he wants to kill campaign finance reform this session. He is not up here proposing an alternative. He admits that is his goal. That is the vote.

This is the first bipartisan bill in 10 years. Who will benefit from this bill? Many people will benefit. Incumbents will benefit from having more time to work on the issues, to not have their fractured attention, as the Senator from West Virginia indicated. Challengers will be the main beneficiaries. Just look at the real statistics. Incumbents blow challengers out of the water with the money. Does anyone out there believe this bill would actually help incumbents? I can tell you as a former challenger, this bill would have made a tremendous difference and would have made the process more fair.

We would also benefit in this country from the inclusion of all the people who never choose to run. You heard the Senator from West Virginia say he never would have run for office if it would have involved this amount of money. I bet the former majority leader, Senator Dole, would not have run either. So there will be winners under this bill and especially people back home.

But there will be losers under this bill. The losers are the people who got together on April 30, all the lobbyists and all the PAC's in this town that have been cited by the other side. They all got together to kill this bill. They said it would prevent their free speech. But the fact is, they are the Washington gatekeepers. They are the people you have to go up to when you are running for office and say, "Will you give us the money?"

I used to go back and say to a banker in Wisconsin or a labor member in Wisconsin, "Can you provide us with some help?" Do you know what they would say? "We have to check in with Washington. Washington has to say yes." This bill will drive people back to their own home States and take away the power from the gatekeepers.

How does it work? I mentioned it before. Here is one example. Here is a letter about how it works, and I will omit the name of the Representative.

> During this year's congressional debate on dairy policy, Representative [Blank] has led the charge for dairy farmers and cooperatives by supporting the federation's efforts to maintain the milk marketing order program and expand program markets abroad. To honor his leadership the federation is hosting a fundraising breakfast for [Blank] on Wednesday, December 6, 1995. To show your appreciation to [Blank], please show up at Le Mistral Restaurant at 8 a.m. for an enjoyable breakfast with your dairy colleagues. PAC's throughout industry are asked to contribute $1,000.

That is how it is done in this town. That is what the gatekeepers want to keep, and that is what we have to crack down on and eliminate.

To make my final remarks, let me say this thing has just gotten worse year after year. I want to finish by reading a few quotations from people who have been troubled about this over time. Woodrow Wilson:

> The Government of the United States is a foster child of the special interests. It is not allowed to have a will of its own.

President Eisenhower:

> Many believe politics in our country is already a game exclusively for the affluent. This is not strictly true; yet the fact that we may be approaching that state of affairs is a sad reflection on our elective system.

From Barry Goldwater:

> It is not "We, the people," but political action committees and moneyed interests who are setting the Nation's political agenda and are influencing the position of candidates on the important issues of the day.

From Jack Kemp, explaining why he would not run for President in 1996:

> There are a lot of grotesqueries in politics, not the least of which is the fundraising side. . .. I don't seem to be talking about the things that the fundraising people want me to talk about.

Finally, from Robert F. Kennedy, who said:

> The mounting cost of elections is rapidly becoming intolerable for a democratic society, where the right to vote—and to be a candidate—is the ultimate political protection. For we are in danger of creating a situation in which our candidates must be chosen only from among the rich, the famous, or those willing to be beholden to others who will pay the bills.

Mr. President, what Robert Kennedy said over 30 years ago is even worse than he could have imagined today. What he feared has come to pass, and our bill would begin the process of returning campaigns and elections, and yes, our Government, back to the people at home.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 12 minutes.

Mr. MCCONNELL. Mr. President, I do not think there is any issue which we deal with that more clearly sums up the differences of the two parties toward American participation in politics than the issue of campaign finance reform.

Make no mistake about it, Mr. President, this is a partisan issue. The Republican National Committee opposes the bill. The Democratic National Committee supports the bill. So there is nothing particularly bipartisan about the bill. There are a few Republicans who support it and a few Democrats who oppose it, but the heart of the matter is, this is a very partisan matter as currently presented to the Senate.

Why is it partisan? It is partisan, Mr. President, because Republicans for the most part, accompanied by some interesting allies, from the ACLU to the National Education Association, believe there is nothing inappropriate about American citizens participating in the political process. We think that ought to be applauded, not condemned. We are not offended by those exercising their rights to petition the Congress, those exercising their right to engage in free speech. We do not think that is

bad for America, Mr. President. We think it is good for America.

Whether our opponents on the other side of the aisle like it or not, the Supreme Court has been very clear that the speech of political candidates cannot be restricted. Thank God for Buckley versus Valeo, one of the great decisions in the history of the Supreme Court.

The speech of candidates should not be restricted. That is an extremely important principle, Mr. President. After all, if we make the candidates shut up and if we make the people who want to support them shut up, who controls the discourse, the debate? Why, someone else. Where will this transfer of power go? One place it will go, obviously, is to the newspapers, most of whom love this legislation because they realize it will enhance their power as the campaigns' power to communicate is diminished. So they think this is a terrific idea.

Many of the large membership interest groups are not particularly worried about this legislation because they know you cannot constitutionally restrict their ability to communicate with their own members, what we call nonparty soft money, or in any real way restrict their ability to communicate with the public, what we call independent expenditures, both of which, or the latter of which is certainly protected by the Buckley case.

So what this is all about, Mr. President, is who gets to speak and how much—who gets to speak and how much—and whether or not private citizens can continue to band together and support candidates of their choice.

It is said that too much is spent, which means to say there is too much speech in the American political system. My view is that it is not inappropriate to ask, when you say too much is being spent—compared to what? In the last cycle we spent about as much on political speech as we did on bubble gum. Put another way, $3.74 per voter in the last cycle. I would argue, Mr. President, that is not too much political speech—not too much political speech.

Then they say, the public is clamoring for this reform. A comprehensive poll by the Tarrance polling group back in April of 1996 asked that question in a variety of different ways. Suffice it to say, one person out of the 1,000 interviewed thought this was an important issue confronting the country. There is no clamoring for this. The interest in this all depends on how you ask the question. If you ask the question: Do you think it is a good idea to restrict my right to participate in the political process? Obviously, people are not in favor of that.

There has been some debate about whether this is constitutional. Let me say maybe the other side has been able to scrape up a few people with a law degree calling this constitutional, but the heavies in this field do not think it is. The American Civil Liberties Union—sometimes we love them; sometimes we hate them, but, boy, do they know a lot about the first amendment and have had a lot of success over the years in this country. They believe this matter is clearly and unambiguously unconstitutional.

Assuming it could get past the constitutional problems, Mr. President, pushing all these people out of the process and putting a speech limit on the campaigns, how would those speech limits be enforced? By, of course, the Federal Election Commission, which would soon be the size of the Veterans Administration trying to restrict the free speech of not only 535 additional political races, but also of a bunch of outsiders who might inadvertently band together and try to speak. So the FEC is given injunctive relief, so it can go into court and shut people up who are engaging in speech that the Government does not want to be expressed.

That is what this bill is about—building a massive Federal bureaucracy to restrict the speech of candidates and of groups in this country. This is one of the worst ideas we have debated around here since the last time a proposal like this was up on the Senate floor.

The Court said very clearly, if you want to try to entice campaigns into shutting up, and the Government wants to say it is not good for candidates to speak more than a certain amount—we see that in the Presidential system and the nightmare that has become. As Senator GORTON pointed out yesterday, there is only one person in America who is told to shut up at that point, and that is one of two candidates who is running for President, Bob Dole. That is what we ought to be reforming, the Presidential system.

But the Court said, if you want to entice people into shutting up, not speaking too much, you can offer them some kind of subsidy, a Federal subsidy. So the Presidential system says to the candidates running for President: You can only raise $1,000 per person. So, when looking at that difficult task of trying to put together a nationwide campaign at $1,000 a person, every candidate virtually, except Ross Perot and John Connally, has said, "OK. I'll shut up. You bought me off. There is no way I can possibly raise enough money to run at $1,000 a person." Then they get the Federal subsidy.

In this bill, in order to allow the sponsors to claim that there is no taxpayer money in it, they shift the subsidy to a couple of private industries. They say, we are going to call on the broadcasting industry to reduce the prices for political ads by 50 percent. What will happen? Why, of course, they will pass on the cost of that to all the other people advertising. So those taxpayers are going to have to pay more for their product because of the Government-mandated program.

There is a second industry that is affected by this as well, Mr. President. That is the people who use the mails. There is a postal subsidy in here. The Postmaster General wrote me yesterday saying he opposed this. Of course, the Direct Marketing Association opposes this. Of course, the National Association of Broadcasters opposes this. They are not particularly interested in having to reach into the coffers of their businesses to pay for political views with which they might disagree.

So getting back to the direct mail subsidy, the rates of everybody else who uses the Postal Service are going to be increased so a subsidy can be provided by those taxpayers to support the expression of views with which they may disagree.

So, Mr. President, spending limits are not free. There is no way to concoct, under the Buckley case, any effort to shut people up that does not have some cost. You can shift it around and kind of claim it is not part of the Treasury. You can assess a business maybe. But they are not free.

So what is wrong with this bill? Just about everything you can think of. It is based on the fallacious assumption that too much is being spent. It is based on the notion that the public is clamoring for it. Neither of those propositions is true. It assumes there is some way to level the political playing ground for everyone, which is impossible to achieve. It is unconstitutional, clearly and obviously. It would create a gargantuan Federal Election Commission with the mission to shut people up all across America. It would call upon two industries, the broadcast industry and the direct mail postal users, to pay for the price of all of this big Government.

For all of these reasons, obviously, Mr. President, this bill should be defeated. The way to defeat this bill is to vote "no" on cloture.

Mr. President, I have a variety of magazine articles that have come out against this bill, including Weekly Standard, the Wall Street Journal, Rollcall, the National Review, and the Baltimore Sun, and I ask unanimous consent that the editorials be printed in the RECORD.

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

[From the Wall Street Journal, Nov. 16, 1995]

THE MAN WHO RUINED POLITICS

So Colin Powell is not running for President. Neither is Jack Kemp, Bill Bradley, Dick Cheney, Sam Nunn or William Bennett. Voters are left with the likely choice between two rather tired war horses, Bill Clinton and Bob Dole. No other Democrat is challenging an obviously vulnerable incumbent, and Republican contenders such as Phil Gramm, Pat Buchanan and Lamar Alexander hover in single digits. In this second rank we

now also have millionaire publisher Steve Forbes, who started from nowhere to grab the first rung on the ladder. And of course, billionaire Ross Perot still haunts the scene.

If you don't like the remaining field, blame Fred Wertheimer and Common Cause, the organization he until recently ran and still animates, are the principal architects of the cockamamie financial gauntlet we inflict on our potential leaders. Common Cause is point-lobby for the goo-goos, that is, the earnest folks always trying to jigger the rules to ensure good government. One of their conceits is that money is the root of all political evil, so they seek salvation in the Sisyphean task of eliminating its influence. The chief result of this is a rule outlawing individual political contributions of more than $1,000, and a bureaucracy called the Federal Election Commission to count angels on pinheads in deciding, for example, what counts as a contribution.

A serious Presidential campaign is likely to cost $20 million. This means a potential Presidential has to start by persuading 20,000 different people to pony up a grand. Take an arbitrary but probably generous hit rate of 5%, and he (or she) has to pass the tin cup 400,000 times. Admittedly these numbers oversimplify, but they give you the idea. Mr. Wertheimer's brainstorm means fund-raising is so consuming that candidates have no time for anything else. Even more important, it is a process virtually designed to drain a potential President of any residue of self-respect.

This may not be the only thing General Powell means when he says running requires a fire he does not yet feel, but it is certainly a big one. His adviser Richard Armitage explicitly said, "Colin Powell going out and asking people for money and then spending all that money wasn't attractive." Mr. Kemp was similarly explicit in not wanting to undertake the fund-raising exercise, and it no doubt inhibited Mr. Cheney as well. On the Democratic side, finding 20,000 donors to challenge an incumbent is an even more daunting challenge; Senator Bradley and Senator Nunn decided to quit rather than fight.

It is no accident that the dropouts are precisely the types the goo-goo crowd would like to keep in politics, which is to say, those motivated by principle instead of sheer ambition. In 1988, to take an earlier example, the exploratory field included Don Rumsfield, who had been a Congressman, White House Chief of Staff, Defense Secretary and a spectacularly successful corporate chief executive. But he threw in the towel rather than run up possibly unpayable debts—"as a matter of principle, I will not run on a deficit."

The doleful effect of such limitations were entirely predictable; indeed, they were predicted right here. As early as 1976, when the Supreme Court partly upheld the 1974 Federal Election Campaign Act, we wrote that the law "will probably act like the Frankenstein's monster it truly is. It will be awfully hard to kill, and the more you wound it, the more havoc it will create." In the face of hard experience, of course, the goo-goos prescribe more of the same, to the point where "campaign finance reform" has become the Holy Grail.

To be fair, the Wertheimer coven hasn't had its way entirely. The logic of the goo-goo impulse is public financing of political campaigns, an idea mostly hooted down by the same taxpayers who eagerly embrace term limits—though in Presidential campaigns public finance serves as the carrot getting candidates to accept the FEC nit-picking. And the Supreme Court, while backing away from the obvious conclusion that limiting political expenditures is *prima facie* an infringement of free speech, couldn't bring itself to say someone can't spend his own money on his own campaign.

Thus the millionaire's loophole. Mr. Perot was able to use his billions to confuse the last Presidential elections, going in, out and back in at will. So long as he doesn't accept public money, he can spend as he likes.

Mr. Forbes is an even more interesting case, since he was chairman of Empower America, the political roost of both Mr. Kemp and Mr. Bennett. Who would have guessed a year ago, the latter asks, that the Empower America candidate would be Steve Forbes. On the issues Mr. Forbes is perhaps an even better candidate than his colleagues—backing term limits where Mr. Kemp opposes them, for example—and without his message his money wouldn't do much good. Still, to have a better chance at ultimately winning, it would have been logical for him to bankroll one of his better-known colleagues. But that's against the law, thanks to Mr. Wertheimer, so Mr. Forbes has to hit the stump himself.

With widespread disaffection with the current field, and especially in the wake of the Powell withdrawal, the lunacy of the current rules is coming to be recognized. The emperor has no clothes, think tank scholars are starting to say—notably Bradley A. Smith of the Cato Institute, whose views were published here Oct. 6. Following Mr. Smith, Newt Gingrich said last weekend we don't spend too much on political campaigns but too little. This heresy was applauded this week by columnist David Broder, which may herald a breakthrough in goo-goo sentiment itself.

Formidable special interests, of course, remain opposed to change in the current rules. Notably political incumbents who want campaigns kept as quiet as possible and have learned to milk other special interests who want access. So rather than having some maverick millionaire funding his pet candidate on reasons that might relate to ideas and issues, we have all parties funded by Dwayne Andreas and his sisters and his cousins and his aunts, better to protect ethanol subsidies. Finally, of course, we have Mr. Perot and his United We Stand hell-bent for further restrictions on campaign finance, better to protect the political process for billionaires like himself.

Not so, thankfully, Mr. Forbes, who sees campaign spending limits as an incumbent protection device. He recently told an Iowa audience, "If Congress abolished the franking privilege, then I'd be impressed." Lift the caps on giving and spending, but make sure everything is disclosed, he says. "That's real reform."

[From the Wall Street Journal, Feb. 2, 1996]

RUINING POLITICS—II

Not long ago these columns described how the crazy campaign-finance reforms dreamed up by the likes of Fred Wertheimer and Common Cause have been ruining politics. Oregon voters just got another such lesson in their special Senate election this week.

Democrats are understandably pleased with their narrow (less than 1% margin) victory, but so too are the Sierra Club, the League of Conservation Voters (LCV), the Teamsters, the gay and lesbian lobby, the public-employee unions, NARAL (the abortion rights outfit), the National Council of Senior Citizens and the AFL-CIO. All of these liberal groups weighed in with what campaign finance laws call "independent expenditures" on behalf of Democrat Ron Wyden. Call this the Common Cause loophole.

In the world of campaign reformers, money is the root of all evil. So they spend their time denouncing candidates who raise it for bending to "special interests." Yet what the reformers won't advertise is that there's nothing much they can do about the special interests who decide to spend money on their own.

As they did to great effect in Oregon. The AFL says it devoted 35 full-time professionals and sent out 350,000 pieces of partisan mail for the cause. The Sierra Club and LCV spent $200,000 on 30,000 postcards, 100,000 telephone calls and very tough TV and radio spots accusing Republican Gordon Smith of "voting against . . . groundwater protection, clean air, pesticide limits, recycling."

The topper was a Teamster radio spot, run on seven stations in five cities, that in effect accused Mr. Smith of being an accomplice to murder because a 14-year-old boy died in an accident at one of his companies. "Gordon Smith owns companies where workers get hurt and killed. He has repeatedly violated the law. Those are the facts."

In fact, the young worker had died after a fall in a grain elevator while being supervised by his father, who still works for Mr. Smith and doesn't blame him. An analysis of the ad in the liberal Oregonian newspaper essentially concluded that the whole thing was false. (By the way, the ad was the work of consultant Henry Sheinkopf, who is part of Bill Clinton's re-election team this year and likes to say he believes in the politics of "terror." We trust Mr. Clinton will soon give him his post-Oklahoma City "civility" speech to read.)

Even Mr. Wyden felt compelled to criticize the rhetoric of the ad, but since it wasn't run by his campaign, he couldn't be blamed for it, even as it cut up his opponent. That's the beauty of these "independent expenditures": They work for a candidate without showing his fingerprints. Mr. Wyden even took the high road earlier this month and announced that both candidates should stop negative campaigning, while his allies kept dumping garbage on Mr. Smith through the mail and on the airwaves!

Now, we understand that Republicans do this, too. The NRA doesn't play beanbag. And as a millionaire businessman, Mr. Smith was able to spend enough of his own money to answer this stuff in his campaign. But candidates who aren't millionaires have to find money somewhere else, which means from people and interests that have money. Yet if Mr. Wertheimer and Common Cause get their way, nonrich candidates would find their ability to raise that money drastically limited. The special interests would still be able to sling their junk, while a candidate would lack the cash to respond.

Something very much like this probably cost Republicans the governorship last year in Kentucky, where the AFL spent lavishly for the Democrat but the Republican was hemmed in by spending limits. And, of course, operations such as the AFL or the teachers unions have an unlimited supply of money from forced union dues, while other liberal special-interest groups get taxpayer subsidies that Republican Senators like Vermont's Jim Jeffords are refusing to kill. (Question: What does Mr. Jeffords have against electing other Republicans?) If Congress tried to restrict such "independent" spending in some new reform, the Supreme

Court would probably (and rightly) strike it down as a violation of the First Amendment.

The bigger point here is that John McCain, Fred Thompson, Linda Smith and other Republicans who've joined up with Common Cause need to rethink their allegiances. They're lending credibility to an exercise that is sure to backfire on their party, if not on them, and probably on our democracy. How ironic it would be if, in the name of controlling special interests, our sanctimonious reformers merely made them more powerful.

Mr. McCONNELL. I ask unanimous consent to have printed in the RECORD testimony on the constitutionality of the broadcast provisions in the bill prepared for the National Association of Broadcasters.

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

CONSTITUTIONAL INFIRMITIES OF PENDING POLITICAL BROADCASTING LEGISLATION

(Prepared for National Association of Broadcasters by P. Cameron DeVore, Gregory J. Kopta, Robert W. Lofton, of Davis Wright Tremaine)

SUMMARY

Pending Congressional campaign finance reform legislation would substantially expand federal political candidates' "reasonable access" to broadcast time, raising fundamental issues under both the First and Fifth Amendments to the United States Constitution. Several bills would require broadcasters to provide free and/or heavily discounted time to political candidates as an incentive for candidates to voluntarily comply with campaign spending limits. The goal of this legislation apparently is to reduce the cost of federal election campaigns for House and Senate seats and thereby enhance the integrity of the electoral process.

By requiring broadcasters to finance political candidates, the pending legislation would compel broadcasters to engage in protected speech. Such a requirement could only be justified by compelling necessity, and then only if precisely tailored to the government's interest. Mandating that broadcasters, rather than candidates, pay to communicate partisan political messages would not advance the government's interest in enhancing the integrity of the electoral process. In addition, the government could advance that interest more effectively through numerous alternatives that do not involve encroachments on First Amendment freedoms.

Broadcasters historically have been subject to more restrictions than have other media on their constitutionally protected editorial discretion, but the traditional rationale of spectrum scarcity no longer justified singling out broadcasters for reduced First Amendment protection, particularly in light of the multiplicity of other outlets for diverse viewpoints. The pending legislation nevertheless could not survive even the "intermediate scrutiny" requirements of narrow tailoring to a substantial government purpose. Compelling broadcasters to finance political campaigns would bear no relationship to broadcasters' public interest duties, and would upset the delicate balance between their journalistic freedoms and their obligations as licensees of the public airwaves. By singling out broadcasting from other media and usurping broadcast facilities and time, the proposed legislation also denies broadcasters equal protection of the law and takes their property without just compensation, in violation of the Fifth Amendment.

For all of these reasons, it is our view that those aspects of the pending legislation that require broadcasters to provide free or subsidized time for political candidates' speech would likely be held unconstitutional by the courts.

Mr. McCONNELL. Mr. President, I ask unanimous consent to have printed in the RECORD a constitutional analysis conducted for the National Right to Life Committee.

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

BOPP, COLESON & BOSTROM,
ATTORNEYS AT LAW,
Terre Haute, IN, November 7, 1995.

Re: Senate Campaign Finance Reform Act of 1995.

DAVID O'STEEN, Ph.D.,
National Right to Life Committee,
Washington, DC.

DEAR DR. O'STEEN: You have asked me, as General Counsel for the National Right to Life Committee ("NRLC"), to evaluate the proposed Senate Campaign Finance Reform Act of 1995 ("The Act"). We have done so.

Based on our evaluation, we recommend that NRLC oppose the Act because of the effects it would have on NRLC activities. These are set forth below.

SECTION 201

Section 201 would abolish connected political action committees ("PACs"). The Act prohibits membership corporations, such as National Right to Life, from having a connected PAC. This would abolish National Right to Life PAC. This would severely affect the ability of NRLC to influence federal elections because NRLC would not have a connected PAC.

Section 201 also permits only individuals or political committees organized by candidates and political parties to solicit contributions or make expenditures "for the purpose of influencing an election for Federal office." This appears to do two things.

First, it appears to prohibit independent PACs, so that persons associated with NRLC couldn't create an independent PAC to do express advocacy for or against candidates.

Second, it also appears to bar nonprofit, nonstock, ideological organizations—which under *FEC* v. *Massachusetts Citizens for Life*, 479 U.S. 238 (1986), could do independent expenditures—from making such independent expenditures on behalf of or in opposition to candidates.

SECTION 251

Assuming that under the Act independent expenditures can be done by someone other than an individual,[1] so that NRLC still could have a PAC capable of making contributions and expenditures to influence an election, there remains a problem. The problem is with the definition of independent expenditure in the Act.

The Act defines "independent expenditure" as an expenditure containing "express advocacy" made without the participation of a candidate. "Express advocacy" is defined extremely broadly:

"18(A) The term "express advocacy" means when a communication is taken as a whole and with limited reference to external events, an expression of support for or opposition to a specific candidate, to a specific group of candidates, or to candidates of a particular party.

"(B) The term "expression of support for or opposition to" includes a suggestion to take action with respect to an election, such as to vote for or against, make contributions to, or participate in campaign activity, or to refrain from taking action."

This extremely broad definition of "express advocacy" would sweep in protected issue advocacy which NRLC does, such as voter guides. For example, criticizing a candidate for his or her proabortion stand near an election time would fall within the express advocacy definition because it would constitute "an expression of . . . opposition to a specific candidate." This phrase goes far beyond what the United States Supreme Court said was permissible to regulate as electioneering in the case of *Buckley* v. *Valeo*, 424 U.S. 1 (1976). In *Buckley*, the Supreme Court held that in order to protect issue advocacy (which is protected by the First Amendment), government may only regulate election activity where there are explicit words advocating the election or defeat of a clearly identified candidate.

In sum, these provisions of the Act would prevent NRLC from engaging in constitutionally-protected issue advocacy.

SECTION 306

Section 306 of the Act authorizes an injunction where there is a "substantial likelihood that a violation . . . is . . . about to occur." Thus, the FEC would be authorized to seek injunctions against expenditures which, in the FEC's expansive view, could influence an election. Such a preemptive action against speech is an unconstitutional prior restraint and is unconstitutional except in the case of national security or similarly weighty situations. Prior restraint should never be allowed in connection with core political speech. There simply is no governmental interest of sufficient magnitude to justify the government stopping persons from speaking. Because prior restraints of speech are so repugnant to the Constitution, the usual remedy is to impose penalties after the speech is done, if a violation of law occurred in connection with the speech.

Therefore, under the Act, the Federal Election Commission would be authorized to pursue injunctions against the political speech of persons or organizations suspected of violating the Act. This means that NRLC would be subject to a prior restraint of its speech, even issue advocacy, on the eve of an important election. Given its history of expansive readings of its powers to regulate constitutionally-protected speech, the Federal Election Commission should never be handed the weapon of prior restraint.

As stated at the beginning, there are severe problems with the Act. The Act would profoundly alter NRLC's ability to affect federal elections. Therefore, we recommend that National Right to Life Committee oppose the Act.

Sincerely,

JAMES BOPP, Jr.
RICHARD E. COLESON.

[1] There is a way this could happen. Apparently due to concerns about the constitutionality of what Section 201 of the bill does (§324 of the FECA), the Act creates a fall-back position for times when those provisions might not be in effect, i.e., might be enjoined for unconstitutionality. This fall-back provision is that during the time when the ban on connected and independent PACs might be enjoined from enforcement the total that a candidate can receive from a "multicandidate" PAC is "20 percent of the aggregate Federal election spending limits applicable to the candidate for the election cycle." Thus, the fallback is that if connected and independent PACs cannot be abolished altogether, then the total contributions from such PACs would be capped. Under this provision, the ability of NRL PAC to contribute to federal candidates would be severely affected.

Mr. McCONNELL. In addition, I have individual columnists like George Will and David Broder who have expressed opposition to various parts of this measure, and I ask unanimous consent that those columns be printed in the RECORD.

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

[From Newsweek, Apr. 15, 1996]

CIVIC SPEECH GETS RATIONED

(By George F. Will)

Surveying the constitutional and political damage done by two decades of campaign finance "reforms," friends of the First Amendment feel like the man (in a Peter De Vries novel) who said "In the beginning the earth was without form and void. Why didn't they leave well enough alone?" Reformers should repent by repealing their handiwork and vowing to sin no more. Instead, they are proposing additional constrictions of freedom that would further impoverish the nation's civic discourse.

The additions would be the Forbes-Perot Codicils, abridging the right of a rich person to use his or her money to seek elective office. This will be called "closing a loophole." To reformers, a "loophole" is any silence of the law that allows a sphere of political expression that is not yet under strict government regulation.

Jack Kemp, Bill Bennett, Dan Quayle, Dick Cheney and Carroll Campbell are among the Republicans who were deterred from seeking this year's presidential nomination in part by the onerousness of collecting the requisite funding in increments no larger than $1,000. You may or may not regret the thinness of the Republican field this year, but does anyone believe it is right for government regulations to restrict important political choices?

There are restrictions on the amounts individuals can give to candidates and on the amounts that candidates who accept public funding can spend. Limits on individuals' giving force candidates who are less wealthy than Forbes or Perot to accept public funding. Such restrictions are justified as necessary to prevent corruption and promote political equality. But Prof. Bradley A. Smith of Capital University Law School in Columbus, Ohio, demolishes such justifications in an article in The Yale Law Journal, beginning with some illuminating history.

In early U.S. politics the electorate was small, most candidates came from upper-class factions and the candidates themselves paid directly what little campaign spending there was, which went for pamphlets, and for food and whisky for rallies. This changed with Martin Van Buren's organization of a mass campaign for Andrew Jackson in 1828. Democratization—widespread pamphleteering and newspaper advertisements for the increasingly literate masses—cost money. Most of the money came from government employees, until civil service reform displaced patronage.

Government actions—Civil War contracts, then land and cash grants to railroads, and protectionism—did much to create corporations with an intense interest in the composition of the government. Then government created regulations to tame corporate power, further prompting corporate participation in politics. Smith says that in 1888 about 40 percent of Republican national campaign funds came from Pennsylvania businesses, and by 1904 corporate contributions were 73 percent of Teddy Roosevelt's funds. Democrats relied less on corporate wealth than on the largesse of a small number of sympathetic tycoons: in 1904 two of them provided three quarters of the party's presidential campaign funds. By 1928 both parties' national committees received about 69 percent of their contributions in amounts of at least $1,000 (about $9,000 in today's dollars).

Only a few campaigns have raised substantial sums from broad bases of small donors. These campaigns have usually been ideological insurgencies, such as Barry Goldwater's in 1964 ($5.8 million from 410,000 contributors), George McGovern's in 1972 ($15 million from contributions averaging about $20) and Oliver North's 1994 race for a U.S. Senate seat from Virginia (small contributors accounted for almost all of the $20 million that enabled North to outspend his principal opponent 4 to 1 in a losing effort).

The aggressive regulation of political giving and spending began in 1974, in the aftermath of Watergate. Congress, itching to "do something" about political comportment, put limits on giving to candidates, and on spending by candidates—even of their personal wealth. Furthermore, limits were placed on total campaign spending, and even on political spending by groups unaffiliated with any candidate or campaign. In 1976 the Supreme Court struck down the limits on unaffiliated groups, on candidates' spending of personal wealth and on mandatory campaign spending ceilings. The Court said these amounted to government stipulation of the permissible amount of political expression and therefore violated the First Amendment.

But in a crucial inconsistency, the Court upheld the limits on the size of contributions. Such limits constitute deliberate suppression by government of total campaign spending. And such suppression constitutes government rationing of political communication, which is what most political spending finances. Furthermore, in presidential campaigns, limits on the size of contributions make fund raising more difficult, which coerces candidates (at least those less flush than Forbes or Perot) into accepting public funding. Acceptance commits candidates to limits on how much can be spent in particular states during the nominating process, and on the sums that can be spent in the pre- and post-convention periods.

Now, leave aside for a moment the question of whether the "reformers" responsible for all these restrictions remember the rule that Congress shall make no law abridging the freedom of speech. But why, in an era in which the United States has virtually eliminated restrictions on pornography, is government multiplying restrictions on political expression? (Here is a thought rich in possibilities: Would pornographic political expression be unregulatable?)

When reformers say money is "distorting" the political process, it is unclear, as Smith says, what norm they have in mind. When reformers say "too much" money is spent on politics, Smith replies that the annual sum is half as much as Americans spend on yogurt. The amount spent by all federal and state candidates and parties in a two-year election cycle is approximately equal to the annual sum of a private sector's two largest advertising budgets (those of Procter & Gamble and Philip Morris). If the choice of political leaders is more important than the choice of detergents and cigarettes, it is reasonable to conclude that far too little is spent on politics.

The $700 million spent in the two-year election cycle that culminated in the November 1994 elections (the sum includes all spending by general-election candidates, and indirect party-building expenditures by both parties, and all indirect political spending by groups such as the AFL-CIO and the NRA) amounted to approximately $1.75 per year per eligible voter, or a two-year sum of $3.50—about what it costs to rent a movie. In that two-year cycle, total spending on all elections—local, state and federal—was less than $10 per eligible voter, divided among many candidates. And because of the limits on the size of contributions, much of the money was not spent on the dissemination of political discourse but on the tedious mechanics of raising money in small amounts. Furthermore, the artificial scarcity of money produced by limits on political giving and spending has strengthened the incentive for the kind of spending that delivers maximum bang for the buck—harsh negative advertising.

Does a money advantage invariably translate into political potency? Try telling that to Forbes, who spent $440 per vote in finishing fourth in the Iowa caucuses. True, the candidate who spends most usually wins. But as Smith notes, correlation does not establish causation. Money often follows rather than produces popularity: many donors give to probable winners. Do campaign contributions purchase post-election influence? Smith says most students of legislative voting patterns agree that three variables are more important than campaign contributions in determining legislators' behavior—party affiliation, ideology, and constituent views. "Where contributions and voting patterns intersect, they do so largely because donors contribute to those candidates who are believed to favor their positions, not the other way around."

Smith argues that limits on campaign giving and spending serve to entrench the status quo. As regards limits on giving, incumbents are apt to have large lists of past contributors, whereas challengers often could best obtain financial competitiveness quickly by raising large sums from a few dedicated supporters. If today's limits had been in place in 1968, Eugene McCarthy could not have mounted his anti-war insurgency, which depended heavily on a few six-figure contributions. As regards spending limits, the lower they are the better they are for incumbents: incumbents are already well known and can use their public offices to seize public attention with "free media"—news coverage.

The rage to restrict political giving and spending reflects, in part, the animus of liberals against money and commerce. There are, after all, other sources of political influence besides money, sources that liberals do not want to restrict and regulate in the interests of "equality." Some candidates are especially articulate or energetic or physically attractive. Why legislate just to restrict the advantage of those who can make or raise money? Smith notes that one reason media elites are apt to favor restricting the flow of political money, and hence the flow of political communication by candidates, is that such restrictions increase the relative influence of the unrestricted political communication of the media elites.

To justify reforms that amount to government rationing of political speech, reformers resort to a utilitarian rationale for freedom of speech: freedom of speech is good when it serves good ends. This rationale is defensible; indeed, it has a distinguished pedigree. But it has recently been repudiated in many of the Supreme Court's libertarian construings of the First Amendment. Those

decisions, taking an expansive view of the First Amendment in the interest of individual self-expression, have made, for example, almost all restrictions on pornography constitutionally problematic. And such libertarian decisions generally have been defended by liberals—who are most of the advocates of restrictions on campaign giving and spending.

But liberals of another stripe also advocate campaign restrictions. They are "political equality liberals" rather than "self-expression liberals." They favor sacrificing some freedom of speech in order to promote equal political opportunity, as they understand that. Such liberal egalitarians support speech codes on campuses in the name of equality of status or self-esteem for all groups, or to bring up to equality groups designated as victims of America's injustices. Liberal egalitarians support restrictions on pornography because, they say, pornography deprives women of civic equality by degrading them. And liberal egalitarians support restrictions on political expression in order to achieve equal rations of political communication for all candidates.

Prof. Martin Shapiro of the University of California's Law School at Berkeley writes that "almost the entire first amendment literature produced by liberal academics in the past twenty years has been a literature of regulations, not freedom—a literature that balances away speech rights . . . Its basic strategy is to treat freedom of speech not as an end in itself, but an instrumental value." And Bradley Smith says that "after twenty years of balancing speech rights away, liberal scholarship is in danger of losing the ability to see the First Amendment as anything but a libertarian barrier to equality that may, and indeed ought, to be balanced away or avoided with little thought.

Fortunately, more and more people are having second thoughts—in some cases, first thoughts—about the damage done to the political process, and the First Amendment, by the utilitarian or "instrumentalist" understanding of freedom of speech. Campaign "reforms" have become a blend of cynicism and paternalism—attempts to rig the rules for partisan advantage or the advantage of incumbents' or to protect the public from what the political class considers too much political communication. Any additional "reforms," other than repeal of the existing ones, will make matters worse.

[From the Washington Post, Nov. 14, 1995]

GINGRICH'S HERESY

(By David S. Broder)

Speaker Newt Gingrich (R-Ga.) knew he was headed into a test of wills with the president that might force a shutdown in the government and boost his already high negative ratings. The last thing he needed was another fight—especially one in which his position would guarantee denunciation from all respectable quarters.

Nonetheless, when Gingrich testified the other day at a congressional hearing on campaign finance, he deliberately committed heresy. He argued that too little money—not too much—is going into campaigns.

The editorial pages and columnists issued the predictable squawks. The speaker also took fire from the rear: The freshman Republicans who have been his shock troops were in shock. They wanted to hear him say, as everyone from Common Cause to Ross Perot regularly intones, that American politics is "awash" in special-interest money.

That is the operative premise of all the favorite "reforms": abolition of PACs (political-action committees); allowing only people from the home state or home district to contribute to a candidate; getting rid of "soft-money" corporate contributions, which pay for political party facilities and grass-roots operations.

All of this Gingrich challenged in his testimony on Nov. 2. The total amount spend on House and Senate races in 1994 was $724 million—a record sum and shocking to many. But the cost of 435 House races and 33 Senate campaigns was, he pointed out, roughly double what the makers of the three leading antacids budgeted for advertising last year. This is a scandal?

Ah, but it said, the candidates and officeholders were forced to spend an inordinate amount of time dialing for dollars, going hat in hand to prospective contributors. True enough, but the main reason is that contribution limits have not been adjusted for inflation in 21 years. In 1974 the limit on individual contributions was set at $1,000. That is worth $325 today. If you really want politicians spending less time fund-raising, Gingrich suggested, lift that limit to $5,000 and index it for inflation.

If this were not heretical enough, the speaker had one other idea. Instead of thinking of campaign finance as a separate problem, screaming for solution, think about a way to pay for the cost of politics that would actually serve the interests of voters and of governing.

Do that, he said, and you may find that the best remedy is not to legislate limits on contributions or spending but to enable greater activity by the political parties—Republicans, Democrats and any third force that may emerge to challenge them.

The biggest problem in our campaign finance system, he said, is the gross disparity between what House incumbents can raise and what most challengers can muster. The PACs are a big part of this problem for they use their contributions to ensure access to legislators handling their issues. The PAC system, as Gingrich said, "has become an arm of the Washington lobbyists" and needs to be reduced in significance.

But limiting PAC contributions is likely to be an empty gesture. Increasingly, organized interest groups are mounting independent expenditure campaigns, boosting their friends and targeting their enemies, which they can do without limit.

Since we cannot effectively stifle these special-interest voices, Gingrich said, let us submerge them in appeals from the parties. Increase substantially the limits on what people can give to political parties, he said. And allow those parties to contribute far more than they do now to help challengers offset the many advantages incumbents enjoy—not only greater leverage on the PACs but all the staff, office and communications facilities that are provided at taxpayers' expense.

Barring such changes, Gingrich rightly said, we are almost certain to see a continuation of the trend to millionaire candidates. Because the wealthy are allowed (by Supreme Court decision) to spend whatever they wish on their own campaigns, the Senate has become a millionaires' club and the House is moving in the same direction.

All of this was a challenge to conventional wisdom. But Gingrich is not, in fact, alone. In the same week that he testified, the libertarian Cato Institute and the liberal Committee for the Study of the American Electorate published essays arguing that the supply of political money should be increased, not decreased. As Curtis Gans, the author of the latter study, pointed out, "The overwhelming body of scholarly research . . . indicates that low spending limits will undermine political competition by enhancing the existing advantages of incumbency."

Gingrich has been accused of foot-dragging on the handshake agreement he struck with President Clinton last June to form a bipartisan commission on campaign finance.* * *

[From the Washington Post, Jan. 17, 1996]

A SENATE OF MILLIONAIRES

(By David S. Broder)

Want a perfectly safe bet on the November election results? Bet that there will be even more millionaires in the U.S. Senate.

What once was called "The World's Most Exclusive Club" increasingly requires personal wealth as a condition for membership. The combination of rising campaign costs and foolishly frozen limits on individual contributions has increased the advantage of self-financed candidates. The 1996 candidate lists are full of them.

In Georgia, for example, all three Republicans seeking nomination to the vacancy created by the retirement of Democratic Sen. Sam Nunn are men of substantial means. In Minnesota, former Republican senator Rudy Boschwitz, a wealthy retired businessman, is trying to reclaim the seat he lost to populist professor Paul Wellstone six years ago. And in a half-dozen other states, Republicans either have or are trying to recruit challengers who can afford to pay their own way.

What is more striking is the extent to which the Democrats—the self-styled party of the people—have begun to rely on affluence as the criterion for picking their Senate candidates.

In Colorado, New Hampshire, South Carolina and Virginia, the favored candidates for the Democratic nomination are all men of independent means, and in many cases, without wealth would not be considered to have Senate credentials. In Illinois, North Carolina, Oklahoma and Oregon, men of similar backgrounds are given a chance of winning nomination because of their bankrolls. It is not a new pattern. Among the Democratic senators seeking reelection this year is John D. (Jay) Rockefeller IV of West Virginia, who spent more than $10 million of his own money to be elected in 1984.

Retiring Sen. Bill Bradley (D-N.J.), a banker's son who earned big money as a New York Knicks basketball star, writes about the advantage wealth confers on a politician in his newly published memoir, "Time Present, Time Past." Bradley recounts how he decided he could afford to give or lend a quarter-million dollars to his first Senate campaign in 1978—about one-fifth of his budget. "It assured me that I could compete even if I didn't raise as much as I had hoped," he says. "With the existence of that self-generated cushion, I was able to raise more. When potential contributors see a campaign with money, they assume it's well-run, and they are more likely to make contributions. Everyone likes to be with a winner, whether in basketball or politics."

Bradley points out that he was a piker compared with many of his colleagues. "Four years later in New Jersey, Frank Lautenberg, a wealthy computer executive with no elective experience, would spend over $3.5 million of his own money to win a U.S. Senate seat. . . . In Wisconsin in 1988, Herb Kohl promised to spend primarily his own money in his Senate campaign; $7.5 million later, he won."

Financial disclosure statements show that at least 28 of the 100 sitting senators have a

net worth of $1 million or more—many of them much more. Michael Huffington, a Texas oil man, spent $28 million of his own money in trying for a California Senate seat in 1994—but still lost. The price is going up.

Wealth is not a determinant of votes in the Senate. There are liberals like Rockefeller and Ted Kennedy along with conservatives. But wealth confers an unfair advantage in the campaigns for the Senate, and makes it much harder than it should be for people of talent, but no wealth, to compete.

The main reason for this disadvantage is the unrealistically low limit on individual contributions. The law, as Bradley notes, provides that "whereas a candidate could contribute as much of his own money as he chose, he could accept individual contributions of only $2,000 from others—$1,000 of it for the primary and $1,000 for the general election."

The contribution limits were set 22 years ago and never have been adjusted; inflation has eroded their value by two-thirds since then. Raising contribution limits is far down the list of proposals of most campaign finance reformers; many want to freeze them or reduce them.

But all the contribution limits are accomplishing today is to create an ever-greater advantage for self-financed millionaire candidates. Steve Forbes's rivals in the Republican presidential race are complaining that his wealth is tilting the odds in the contest, where he is the only one who is paying his own way and therefore spending as much as he wants. But the Senate picture is not very different.

If we really want to be ruled by a wealthy elite, fine; but it is a foolish populism that insists it despises the influence of wealth, and then resists liberalizing campaign contribution limits.

Rich men understand that. It's too bad the reformers can't figure it out.

[From the Washington Post, Jan. 31, 1996]

"FRONTLINE'S" EXERCISE IN EXAGGERATION

(By David S. Broder)

As if the cynicism about politics were not deep enough already, PBS's "Frontline" last night presented a documentary called "So YOU Want to Buy a President?" whose thesis seems to be that campaigns are a charade, policy debates are a deceit and only money talks.

The narrow point, made by Sen. Arlen Specter (R-Pa.), an early dropout from the 1996 presidential race, about millionaire publisher Malcolm S. (Steve) Forbes Jr., is that "somebody is trying to buy the White House, and apparently it is for sale."

The broader indictment, made by correspondent/narrator Robert Krulwich, is that Washington is gripped by a "barter culture" in which politicians are for sale and public policy is purchased by campaign contributions.

The program rested heavily on a newly published paperback, "The Buying of the President." Author Charles Lewis, the head of the modestly titled Center for Public Integrity, was a principal witness, and Kevin Phillips, the conservative populist author who wrote the book's introduction, was also a major figure in the documentary.

It dramatized the view asserted by Lewis in the conclusion of his book: "Simply stated, the wealthiest interests bankroll and, in effect, help to preselect the specific major candidates months and months before a single vote is cast anywhere. . . . We the people have become a mere afterthought of those we put in office, a prop in our own play."

Viewers say a number of corporate executives—no labor leaders, no religious leaders, no activists of any kind, for some reason—who have raised and contributed money for presidents and presidential candidates and thereafter been given access at dinners, private meetings or overseas trade missions.

It is implied—but never shown—that policies changed because of these connections. As Krulwich said in the transcript of a media interview distributed, along with an advance tape, with the publicity kit for the broadcast, "We don't really know whether these are bad guys or good guys. . . . I'm not really sure we've been able to prove, in too many cases, that a dollar spend bought a particular favor. All we've been able to show is that over and over again, people who do give a lot of money to politicians get a chance to talk to those politicians face to face, at parties, on planes, on missions, in private lunches, and you and I don't."

If that is the substance of the charge, the innuendo is much heavier. At one point, Krulwich asked Lewis, in his most disingenuous manner, "Do you come out convinced that elections are in huge part favors for sale, or in tiny part?"

And Lewis replied that while "there are a lot of wealthy people that do want to express broad philosophical issues," the "vested interests that have very narrow agendas that they want pursued see these candidates as their handmaidens or their puppets. The presidential campaign is not a horse race or a beauty contest. It's a giant auction."

That is an oversimplified distortion that can do nothing but further alienate a cynical electorate. Of course, money is an important ingredient in our elections and its use deserves scrutiny. But ideas are important too, and grass-roots activism even more so. The Democratic Leadership Council's Al From and the Heritage Foundation's Robert Rector have had more influence in the last decade than any fund-raisers or contributors, because candidates have turned to them for policy advice.

John Rother of the American Association of Retired Persons and Ralph Reed of the Christian Coalition work for organizations that are nominally nonpartisan and make no campaign contributions at all. But their membership votes—so they have power.

The American political system is much more complex—and more open to influence by any who choose to engage in it—than the proponents of the "auction" theory of democracy understand, or choose to admit.

By exaggerating the influence of money, they send a clear message to citizens that the game is rigged, so there's no point in playing. That is deceitful, and it's dangerously wrong to feed that cynicism.

Especially when they have nothing to suggest when it comes to changing the rules for the money game.

At one point, Phillips said that the post-Watergate reforms succeeded only in having "forced them [the contributors and politicians] to be more devious." That is untrue. Those reforms, which mandated the disclosure of all the financial connections on which the program was based, also created publicity which, even Krulwich and Co. admitted, foiled the "plots" of some contributors.

And Krulwich, for his part, suggested very helpfully that "every high-profile politician agrees that some things have got to change. Change the limits. Change the rules. Change the primaries. Change the ads. Change enforcement. You gotta change something."

How about changing the kind of journalism that tells people that politicians are bought-and-paid-for puppets and you're a sucker if you think there's a damn thing you can do to make your voice heard?

Mr. McCONNELL. Mr. President, over the years working on this issue I have written several pieces which I ask unanimous consent to have printed—one in the Washington Post and one in the USA Today—in the RECORD.

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

[From the Washington Post, Feb. 21, 1996]

JUST WHAT IS A SPECIAL INTEREST?

(By Mitch McConnell)

President Clinton, in his State of the Union address, beseeched Congress to enact campaign finance reform to reduce "special interest" influence. Campaign finance reforms that the president favors would constrict fundamental democratic freedoms to participate in the political process. In other words: speech would be limited and some citizens' freedom to participate in elections beyond voting would be "reformed" out of existence based on their alleged status as "special interests." But if "special interest" is not defined, how are we to know just whose influence should be curbed?

Judging from the fervent bipartisan (and third party) scorn heaped on "special interests," the casual observer would logically assume that this scourge of democracy was readily identifiable. The Congressional Record, newspaper editorials and campaign speeches are replete with diatribes against the "special interests." A recent search of newspapers on the Nexis database found more than 60,000 articles and editorials containing the phrase "special interest."

"Special interest" is the most pejorative phrase in the American political lexicon since "communist-pinko." Judging from the reformers' scathing rhetoric, rooting out these special interests is a job for a new Senate Committee on Un-American Activities.

In fact, the special interest tag depends on the viewer's vantage point rather than on any objective criteria. So-called good government groups would have people believe that the antonym is "public" interest—as defined by them. These groups usually construe good government to mean big government and therefore deem big government to be in the public interest. By this logic, opposition to any government regulation or tax virtually guarantees a special interest charge.

Capitalism should not be a dirty word in a free society, but having observed the enmity directed toward its practitioners in many quarters, one could reasonably wonder. Some nonprofit so-called "good government" groups readily pin the special interest label on profit-seeking enterprises. Yet behind corporate balance sheets are employees, families, shareholders and communities of which they are part.

Does the special interest connotation extend to employees and their families? To the legions of Americans whose retirement funds and investments are keyed to the stock market? By such extrapolation does the "special interest" smear cut a wide swath.

What happens when a purported public interest organization is funded by a group that is universally regarded as a "special interest," such as the plaintiffs' lawyers? Are we to conclude that the special interest in this instance is subsumed in the nobler public interest? Or is the public interest group simply laundering the special interest influence

money and acting as a front organization? Or is it merely coincidence when their interests converge on, say, lawsuit reform?

Most people would probably conclude that a special interest is contrary to the majority interest. Should special interest be defined as being not immediately relevant to more than 49.9 percent of American citizens? Must its membership comprise a majority of the country to be legitimate? If so, such a qualification should be carefully pondered, as "special interests" could be equated with any narrow or minority interest, thus automatically tarnishing what could be a very worthy cause.

Being a senator from Kentucky, I regularly go to bat for Kentucky industries (and their employees, suppliers and subcontractors) threatened by onerous regulations and taxation. These industries may, in the minds of some people, epitomize "special interest." To me, they and the Kentuckians whose livelihoods depend on them are constituents, and my assistance to them is in the public's interest.

Is a Pacific Northwest lumber company automatically a special interest? The company's employees? How about the Washington-based environmentalists who would sacrifice jobs and disrupt human lives for the sake of an owl? Are owls special interests?

The truth is that the special interest label is a political weapon utilized, often reflexively and perhaps thoughtlessly, by people throughout the ideological spectrum. It can be found in statements I have made in the past. Using it is a hard habit to break. Nevertheless, in the interest of more honest and civil public discourse, the invocation of the "special interest" mantra to propel a reform agenda or wound an opponent is a habit that should be broken.

All Americans have a constitutional right to petition the government and participate in the political process, however unpopular the cause or narrow its appeal may be. Americans do not forfeit those rights because they have been tagged with the special interest label.

The campaign finance reform debate, in particular, is advanced on the premise that special interest influence is pervasive, corrosive, and must be abated at all costs. But the cost of the alleged reforms in terms of constitutional freedom for all Americans is high. And the special interest premise is deeply flawed. So the next time you hear someone hail campaign finance reform as the answer, ask them what is the question. And when they say special interest influence is the problem, ask them: What is a special interest?

[From USA Today, June 11, 1996]

DISASTER FOR TAXPAYERS, CANDIDATES

[By Mitch McConnell]

The most talked-about campaign-finance schemes are unconstitutional, undemocratic, bureaucratic boondoggles. Further, their sponsors think taxpayers should foot the bill. And for good measure, these "reform" schemes also would greatly increase the power of the media.

Perhaps that is simply a fortunate happenstance for the liberal newspapers pushing them. In any event, the media clearly have a "special interest" in campaign finance "reforms" which would increase their power by limiting the speech of every other participant in the political process.

Because political campaigns exist to communicate with voters, the U.S. Supreme Court ruled two decades ago that campaign spending must be accorded First Amendment protection. Ergo, campaign spending limits are unconstitutional speech limits.

The simple fact is that communication with America's nearly 200 million eligible voters is expensive. For instance, one full-page color campaign ad in a Friday edition of USA TODAY would cost $104,400. Television and mail are also essential means of communicating with voters.

These are expensive venues, but they are the only way to reach all the voters in large, modern electorates. Limiting campaign spending would limit political discourse by candidates, thereby enhancing the power of the media. That is bad public policy.

For all the whining, the fact is that congressional campaign spending (less than $4 per eligible voter in 1994) is paltry relative to what Americans spend on consumer items like bubble gum and yogurt.

What we should do is adjust the individual contribution limit for inflation.

The contribution limits candidates must abide by in 1996 were set over two decades ago (when a new Ford Mustang cost $2,700). These inflation-eroded limits benefit the well-off (rich candidates who can fund entire campaigns out of their own pockets) and the well-known (principally incumbents) who have a large base from which to draw contributions.

Enhanced public disclosure of all campaign-related spending is also a worthy reform that would enable voters to make informed decisions on Election Day.

By comparison, the so-called "good government" groups' campaign-finance schemes would be disasters. Delay is preferable to the enactment of such constitutional monstrosities.

Mr. McCONNELL. Mr. President, some information about the cost to the Postal Service, estimated by this postal rate subsidy, and I ask unanimous consent that be printed in the RECORD.

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

U.S. POSTAL SERVICE,
Washington, DC, June 24, 1996.

Hon. MITCH MCCONNELL,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCONNELL: I am writing to voice my concerns about campaign finance reform legislation, S. 1219, which would place an unfair financial burden on the Postal Service and its ratepayers.

Let me first say that the Postal Service takes no position on the general merits of campaign finance reform. This issue appropriately rests with the Congress. However, S. 1219, as well as several other campaign finance reform bills in the House and Senate, provide for reduced postage rates for eligible candidates. These bills do not contain a funding mechanism through which the Postal Service would be reimbursed for the difference between regular rate postage and the reduced rate used by the candidates. In essence, the legislation creates an unfunded mandate, and the costs would have to be absorbed by our customers, the postal ratepayers. Testimony at campaign finance reform hearings estimated the reduced postage costs for S. 1219 to be $50 million per election. Estimates for other campaign finance bills with reduced postage provisions range from $50 to $150 million per election.

I would also like to point out that it is very unlikely that the Postal Service and its customers would be made whole even if a funding mechanism were included in campaign finance reform legislation. After years of underfunding our annual appropriation for Congressionally mandated reduced rate mailings, Congress enacted the 1993 Revenue Forgone Reform Act. In eliminating future funding for reduced rate mailings, this law mandates that the Postal Service receive a series of 42 annual appropriations of $29 million as partial reimbursement for past funding shortfalls. Even this "partial" relief is now threatened as our House Treasury, Postal Service, and General Government Appropriations Subcommittee proposed that this appropriation be reduced by over $5 million during their markup of our FY '97 appropriations bill.

I recognize the importance of the campaign finance reform issue in Congress this year, and it is with reluctance that I express these concerns to you. Nonetheless, S. 1219, as well as others, would offer political candidates reduced postage costs at the expense of the Postal Service and its customers. I urge you and your colleagues to identify alternate provisions that would not require postal ratepayers to bear the burden of campaign finance reform.

Best regards,

MARVIN RUNYON.

DIRECT MARKETING ASSOCIATION, INC.,
Washington, DC, June 19, 1996.

Hon. MITCH MCCONNELL,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCONNELL: It now appears that S. 1219, campaign finance legislation sponsored by Senators McCain and Feingold, is scheduled for debate next week.

We strongly urge you to cast a *no* vote on the cloture motion that will be offered during the debate.

As I have written to you before, DMA is opposed to S.1219, largely because of the provisions for low cost mailings for Senatorial candidates, without compensation to the Postal Service for lost revenues.

We estimate that, should the House pass similar legislation, these provisions could cost the Postal Service as much as $350 million dollars over a two-year election cycle. Every penny of this will ultimately come out of the pocket of the businesses and consumers who use the mails.

The Postal Service finds itself in an increasingly competitive environment. In order to survive, the Postal Service must be able to price its products competitively. It cannot do this if costs are arbitrarily added to its rate base. Legislation such as this endangers the financial base of the Postal Service and the service it can provide to American businesses and consumers.

Again, we urge you to vote *no* on the cloture motion.

Sincerely,

RICHARD BARTON.

NATIONAL ASSOCIATION OF BROADCASTERS,
Washington, DC., June 24, 1996.

Hon. MITCH MCCONNELL,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCONNELL: First, I would like to thank you for the leadership role you have taken in opposing S. 1219, the campaign finance reform legislation introduced by Senators John McCain and Russ Feingold.

As originally introduced, this legislation would require broadcasters to offer qualified Senate candidates an additional 50% discount off the discounted television advertising rates candidates currently receive. The legislation further requires broadcasters give candidates free advertising time. We believe

these provisions are unconstitutional and impose significant financial burdens on local broadcasters and we must oppose the legislation.

We understand Senators McCain and Feingold have introduced a substitute to S. 1219. At your request we have reviewed the broadcast provisions of the substitute. We have done so and have determined that for the most part the broadcast provisions are the same as those in S. 1219. There is, however, new language in the broadcast section which causes us great concern.

The new provision would give to the U.S. Court of Federal Claims exclusive jurisdiction over challenges to the constitutionality of the broadcast rate and free time provisions. Further, by its terms it precludes any injunctive relief, providing only for money damages. It is unclear whether this is an attempt to somehow deny us the opportunity to bring a First Amendment claim against these provisions. No other section of the bill appears to have the same requirement and we do not understand why the broadcast provisions are given a different avenue for judicial review.

We must oppose the substitute to S. 1219, and we continue to support your efforts in opposing this legislation. If I can be of further assistance, please do not hesitate to phone.

Sincerely,

EDWARD O. FRITTS,
President.

Mr. MCCONNELL. Mr. President, calling the McCain-Feingold voluntary does not make it so, its proponents protestations to the contrary. Anyone who dared not to comply with its voluntary limits would have to: pay twice as much as their opponent for TV ads and more for postage; with half the contribution limit; and forgo 30 minutes of free time.

All this and their complying opponent's spending limit would be increased up to 100 percent to counteract any excessive spending. Moreover, the complying candidate could spend unlimited amounts to counteract—dollar-for-dollar—independent expenditures.

So I say again, technically, mugging victims had options, too. That does not mean that handing over their wallets to muggers were voluntary acts. And I should stress here that the essential point in regard to the voluntariness of the candidate spending limits is not—as the Senator from Wisconsin stated yesterday—that candidates who did not comply with spending limits would be giving up benefits they do not currently enjoy such as the 50 percent discount and the free TV time. What makes the provision unconstitutional is the severe handicapping candidates would experience if they did not comply with the limits.

This is a crucial distinction from the presidential system. Steve Forbes did not have to pay twice as much for TV ads as the complying presidential candidates. He did not forego free time and Bob Dole's spending limit did not increase when independent expenditures were made against him. And his spending limit did not increase when Forbes spent over the limit. Had the presidential system had the inducements of the McCain-Feingold bill, Steve Forbes might very well have elected not to get into the race, at all.

It simply would not make sense for a candidate not to comply with the McCain-Feingold bill unless he or she were so extraordinarily wealthy they could spend many times the spending limit for their own wallet. So you could have two extreme types of campaigns under McCain-Feingold—very low spending ones complying with the limits and extremely expensive campaigns. What would disappear is the middle ground—not as cheap as the McCain-Feingold model but not at the extreme high-end, either.

If you looked long and hard enough and had common cause and public citizen helping, even a tiny needle in a giant haystack could be found. And so it is that at long last—after a decade of debate on this scheme—some people with law degrees have been located to say the McCain-Feingold/common cause spending limit structure is constitutional. How expert they are remains to be seen and their submittals on the subject will certainly be scrutinized.

In any event objective liberals and conservatives can agree that the American Civil Liberties Union is the repository of expertise on first amendment issues. The ACLU led, and triumphed, in the fight against mandatory spending limits 20 years ago in the Buckley versus Valeo case. And the ACLU will be in front again—along side me—should anything resembling the McCain-Feingold bill ever become law. The ACLU is singularly focused on constitutional freedom and has probably aggravated just about everybody at sometime with unpopular stands. But they have a remarkable record of success in this area.

At this point I will read excerpts from the ACLU's testimony—given by professor and Buckley versus Valeo attorney Joel M. Gora—before the Senate Rules Committee on February 1 of this year.

The provision for "voluntary" spending limits in Senate campaigns violates the free speech principles of *Buckley* v. *Valeo*. The outright ban and severe fall back limitations on PACs violate freedom of speech and association, as do the limitations on "bundling." The unprecedented controls on raising and spending "soft money" by political parties and even non-partisan groups intrude upon First Amendment rights in a manner well beyond any compelling governmental interest. The revised provisions governing the right to make independent expenditures both improperly obstruct that core area of electoral speech and impermissibly invade the absolutely protected area of issue advocacy. The reduced recordkeeping threshold for contributions and disbursements, from $200 down to $50, invades associational privacy. And the new powers given to the Federal Election Commission to go to court in the midst of a campaign to enjoin "a violation of this Act" pose an ominous and sweeping threat of prior restraint and political censorship.

S. 1219 suffers from many of the same flaws as the original statute at issue in *Buckley* v. *Valeo*. There the ACLU contended that the Federal Election Campaign Act of 1974 was bad constitutional law because it cut to the heart of the First Amendment's protections of political freedom. It limited the ability of groups and individuals to get their message across to the voters. The very essence of the First Amendment is the right of the people to speak, to discuss, to publish, to join together with others on issues of political and public concern. This constitutional protection of the right of the people to join together to form groups and organizations and societies and associations and unions and corporations to articulate and advocate their interests is the genius of American democracy. And this is particularly vital in connection with political election campaigns when issues, arguments, candidates and causes swirl together in the public arena. Yet, the 1974 Act imposed sweeping and Draconian restraints on the ability of citizens and groups, candidates and committees, parties and partisans to use their resources, to make political contributions and expenditures, to support and embody their freedom of speech and association.

The ACLU also insisted the Act was poorly crafted "political restructuring" rather than real "political reform" because it exacerbates the inequality of political opportunity, enhances dependence upon money and moneyed interests in politics and magnifies the power of incumbency as the single most significant factor in politics. Limits on giving and spending make it harder for those subject to the restraints to raise funds and easier for those outside the restraints to bring their resources to bear on politics. Limiting individual contributions to $1,000 per candidate, while allowing PACs, made legitimate by the "reforms," to contributes $5,000 per candidate, would make it harder to raise money from individuals and make candidates more dependent on PACs. And PACs, often representing entrenched interests, would be more likely, though far from inevitably, to prefer incumbents to challengers as beneficiaries of their largesse. The Act would stifle not expand political opportunity. What you had, we warned, was an unconstitutional law, enacted by Congress, approved by the President, enforced by an agency, the Federal Election Commission, beholden to each, and designed to restrain the speech and association of those who would criticize or challenge or oppose the elected establishment. Talk about the powers of incumbency. That's why we called the Act an "Incumbents Protection Act."

In *Buckley* v. *Valeo*, the Supreme Court held that any government regulation of political funding—of giving and spending, of contributions and expenditures—is regulation of political speech and subject to the strictest constitutional scrutiny. The Act's limitations on political expenditures—by committees, campaigns and candidates, no matter how wealthy—flatly violated the First Amendment. Nothing can justify the government telling the people how much they could spend to promote their candidacies or causes. Not in this country. Nothing. "In the free society ordained by our Constitution it is not the government, but the people—individually as citizens and candidates and collectively as associations and political committees—who must retain control over the quantity and range of debate on public issues in a political campaign." *Buckley v. Valeo*, 424 U.S. 1,57 (1976).

Nor could the Congress try to help "equalize" political speech and the ability to influence the outcome of elections by imposing restraints on some speakers: ". . . the concept that government may restrict the speech of some elements of our society in order to enhance the relative voice of others is wholly foreign to the First Amendment." *Buckley v. Valeo*, 424 U.S. at 48–49.

Unfortunately, the decision in *Buckley* upheld the Act's contribution limits of $1,000 for individuals and $5,000 for political committees. The Court did this because of its stated concern that unlimited gifts to candidates was a recipe for corruption, a ruling that ensured the two decades of frustration and unfairness that have ensured. With no limits on overall campaign spending or on wealthy candidates, and with independent campaign committees, issues groups and the press free to use their resources to comment on candidates and causes without limit; but with less well-funded candidates hampered in their ability to raise money from family, friends and supporters, the stage was set to make two factors dominant: the advantages of incumbency and the dependency on PACs.

The advantages of incumbency meant that public resources such as franking privileges, government funded newsletters and free television coverage (C-Span) made it easier for Members of Congress to communicate with the voters, while challengers have to spend restricted amounts of money in order to achieve the same visibility.

The dependency on PACs resulted from severe limitations on the amounts of money that individuals can contribute directly to candidates, coupled with the markedly increased cost of campaigning, which made PAC contributions a very important source of campaign funding. And the individual contribution limit was kept at $1,000, which, adjusted for inflation, is probably worth about $400 in real dollars today.

That is why for twenty years candidates have had to look more to PACs order to raise funds and incumbents, in particular, have had an easier ability to do so.

And for twenty years, the ACLU has suggested the way to solve these various disparities and dilemmas is to expand political participation, by providing public financing or support for all legally qualified candidates, without conditions and restrictions, not to restrict contributions and expenditures which enable groups and individuals to communicate their message to the voters.

Unfortunately, in all of its critical aspects, S. 1219, The Senate Campaign Finance Reform Act of 1995 fails to facilitate broader political participation and it also unconstitutionally abridges political expression.

Mr. President, the proponents of this bill are very mistaken if they believe the spending limits are constitutional. The ACLU differs:

Title I of the bill, providing "spending limits and benefits" for Senate election campaigns, is an attempt to coerce what the law cannot command: limitations on overall campaign expenditures and on the use of personal funds for a candidate's own campaign. It is a backdoor effort to impose campaign spending limits—which inevitably benefit incumbents—in violation of the essential free speech principles of *Buckley* v. *Valeo* and the doctrine of unconstitutional conditions. And it should be observed that what triggers benefits for some candidates and burdens for others is not that a candidate approaches or exceeds relevant spending limits, but simply refuses to agree to be bound by them.

The ACLU believes that the receipt of public subsidies or benefits can never be conditioned on surrendering constitutional rights. To do so would be to penalize the exercise of those rights. See *Perry* v. *Sindermann*, 408 U.S. 593, 597 (1972); *FCC* v. *League of Women Voters*, 468 U.S. 364 (1984). Since candidates have an unqualified right to spend as much as they can to get their message to the voters, and to spend as much of their own funds as they can, and to raise funds from supporters all over the country, they cannot be made to surrender those rights in order to receive public benefits.

In *Buckley* the Court suggested that Congress could establish a system whereby candidates would choose freely between full public funding with expenditure limits and private spending without limits, "as long as the candidate remains free to engage in unlimited private funding and spending instead of limited public funding." *Republican National Committee* v. *Federal Election Commission*, 487 F. Supp. 280, 284 (S.D.N.Y.), *aff'd mem.*, 445 U.S. 955 (1980). See *Buckley* at 57, n. 65. Contrary to its supporters' claims, S. 1219 does not establish such a regime of voluntary campaign spending limits. Rather, the bill denies significant benefits to and imposes burdens on those candidates who refuse to agree to limit their campaign expenditures, while conferring a series of advantages upon those candidates who agree to the limits.

First, by banning PAC contributions entirely, the bill makes it more difficult for candidates to raise and spend money at all, which will make them more susceptible to accepting the expenditure and other limitations. Candidates who refuse to accept spending limits have to work harder to raise funds because the limits on contributions to their opponents are raised automatically from $1,000 to $2,000. And then such disfavored candidates have to pay full rates for broadcasting and postage. Finally, the expenditure ceilings of their opponents are raised by 20% to make it easier to counter the messages of "non-complying" candidates.

In short, this scheme does everything possible to help the candidate who agrees to spending limits to overwhelm the candidate who does not. That is not a level playing field.

Indeed, in *Buckley* the Court upheld public funding of Presidential campaigns because its purpose was "not to abridge, restrict or censor 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." 424 U.S. at 92–93. S. 1219 fails this test, for its purposes and effect are to limit speech, not enhance it. Recent cases have invalidated other schemes for making candidates "voluntarily" agree to expenditure and other restraints by penalizing those who do not, see *Shrink Missouri Government PAC* v. *Maupin*,—F.3d—, 64 Law Week 2409 (8th Cir. 1995) (restricting funding sources of those who refuse to agree to abide by expenditure limits violates the First Amendment) ("We are hard-pressed to discern how the interests of good government could possibly be served by campaign expenditure laws that necessarily have the effect of limiting the quantity of political speech in which candidates for public office are allowed to engage." *Id.* at—);

Moreover, even if the Act did create a level playing field, the incumbent starts the game 10 points ahead because of greater fund-raising ability, name recognition, access to the news media and other benefits of incumbency. All things being equal, the incumbent starts out ahead. Any law which imposes financial penalties and disincentives on speech because of the interaction between the status of the speaker and the content of the speech is constitutionally suspect. See *Simon & Schuster, Inc.* v. *Members of the New York State Crime Victims Board*, 502 U.S. 105 (1991) (law improperly escrowed profits from writings about a criminal's crime); *United States* v. *National Treasury Employee's Union*, 516 U.S.—(1995) (invalidating overbroad honorarium ban on moonlighting speeches and articles by federal employees). Schemes of public benefits for political action which are structured in such a fashion that the government seems to be showing favoritism to certain categories of candidates and penalizing others also have been held to be a form of unconstitutional political discrimination, violative of both free speech and equality principles. See *Greenberg* v. *Bolger*, 497 F. Supp. 756, 774–78 (E.D.N.Y. 1980) (preferential mailing rates for major parties struck down as violative of the First Amendment); *Rhode Island Chapter of the National Women's Political Caucus* v. *Rhode Island State Lottery Comm'n*, 609 F. Supp. 1403, 1414 (D.R.I. 1985) (allowing major parties but not other groups to conduct fundraising lottery events violated the First Amendment); *McKenna* v. *Reilly*, 419 F. Supp. 1179, 1188 (D.R.I. 1976) (state parties' allocation of tax check off funds to endorsed candidates and exclusion of funds to unendorsed candidates violated First Amendment).

Finally, some of the strings attached to the benefits offered would impose unprecedented controls on political speech by dictating the format of campaign speech. The requirement that free air time cannot be used for campaign commercials of less than 30 seconds is an impermissible interference with the content of political speech. See *McIntyre* v. *Ohio Election Commission*, 115 S. Ct. 1511, 1518 (1995). The only conceivable purpose for this restriction is that Congress thinks 10 second spot commercials are politically objectionable. That is the kind of content-based judgment that Congress cannot make, even when it is conferring a benefit; nor can Congress compel the structure of speech in that fashion. See *McIntyre, supra; Wooley* v. *Maynard*, 430 U.S. 705 (1977); *Riley* v. *National Federation of the Blind*, 487 U.S. 781, 797 (1988).

The *McIntyre* and *Riley* decisions also call into question the provisions of the Bill (Section 302, Campaign Advertising) that mandate certain specific identifications and disclosures in the text of print, display or broadcast political advertisements. In *McIntyre* the Court reaffirmed the historic right of political anonymity and invalidated a requirement that leaflets on referenda issues state the name of the person responsible for the publications. And in *Riley*, the Court struck down a compulsory disclosure statement on charitable solicitation literature, finding a violation of the settled principle that the First Amendment encompasses "the decision of both what to say and what *not* to say." 487 U.S. at 797.

2. *The complete ban on, as well as the "fall-back" restrictions of, Political Action Committees are invalid under clear Supreme Court precedent.*

Subtitle A of Title II, the Draconian provision which proudly proclaims that it enacts "Elimination of Political Action Committees from Federal Election Activities" and which bans PAC political activity, is flatly unconstitutional. In outlawing all political expenditures and contributions "made for the purpose of influencing an election for

Federal office"—except those made by political parties and their candidates,—Section 201 of the bill cuts to the heart of the First Amendment's protection of freedom of political speech and association. It gives a permanent political monopoly to political parties and political candidates, and would silence all those groups that want to support or oppose those parties and candidates.

"PACs" of course have become a political dirty word. We tend to think of the real estate PACs or the Trial Lawyers' PAC or the insurance and medical PACs or the tobacco-related PACs. But the ACLU's first encounter with a "PAC" was when we had to defend a handful of old-time dissenters whom the government claimed were an illegal "political committee." The small group had run a two-page advertisement in The New York Times, urging the impeachment of President (and re-election candidate) Richard Nixon for bombing Cambodia and praising those few hardy Members of Congress who had voted against the bombing. In the summer of 1972, before the ink was dry on the brand new Campaign Act of 1971, the Justice Department used that "campaign reform" law to haul the little group into court, label them a "political committee" and threaten them with injunctions and fines unless they complied with the law—all for publicly speaking their minds on a key political issue of the day. The Court of Appeals quickly held that the group was an *ad hoc* issue organization, not a covered "political committee." But we got an early wake-up call on what "campaign reform" really meant.

Of course, "real" PACs, i.e., those that give or spend money to or on behalf of federal candidates, come in all sizes and shapes. They can be purely ideological or primarily self-interested, or both simultaneously. And they span the political spectrum. Labor PACs were organized first, in the 1940's, usually to provide funds, resources and personnel to assist political candidates, usually Democrats. Corporate PACs came on line in the early 1970's, usually on the Republican side. And both corporate and labor PACs were legitimized and liberated by the "reforms" of the FECA, which allowed those and all other PACs to contribute five times as much money to federal candidates as individuals could. All this turned the Federal Election Campaign Act into the PAC Magna Carta Act.

We think all that PAC activity is simply a reflection of the myriad groups and associations that make up so much of our political life. And so many of them are an effective way for individuals to maximize their political voice by giving to the PAC of their choice. While many PAC contributors and supporters probably do fit the stereotype of the glad-handing, Washington-based influence peddler, millions of PAC supporters contribute less than $50 and expect nothing from the candidates in return. Indeed, for millions of Americans, writing a check to the candidate, committee or cause of their choice is a fundamental political act, second in importance and meaning only to voting.

Proposals to restrict, restrain or even repeal PACs would suppress the great variety of political activity those PACs embody. Most of those proposals are doomed to defeat as unconstitutional. All of them are doomed to defeat as futile.

BANNING PAC CONTRIBUTIONS

There is not a word in *Buckley v. Valeo* or any of the other relevant cases on regulation of PACs which suggests that the Court would uphold a total ban on PAC contributions to federal candidates. Political contributions are fundamentally protected by the First Amendment, as embodiments of both speech and association. PACs do amplify the political voices of their contributors and supporters across the entire spectrum of American politics, and the Court is not likely to let you still all those voices.

Moreover, banning PAC contributions is futile as a reform. All the PAC money that cannot be contributed directly to candidates will go instead into an upsurge of independent expenditure campaigns for favored or against disfavored candidates.

BANNING PAC EXPENDITURES

The Supreme Court made it clear that independent PAC expenditures are at the core of the First Amendment and totally off limits to restrictions. *Federal Election Commission v. National Conservative Political Action Committee*, 470 U.S. 480 (1985). It may be a little less tidy to run an independent campaign, than to write a check to your favored candidate, but PACs will adapt. They're good at that. And little will have been gained-except making it harder for candidates to raise money since you will have deprived them of a major source of resources, without providing any alternatives. Candidates of moderate means will be particularly vulnerable to campaigns by personally wealthy opponents.

REDUCING PAC CONTRIBUTIONS

The "fallback" provision, which goes into effect when the flat ban is ruled unconstitutional, as it surely will be, would lower PAC contributions from $5,000 to $1,000 per candidate per election. This might be a closer constitutional question. But the Court threw out a $250 limit on contributions to a referendum campaign committee. *See Committee Against Rent Control v. Berkeley*, 454 U.S. 290 (1981). Indeed, just recently the Eighth Circuit likewise invalidated a $300 contribution limitation for donations to statewide candidates. *Carver v. Nixon*, — F.2d — ,64 Law Week 2407 (8th Cir. 1995). And *Meyer v. Grant*, 486 U.S. 414 (1988) held that people had a right to spend money to hire others to gather election petition signatures, strongly reaffirming the right of a person to use his or her resources to enlist others to advance their causes. In any event, this provision is fatally overbroad because it treats all PACs alike, even those made up only of small contributors.

Finally, apart from the First Amendment issues, what purpose is served by reducing the ability of candidates to raise money without providing alternatives?

Mr. President, earlier I mentioned Col. Billie Bobbit (USAF), the EMILY's List member who is quiet certain the first amendment protects her right to participate in elections via bundling. Colonel Bobbitt's instincts are right on the mark as the ACLU testimony observes:

BUNDLING

The same objections pertain to the ban on "bundling" of individual PAC contributions. This fallback proposal would abridge freedom of association which the Supreme Court has recognized as a "basic constitutional freedom." *Kusper v. pontikes*, 414 U.S. 51, 57 (1973). And the Court has pointedly observed that "the practice of persons sharing common views banding together to achieve a common end is deeply embedded in the American political process." *Citizens Against Rent Control v. Berkeley*, 454 U.S. 290, 294 (1981). The practice of bundling reflects broad issue support to a candidate, indicating that continued support is dependent on continued adherence to the views represented by the group. The proposed bill would severely restrict ideological groups like Emily's List, which have made a critical contribution to expanding political opportunity and opening up political doors to candidates and groups so long excluded.

RECEIVING PAC CONTRIBUTIONS

The fallback provision would also prohibit any PAC from making a contribution which raises a candidate's PAC receipts above 20% of the campaign expenditure ceilings applicable to that election. But this restraint also seems overbroad. The corruption concern becomes very attenuated in this setting, and the rationale for the overall 20% limit seems weak against First Amendment standards. Once the limit is reached, candidates and PACs, in effect, would be banned totally from political interaction with one another, which would seem as constitutionally vulnerable as a total ban and have the effect of a limitation on campaign expenditures. And what of new groups that wanted to support a candidate after the candidate's PAC quota had been reached, especially if the campaign turns on an issue—abortion for example—of great moment to that group?

Finally, all of this begins to resemble yet another backdoor effort to limit overall campaign *expenditures*, in violation of *Buckley's* core principles.

LIMITING OUT-OF-STATE POLITICAL CONTRIBUTIONS

Somehow, I have always found particularly troublesome those proposals to limit the amount of out-of-district or out-of-state contributions to candidates. Section 241 does not seem to operate as a direct ban on out-of-State contributions. Rather it provides that a candidate must receive not less than 60% of their overall contributions from in-state individuals in order to remain in compliance with the spending limits and receive the statutory benefits. Obviously, this is a backdoor effort to limit PAC contributions to candidates, since so many PAC contributors come from States different from the candidates their PACs contribute to, as do the PACs themselves. It also seems to be an effort to insulate incumbents from well-funded challenges supported from another State.

Any potential justification for this ban seems highly unlikely to pass constitutional muster. Analogizing this restriction to a voter's residency requirement falls short after *McIntyre* v. *Ohio Board of Elections*,—US—(1995) which held that restrictions on political speech about candidates or referenda cannot be upheld on the grounds that they are merely ballot or electoral regulations, because, in reality, they are free speech limitations. Indeed, a federal court in Oregon recently so held in overturning a requirement that state and local candidates had to raise all their campaign funds from individuals who resided within their election districts. *Vannatta* v. *Keisling*,—F. Supp.—(D. Ore. 1995).

Moreover, in-state limitations could deprive particular kinds of underfinanced, insurgent candidates of the kind of out-of-state support they need. Just as much of the civil rights movement was funded by contributors and supporters from other parts of the nation, so, too, are many new and struggling candidates supported by interests beyond their home states. This proposal would severely harm such candidacies. Perhaps, that is its purpose.

Finally, Congress is our national legislature, and although its representatives come

and are elected from separate districts and states, the issues you deal with are, by definition, national issues that transcend district and state lines and may be of concern to citizens all over the nation. When such issues become central in certain campaigns, people and groups from all over the country should be entitled to have their views and voices heard on those issues. Any other approach takes a disturbingly insular and isolated view of political accountability and the obligations of a Member of Congress.

3. *The new controls on "soft money" contributions and expenditures are unprecedented and unjustified restraints on political parties.*

The new sweeping controls on "soft-money" contributions to and disbursements by political parties and other organizations, federal, state or local, would expand the reaches of the FECA into unprecedented new areas and far beyond any compelling interest would require.

For the first time, any amounts expended or disbursed by a political party in an election year "for any activity which might affect the outcome of a Federal election, including but not limited to any voter registration and get-out-the-vote activity, any generic campaign activity and any communication that identifies a Federal candidate. . ." would be subject to regulation. *See* Section 212. The full panoply of FECA compliance and control would be brought to bear on the enormous amount of political party activity which heretofore has been exempt from controls because it was not directly and explicitly focused on specific federal candidates. And even beyond that, "soft money" spending by persons other than political parties is also for the first time subject to comprehensive regulation, with reporting, disclosure and notification requirements mandated as well as a required certification of whether the disbursement "is in support of, or in opposition to, one or more candidates or any political party."

The reach of these new proposals is breathtaking. Starting with *Buckley v. Valeo*, the Court has recognized a fundamental constitutional distinction between candidate-focused expenditures and contributions, which can be subject to certain specific regulation, and all other non-partisan, political and issue-oriented speech, advocacy and association. *See Buckley v. Valeo*, 424 U.S. at 14–15, 78–80, *First National Bank of Boston v. Bellotti*, 435 U.S. 765 (1978); *FEC v. Massachusetts Citizens For Life*, 479 U.S. 238, 249 (1986). The reason for this First Amendment Continental Divide is to insure that the permissible regulation of candidate-focused political campaign funding remains confined to that area, and does not expand to encompass all the funding of all political issues and groups. These regulations of funding which is not candidate-focused transgresses this boundary and requires, at the very least, the demonstration of the most compelling governmental interests, necessarily and narrowly achieved by the sweeping new controls.

Moreover, any regulation of political parties is a regulation of a quintessential First Amendment instrumentality and likewise requires compelling justification, at a minimum. See *Tashjian v. Republican Party*, 479 U.S. 208 (1986); *Eu v. San Francisco Democratic Party*, 489 U.S. 214 (1989). Political parties play a vital role in galvanizing the political life of the nation. Indeed, many political scientists have expressed mounting concern that one consequence of the current regime of candidate-focused political funding and activity is unfortunately to undermine the role of parties, special interest groups or ad hoc coalitions as instruments for political activity and vitality. For that reason, an expanded amount of party spending on voter registration, party identification, get-out-the-vote drives, and partisan-based issue discussion ("The Republicans want to cut Medicare and Medicaid. Don't let them do it." or, "The Democrats support a welfare state. Say no to government dependents.") should be a welcome development, rather than the target for new and overbearing regulatory restrictions. It is also a constitutionally-derived right: ". . . Discussion of public issues and debate on the qualifications of candidates are integral to the operation of the system of government established by our Constitution . . . In a republic where the people are sovereign, the ability of the citizenry to make informed choices among candidates for office is essential." *Buckley v. Valeo*, 424 U.S. at 14–15.

Finally, to some extent the motivations for the new restraints on party activity may reflect a concern about the source of the "soft money" funding, namely, from corporations and large individual donors. In that regard, it should be observed that *Buckley* upheld the $1,000 limit on individual contributions to candidates in part because there would be so many other ways in which people and organizations could bring their financial resources to bear on politics. See 424 U.S. at 28–29, 44–45. The bill would block avenues of advocacy that the *Buckley* Court assumed would remain open.

These issues are presently before the Supreme Court in an important case in which certiorari was granted in early January. See *Colorado Republican Federal Campaign Committee v. Federal Election Commission*, O.T. 1995, No. 95–489, *reviewing*, 59 F.3d 1015 (10th Cir. 1995). At the very least, any action on this section of the bill should await the Court's resolution of the Colorado case. For your information, the ACLU plans to file an amicus curiae brief in support of the Colorado Republican Federal Campaign Committee.

4. *The new provisions governing the right to make independent expenditures improperly intrude upon that core area of electoral speech and impermissibly invade the absolutely protected area of issue advocacy.*

Two basic truths have emerged with crystal clarity after twenty years of campaign finance regulations. First, independent electoral advocacy by citizen groups lies at the very core of the meaning and purpose of the First Amendment. Second, issue advocacy by citizen group lies totally outside the permissible area of government regulation.

In *Buckley* the Court upheld the speech and association rights of individuals to engage in independent campaign expenditures expressly advocating the election or defeat of political candidates. In *Federal Election Commission* v. *National Conservative Political Action Committee*, 470 U.S. 480 (1985), the Court assured the same rights to political action committees. And in *Federal Election Commission* v. *Massachusetts Citizens for Life, Inc.*, 470 U.S. 238 (1986) the same right of express electoral advocacy was extended to certain kinds of non-profit advocacy groups despite their corporate form, although a later case held that other corporate entities could be restricted in this regard. See *Austin* v. *Michigan Chamber of Commerce*, 494 U.S. 652 (1990).

S. 1219 abridges these rights in two ways. First, Section 201 of the bill completely bans independent expenditures by PACs, which is flatly unconstitutional, as noted above. On the "fallback" assumption of such likely invalidation, Section 251 redefines independent expenditures so narrowly and "coordinated" expenditures so broadly that the area of freedom of speech and association is drastically reduced and abridged in the process.

Under current law, an independent expenditures is one made without the knowledge or permission of a candidate, his or her agent or campaign committee. See 2 U.S.C. section 431(17) ("The term 'independent expenditure' means an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate, or any authorized committee or agent of such candidate, and which is not made in concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate."). Coordinated expenditures are treated like and limited like contributions to a candidate.

The proposed bill, however, so broadly defines coordination that virtually any person who has had any interaction with a candidate or any campaign official, in person or otherwise, is barred from making an independent expenditure. For example, under Section 251, any expenditure is deemed coordinated, and not independent, if the person making it "has advised or counseled" the candidate or his agents on any matter relating to the campaign or election. If you use the same political consultant or firm as the candidate you are likewise deemed coordinated.

These restrictions embody a new and impermissible version of "guilt by association," and a new kind of "gag rule" by association. See *De Jonge* v. *Oregon*, 299 U.S. 353 (1937) (A speaker cannot be punished for organizing a meeting and appearing on the same public platform where radicals were also speaking). Indeed, it could have some perverse effects. A disaffected campaign worker or volunteer, who leaves a campaign because he or she thinks a candidate has acted improperly, is barred from making independent expenditures against that candidate, for, ironically, they will be deemed a contribution.

The other way in which the provision governing independent expenditures is fatally flawed is in its expanded definition of "express advocacy," which is defined as a communication that "taken as a whole and with limited reference to external events" communicates "an expression of support for or opposition to" a specific candidate or groups of candidates. "Expression of support" includes "a suggestion to take action with respect to an election," including "to refrain from taking action." "Throw the rascals out" has just become express advocacy.

This broadened definition of "express advocacy" would sweep in the kind of essential issue advocacy which *Buckley* and cases predating *Buckley* by a generation, see *Thomas v. Collins*, 323 U.S. 516 (1945), have held to be immune from government regulation and control. It seems to be targeted exactly against the kind of voting record "box score" discussion that emanates from the hundreds and thousands of issue organizations that enrich our public and political life. In *Buckley*, the Court adopted a bright line test of express advocacy (words that in express terms advocate the election of defeat of a candidate) in order to immunize issue advocacy form regulation: "So long as persons or groups eschew expenditures that in express terms advocate the election or defeat of a clearly identified candidate, they are free to spend as much as they want to promote the candidate and his views." *Id.* at 45.

Indeed, the 1975 Act contained a similar provision regulating issue groups and their "box score" activities, and that section was unanimously held unconstitutional by the *en banc* Court of Appeals, without any further appeal by the government. See *Buckley v. Valeo*, 519 F.2d 817, 832 (D.C. Cir. 1975). The expanded definition of "express advocacy" is similarly flawed.

5. *The bill gives unacceptable new powers of prior restraint and political censorship to the Federal Election Commission.*

With all of these problems with the bill, particularly those that pertain to issue advocacy and independent expenditures, giving the Federal Election Commission sweeping new powers to go to court to seek an injunction on the allegation of a "substantial likelihood that a violation . . . is about to occur" is fraught with First Amendment peril.

As indicated earlier in this testimony, the very first suit brought under the brand spanking new campaign reforms in 1972 was against a small group of dissenters who sponsored an ad in *The New York Times* criticizing the President and praising a handful of his Congressional critics. Reminiscent of some of the language in the bill before you, the government's claim was that the advertisement was an electioneering message because it was "in derogation of" candidate Nixon and "in support of" the praised Members who were also up for re-election. While the courts quickly and sharply rebuffed those efforts to use political campaign laws to control issue advocacy, see *United States v. National Committee for Impeachment*, 469 F.2d 1135 (2d Cir. 1972); *American Civil Liberties Union v. Jennings*, 366 F. Supp. 1041 (D.D.C. 1973), the Commission's record of sensitivity to First Amendment values in the area of issue advocacy was once described as "abysmal." See *National Committee for Impeachment, supra*, 469 F.2d at 1141–42 (Kaufman, C.J. concurring). And ever since then, non-partisan, issue-oriented groups like the ACLU, the National Organization for Women, the Chamber of Commerce, Right-to-Life Committees and many others, have had to defend themselves against charges that their public advocacy rendered them subject to all of the FECA's restrictions, regulations and controls. And the problem persists. See *Federal Election Commission v. Survival Education Fund*, 65 F.3d 285 (2d Cir. 1995) (holding, 2 to 1, that 1984 fund-raising mailings critical of President Reagan's foreign policies constituted a solicitation of a contribution subject to FECA requirements).

The kind of "chilling effect" that such enforcement authority generates in the core area of protected speech makes the strongest case against giving the Commission additional powers to tamper with First Amendment rights.

The PRESIDING OFFICER. The Senator has 16 seconds remaining.

Mr. MCCONNELL. Mr. President, I thank my staffers, Tamara Somerville and Lani Gerst for their good work on this most important issue. Tam and I have been through these battles a few times, including staying up all night, a couple years ago. She has been a great help. I have enjoyed working with her on this and thank her for her service to the Nation.

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

Mr. FEINGOLD. Mr. President, I thank Andy Kutler, Susanne Martinez, and Mary Murphy.

I ask unanimous consent that a letter from President Clinton, a longtime supporter of campaign finance reform, urging the Senate to pass this legislation be printed in the RECORD.

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

THE WHITE HOUSE,
Washington, DC, June 24, 1996.

Hon. THOMAS A. DASCHLE,
Democratic Leader, U.S. Senate, Washington, DC.

DEAR MR. LEADER: Just over a year ago, I shook hands with Speaker Gingrich and publicly affirmed my commitment to reforming the nation's campaign finance laws. Now I call on Congress to send me legislation that will address the American public's desire for real change in our political process, and in so doing renew our democracy and strengthen our country. I support the legislation now being considered. In particular, I approve of several reforms such as placing limits on spending, curbing PAC and lobbyist influence, discounting the cost of broadcast time, and reforming the soft money system.

Organized interests have too much power in the halls of government. Oftentimes, representatives from such interest groups operate without accountability and are granted special privileges that ordinary Americans don't even know exist. In addition, elections that represent an opportunity in which ordinary voters should have the loudest voice have become so expensive that these voices are sometimes drowned out by big money.

Let us capitalize on the progress made in the last three years. In 1993, we repealed the tax loophole that allowed lobbyists to deduct the cost of their activities. In 1994, I signed a law that applies to Congress the same laws it imposes on the general public. Last year, Congress answered my call to stop taking gifts, meals, and trips from lobbyists, and I signed the Lobbying Disclosure Act into law. We now have an opportunity to finish the job by addressing campaign finance reform.

As we work to reform campaign finance, we must do everything in our power to ensure that we open, not limit, the political process. Our goal is to take the reins of our democracy away from big special interests, from big money, and to return them to the hands of those who deserve them—ordinary Americans. Real reform is now achievable. I urge the Senate to pass this legislation and give the American people something we can all be proud of.

Sincerely,

BILL CLINTON.

BROADCAST PROVISIONS

Mr. FEINGOLD. Mr. President, it has been suggested that the broadcast provisions in this bill may adversely affect the broadcast industry and I would like to respond to that point.

First, with respect to the free time provision, it is important to understand that this is really a limited free time benefit. It is limited to 30 minutes of free time. Second, the free time is only available to general election candidates—not primary election candidates. And third, of the general election candidates, it is only available to those general election candidates who agree to limit their spending.

We have also carefully crafted this provision to have as minimal effect on the broadcasters as possible. First, no one candidate can request more than 15 minutes of their free time from any one broadcast station. Second, use of the free time must occur in intervals between 30 seconds and 5 minutes. This will ensure that the requirement to provide free time will not interfere with the normal programming of the broadcast station.

And finally, the bill clearly states any broadcast station that can demonstrate that providing such free time will cause the station significant economic hardship is exempt from the free time requirement.

So clearly, the free time provision is not going to have a significantly burdensome effect on the broadcasters.

With respect to the 50-percent discount, it should be noted that this provision is really the linchpin of the legislation. Without public financing, there must be some alternative incentive to encourage candidates to voluntarily limit their campaign spending. Such an incentive had to have an effect similar to that of public funding in the Presidential system—that is, to lower campaign costs so the candidate can spend less time on the phone raising money and more time running a statewide grassroots campaign.

As we all know, the great proportion of a Senate candidate's campaign budget is devoted to broadcast advertising. And therefore, the most sensible solution for lowering campaign costs is to cut the costs of running television advertisements.

Keep in mind, Mr. President, current law already recognizes a public trustee standard with respect to broadcasters. Under current law, broadcasters must provide all Federal candidates with the lowest price they charge to commercial advertisers for similarly run advertisements.

That is current law. All we are doing is providing an additional discount to that special price.

This is entirely consistent with the Supreme Court's 1969 ruling in Red Lion Broadcasting Company versus Federal Communications Commission decision. In the Red Lion decision, the Court upheld the congressional determination made in 1934 that the airwaves belong to the American people, and this decision has subsequently been used to require the broadcasters to provide services such as lowest unit rate and equal time to qualifying Federal candidates.

To suggest that the provisions embodied in the McCain-Feingold bill are somehow a violation of the broadcasters first amendment rights is a proposition that has already been tossed out by the courts.

Let me quote from the legal analysis of this issue prepared by Law Professor Fred Schauer of Harvard University. Professor Schauer writes,

As long as Red Lion remains the law, Congress may within limits consider broadcast

time to belong to the public, and to be subject to allocation in the public interest. In this respect, therefore, price restrictions on advertising, and direct grants of broadcast time, will not violate the First Amendment as it is presently interpreted.

So it is clear that what we are requiring in this campaign finance reform bill is not only sound public policy, but completely within the confines of first amendment principles.

So now we come to the question of how this provision will affect the financial viability of the broadcast industry. Mr. President, when we talk about what sort of costs the broadcasters are going to incur as a result of this legislation, there are several important factors to keep in mind.

First, with respect to the free time provision, we are only talking about general election candidates who agree to voluntarily limit their spending. In any given State, where only two Senate elections occur every 6 years, this will have a nominal impact on broadcasters. Even if all general election candidates do agree to comply with the bill and receive the benefits, that means that all of the broadcasters in a particular State will only have to provide 2 hours of free time over a 6-year period.

It may interest my colleagues to know that the Congressional Research Service has analyzed the broadcast provisions of the McCain-Feingold proposal, and prepared a cost-estimate of how much these provisions might cost the broadcast industry.

I ask unanimous consent that the text of this report be placed in the RECORD at the conclusion of my remarks.

According to CRS, assuming all general election candidates were eligible for and used the free time benefit, this provision would cost the broadcast industry a maximum, a maximum Mr. President, of about $6 million per Senate election.

Figures provided by the National Association of Broadcasters [NAB] show that total political television advertising revenues in 1994 for the broadcast industry were $355 million. That is just political advertising revenues.

Total television advertising revenues in 1994 were $24.7 billion.

That means that the free time provision in the McCain-Feingold proposal, scored at a maximum of $6 million by CRS, would cost the broadcasters about 1.6 percent of their annual political advertising revenues, and less than three-hundredths of 1 percent (.025 percent) of their total annual advertising revenues. And of course, this would only occur in a brief period of time every 2 years.

And what about the 50-percent discount provision, that has been purported to be potentially catastrophic for the broadcast industry. According to CRS, the total cost of the 50-percent discount provision in the primary and general election would be $48 million, again, assuming all candidates were eligible for the discount.

So the most this provision would cost the broadcast industry according to CRS's independent analysis is less than $50 million.

Again, how does this compare as a percentage of the industry's revenues, both political and commercial?

Using the NAB's numbers on political advertising revenues and all other advertising revenues, this $48 million provision in S. 1219 would cost broadcasters, at most, about 13 percent of their political advertising revenues, and less than half of 1 percent (.19 percent) of their total advertising revenues. And again, this would only be every 2 years.

Mr. President, we are talking about less than one-half of 1 percent of the industry's revenues. And that is a maximum, it is likely to be much less than this.

And as you can see from this chart, the broadcast provisions in the McCain-Feingold proposal would cost the broadcast industry less than two-tenths of 1 percent of their total advertising revenues in 1994. And again, these nominal costs would only have to be incurred twice every 6 years.

So I think it is clear, Mr. President, that not only does the broadcast industry have a legal obligation to contribute to the political process, such a contribution would have a minimal effect on their overall revenues. The benefit to the public of cleaning up our congressional elections, in contrast, would be enormous.

Mr. President, it has been suggested that the bipartisan proposal put forth by myself and the Senators from Arizona and Tennessee would somehow further entrench incumbents and make it more difficult for challengers to run for office.

Mr. President, this is yet another argument put forth by the defenders of the status quo that does not pass the straight face test.

First of all, let us remember what sort of campaign finance system we currently have and how it affects challengers and incumbents. I don't think that anyone can dispute that the current campaign finance system confers significant benefits on incumbent Senators that provides incumbents an overwhelming advantage over challengers.

Incumbents start out with more name recognition. Incumbents are permitted to send out free mass mailings to the voters of their States, which often are little more than thinly disguised campaign newsletters.

And most importantly, as virtually every legitimate study has shown, the campaign cash overwhelmingly flows to incumbents. Whether it is PAC money, soft money, bundled money—you name it. The campaign money always flows to incumbents.

To suggest that spending limits will somehow make it more difficult for challengers to run for office is to suggest that challengers have access to the kind of money that incumbents have access to.

That assertion is just factually false.

Challengers cannot raise millions of dollars as incumbents can. The few challengers that are able to mount credible campaigns are those few challengers that are millionaires, and that is why more and more Senate campaigns are turning into races between an incumbent and a millionaire.

As this first chart demonstrates, money does matter. In 1990, 1992, and 1994, the Senate average winning candidate not only outspent the loser in that particular race, but far outdistanced them.

In fact, in most cases, the winning candidate doubled—doubled—Mr. President, what the losing candidate spent. That means that for every television spot the losing candidate was able to run, the winning candidate was able to run two television spots—in some cases, three or four or five times as many spots.

Now the fact that money is clearly the most determining factor in influencing the outcome of Senate elections is troubling by itself. It is a harsh indictment of the current limitless-spending campaign spending that the junior Senator from Kentucky is defending.

But if we know that the candidate who spends the most money is likely to be the winning Senate candidate, the next logical question is, who's getting the money?

As you can see, Mr. President, incumbents are getting the money. Not only are they getting the money, they are blowing challengers out of the water.

That is the current campaign finance system—a system in which the candidate who spends the most money is the likely winner, and a system in which the money flows overwhelmingly to incumbents. The current system is rigged to protect incumbents, and our proposal, for the first time ever, will provide challengers who do not have access to millions and millions of dollars to run a fair and competitive campaign.

We have spending limits in the Presidential system, Mr. President. Have they protected incumbents? They didn't protect President Ford. They didn't protect President Carter. And they didn't protect President Bush. The Presidential system, thanks to voluntary spending limits, has produced fair and competitive elections for 20 years now. The congressional system, with unlimited campaign spending, has produced the opposite.

The evidence is clear, Mr. President and I am hopeful my colleagues will see through the phony and absurd argument that spending limits hurt challengers.

THE CONSTITUTIONAL ARGUMENT

Mr. President, I have listened to the arguments of the Senator from Kentucky, the Senator from Washington, and others, with respect to the constitutionality of this campaign reform proposal.

I share his concern that we should not pass legislation that would be a clear violation of the first amendment.

I stand behind no one when it comes to defending the first amendment and the principles it stands for. That is why I will not support a constitutional amendment that would allow us to impose mandatory spending limits. At one time, I did vote for a sense of the Senate resolution regarding such an amendment but I have come to believe that we should respect the Supreme Court's rulings on this issue, and that these rulings have provided enough guidance and direction that we can write a constitutional proposal that would be upheld by the Supreme Court.

I have to say that what the Senator from Kentucky is suggesting, that the voluntary spending limits might be found by the courts to be unconstitutional, is unfounded. Mr. President, this argument is a giant red herring meant to divert attention away from the real issues.

Let us be very clear about what the Supreme Court held in the Buckley versus Valeo decision in 1976. The Court said two very important things in the Buckley decision;

First, the Court made a distinction between mandatory limitations on expenditures by candidates, and mandatory limitations on contributions to candidates. The Court said that we cannot place mandatory spending limits on all candidates, because that would infringe on the first amendment rights of those candidates who may wish not to abide by the spending limits.

Second, the Court upheld mandatory limitations on campaign contributions, declaring that such contributions could have, or appear to have, a corrupting influence on the recipient of those contributions, and contributions could therefore be limited.

Now, I have heard the Senator from Kentucky say on many occasions that the Supreme Court has said that money equals political speech and that since we cannot limit political speech, we cannot limit the flow of money. As the Senator from Kentucky just asserted, money, in his view, equals speech and we can't limit it.

However, Mr. President, the Supreme Court did not, in fact, say that money is speech and cannot be limited, and saying it over and over again doesn't make it any more true.

The Court did say that money is a form of speech, and can only be limited by the Government in certain circumstances. And as I said, one of those circumstances is in the form of limits on campaign contributions. If the Supreme Court had held that money equals absolute speech, then they would not have upheld limitations on campaign contributions.

Besides contribution limits, the Supreme Court has said that there are other ways we can constitutionally limit the flow of campaign money, including campaign expenditures.

As the Court said in the Buckley decision:

> Congress may engage in public financing of election campaigns and may condition acceptance of public funds on an agreement by the candidate to abide by specified expenditure limitations. Just as a candidate may voluntarily limit the size of the contributions he chooses to accept, he may decide to forgo private fundraising and accept public funding.

In short, the Presidential system is a completely voluntary system that offers incentives in the form of public financing to candidates who agree to limit their spending. That, the Court said, was perfectly constitutional.

And that sort of voluntary system, specifically upheld by the Supreme Court in the Buckley decision, is what the McCain-Feingold-Thompson legislation is modeled after. We provide a voluntary system of spending limits and benefits. No one is forced to participate, no one is coerced into participating, and there are no penalties, not a single one, for candidates who choose not to voluntarily comply.

Just like the Presidential system that has been specifically upheld by the Supreme Court.

The assertion that the Senator from Kentucky is making, that voluntary spending limits tied to the offering of cost-saving benefits is unconstitutional, is a challenge that has been specifically rejected by the courts. Let me repeat that Mr. President. The argument that the Senator from Kentucky is making, that voluntary spending limits tied to benefits is unconstitutional, has specifically been rejected by the Federal courts.

The case was Republican National Committee versus Federal Election Commission, and in that case a three-judge Federal panel specifically upheld the constitutionality of voluntary spending limits and rejected the argument put forth by the Senator from Kentucky. That decision was summarily affirmed by the U.S. Supreme Court.

It is true that unlike the Presidential system, the McCain-Feingold-Thompson proposal does not have public financing. It would have been my preference to have public financing, but I agreed to forgo public financing as a part of this compromise proposal.

Instead, we offer broadcast and postage discounts that will substantially reduce the costs of running for a Senate seat. And the outlandish suggestion has been made by a few—very few indeed—that this distinction, between public financing and advertising discounts, is what makes our legislation unconstitutional.

Mr. President, that is an absurd proposition. The only way such a voluntary system could possibly be unconstitutional is if the system were not truly voluntary, or in other words, if candidates were essentially coerced into participating. How do you coerce a candidate into participating? By making the benefits so incredibly valuable and by imposing tough penalties against those who choose not to comply, so that there really is not choice for a candidate to participate or not.

And this is where the Senator from Ketucky's—Senator MCCONNELL—argument completely falls apart. The court ruled in the Buckley case that public financing was not coercive. So for our bill to be unconstitutional, the benefits would have to be even more valuable than direct public financing.

Mr. President, the benefits in our bill are very valuable. The 50-percent broadcast discount alone will cut a candidate's advertising costs in half. But these benefits do not even come close to the value of direct public financing.

Suppose you are a Federal candidate running a $1 million campaign. And suppose you had a choice of two benefits; you could either have a 50-percent discount on your broadcast advertising, or you could have a check for $1 million. Which benefit are you going to take?

The question is obvious, Mr. President. Every candidate in America faced with such a choice would clearly favor the public financing. Public financing is a far more valuable benefit, and for the Senator from Kentucky to suggest otherwise flies in the face of the reality of our campaign system.

I find it interesting that during the course of the many hearings that have been held in the Senate Rules Committee, much testimony was heard from several constitutional experts. However, only one of those experts, Law professor Fred Schauer of Harvard University, made it clear that he had no position on the policy aspects of the McCain-Feingold bill. Every other expert called by the committee—on both sides of the issue—made clear that in addition to their legal views, they also has a bias as to either being in favor or opposition to the reform bill.

And how did Professor Schauer respond to the Senator from Kentucky's claim that the voluntary structure of spending limits in our bill was unconstitutional? After pointing out that the arguments asserted by the Senator from Kentucky were the same arguments rejected in the RNC decision, a decision that was summarily affirmed by the Supreme Court, Professor Schauer said:

> If we stick to the question * * * and separate the constitutional questions from the

policy question * * * voting against the bill on the assumption that it is clearly inconsistent with existing Supreme Court and federal court precedent is not an accurate characterization of the precedent.

Mr. President, the Schauer testimony is just a move in a chorus of objective analyses from constitutional experts around the country who have held that the voluntary spending limits in the McCain-Feingold-Thompson bill does pass constitutional muster. Without asking for anyone's view on the policy implications of our proposal, we asked several authorities in the legal and academic community for their opinions about the constitutionality of this proposal.

We asked the nonpartisan American Law Division of the Congressional Research Service to prepare a constitutional analysis of our proposal. The analysis, prepared by Paige Whitaker, a well-respected attorney with CRS who has prepared a number of reports for Congress on this issue and who has been called to testify before Congress on campaign reform, states very clearly that the voluntary system created in our bill of offering incentives in exchange for compliance with spending limitations is wholly consistent with the Court's ruling in Buckley versus Valeo.

In addition to CRS, my office contacted some of the most well-known and respected first amendment authorities in the country.

These authorities include Professor Daniel Hays Lowenstein of the UCLA Law School, Professor Cass Sunstein of the University of Chicago Law School, Professor Fred Schauer of Harvard University, Professor Jamin Raskin of the Washington College of Law at American University and Professor Marlene Arnold Nicholson of the DePaul University College of Law.

These experts, among the most widely respected first amendment and constitutional scholars in the country, all agree that the voluntary structure of spending limits tied to broadcast and postage discounts is fully consistent with the Constitution.

Now, Mr. President, some have also suggested that the provision in our proposal to prohibit Political Action Committee contributions to Federal candidates may not pass constitutional muster. I, for one, am skeptical that you can constitutionally prohibit a group of individuals from banding together, pooling their resources and contributing to a Federal candidate any more than you can prohibit any single individual from contributing to a Federal candidate.

However, we must remember that the Supreme Court has taken a favorable position with respect to the Government limiting campaign contributions, and indeed, the Supreme Court has upheld the constitutionality of absolute prohibits on specific entities making campaign contributions, such as labor unions and corporations.

Nonetheless, our proposal contemplates such a legal challenge, and contains specific fall-back provisions if the Supreme Court ruled a PAC contribution ban unconstitutional. These fall-back provisions would reduce allowable PAC contributions from $5,000 to $1,000, and stipulate that no candidate could receive more than 20 percent of the applicable spending limits in aggregate PAC contributions.

Where did this fall-back proposal come from, Mr. President? It is the exact same proposal, word for word, that was contained in the Pressler-Durenberger amendment offered to S. 3, the campaign finance reform bill considered in the 103d Congress.

That amendment, which not only banned PAC contributions, also banned all PAC expenditures in a Federal election including independent expenditures, included these very fall-back limitations on PAC contributions if the Supreme Court ruled such a ban unconstitutional. The Pressler-Durenberger amendment passed the U.S. Senate by a vote of 86 to 11.

Yes, 86 to 11, Mr. President. I voted for it. Most of the Members of this body, including the Senator from Kentucky, voted for it.

Our provisions dealing with PAC contributions are actually far more permissive than the provisions contained in the Pressler-Durenberger amendment which 86 Senators voted for.

I should also say, Mr. President, that a proposal to not only ban PAC contributions, but also to prohibit PAC's from engaging in independent expenditures as the Pressler-Durenberger amendment did, can actually be found in another reform bill—a bill introduced by the junior Senator from Kentucky. I am somewhat surprised that the junior Senator from Kentucky, who has condemned such a proposal as unconstitutional and a blatant violation of the first amendment, would include such a provision in the reform bill he wrote.

So, Mr. President, just a couple of years ago, 86 Senators went on record in favor of a PAC ban coupled with fall-back limitations in case of an unfavorable Supreme Court ruling. The provision in our proposal is actually far less restrictive than that included in the Pressler-Durenberger amendment, as we only limit PAC contributions, not their independent expenditures. If 86 Senators, including the Senator from Kentucky, believed a complete PAC prohibition to be constitutional enough that they could vote for it, I see no reason why the same number, or even more Senators now could not support a far less restrictive regulation.

In closing, Mr. President, I want to assure my colleagues that I believe, and the Senator from Arizona believes, that the key provisions of this legislation would be upheld by the courts. Moreover, nonpartisan experts from around the country, including the Congressional Research Service, who do not have a prejudice one way or the other on this proposal, have told us that these provisions are constitutional.

I ask unanimous consent that a statement designating that the broadcast provisions in the bill would have only a relatively nominal impact in the broadcast industry be printed in the RECORD.

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

CONGRESSIONAL RESEARCH SERVICE,
LIBRARY OF CONGRESS,
Washington, DC, February 8, 1996.

To: Honorable Russell Feingold, Attention: Andy Kutler.

From: Joseph E. Cantor, specialist in American National Government, Government Division.

Subject: Estimated value of free and discounted TV time under S. 1219—the Senate Campaign Finance Reform Act of 1995.

This memorandum provides information relevant to estimating the dollar value of the free and discounted TV air time that would be offered to Senate candidates under S. 1219, the Senate Campaign Finance Reform Act of 1995.

S. 1219, introduced by Senator McCain and you, establishes a system of voluntary expenditure limits for Senate candidates, in exchange for three cost-reduction benefits: (1) 30 minutes of free TV time; (2) additional TV time at 50 percent of the lowest unit rate (LUR); and (3) a reduced postal rate for two mailings per eligible voter. This memorandum focuses on estimating the value of the first two benefits, dealing with TV time.

As I have explained to you, and as has been reinforced in my conversations with all my sources, both these tasks are highly speculative, and the resulting estimates I have derived are subject to challenge on any number of grounds. I have used different methodology and sources for each of the two tasks, relying in both cases on a combination of actual cost figures, published estimates, and educated guesses and assumptions by appropriate authorities. While these assumptions can legitimately be challenged, I believe this effort to represent a reasonable, logical attempt at a rough approximation of the dollar value of the proposed benefits. Appropriate caveats and sources are noted herein.

BENEFIT NO. 1: FREE TV TIME

PROPOSAL

The bill would provide 30 minutes of free television air time to participating candidates, to be used: (1) in the general election period (i.e., once the candidate has qualified for the general election ballot); (2) on Mondays-Fridays, between 6 PM and 10 PM (unless the candidate elects otherwise); (3) in segments of between 30 seconds and 5 minutes; and (4) on stations within the State or an adjacent State, but with no more than 15 minutes on any one station.

METHODOLOGY

Our goal was to make a reasonable determination of the dollar value of 30 minutes of television advertising time which Senate candidates would use during a general election period.

At the outset, one is faced with the fact that there are enormous variations in costs

of TV time. First of all, there are 211 media markets in the U.S., with substantial differences in costs among them. Second, the broadcast market is a commodity market, subject to the laws of supply and demand. Hence, there are wide variations in costs within a single market or broadcast station, even for comparable periods of time on comparable TV shows. Furthermore, there are no sources on the exact cost of TV ads, because of the extremely complex system for buying and setting rates for TV time. Finally, our task was compounded by the uncertainties involved in a political campaign setting, with the number of candidates eligible for the benefit unknown and with the way in which candidates might use the benefit (within the parameters outlined in your legislation) unknowable.

In undertaking this project, I was fortunate in obtaining assistance from two Washington-area media buyers who are substantially involved in campaign work.[1] Despite their cautionary notes about the nature of this task (as outlined above), they understood the value of devising an intellectually defensible estimate and provided essential guidance in the process.

Our effort first focused on devising an average cost of a TV spot, based on the following assumptions: the 30 minutes would be used by the Senate candidate in the form of 60 spots of 30 seconds each; the candidate would seek to place all free spots in prime time (your bill covers the early news (6 PM—7 PM) and prime access (7 PM—8 PM) periods, as well as most of the prime time (8 PM—11 PM) period; and the candidate would place the ads on as many of the most popular (i.e., highly rated) shows as possible.

According to the Media Market Guide[2] for the fourth quarter of 1995 (which covers the months relevant to a general election), the national average cost per rating point for a 30-second spot in prime time (aimed at an audience of all adults over the age of 18) was $25,403.[3] As this represents the cost for a commercial advertiser, we subtracted 15 percent to reflect the rate most stations charge to political advertisers (this political rate, not required by law, should not be confused with the lowest unit rate which Federal law requires broadcasters to offer candidates). We arrived at a national political rate per point of $21,593. I then calculated a national average cost per rating point, by dividing $21,593 by 211 (the number of U.S. media markets), yielding an average political cost per point of $102.

In order to get a cost figure for an actual 30-second spot, one must multiply the cost per point by the number of points which a particular program (or TV show) commands. We chose five popular TV shows in Monday through Friday prime time, and then averaged their national rating point numbers. The shows (and their national rating points) were: NYPD Blue, ABC (15.90); 20/20, ABC (17.10); Law and Order, NBC (12.80); Frasier, NBC (14.70); and Chicago Hope, CBS (14.90).[4] The average national rating points of these shows came to 15.1. Hence, the average 30-second spot on a popular prime time show is 15.1 multiplied by $102, or $1,540.

If 60 of these 30-second spots are used, the benefit equals $92,400 per candidate, on average. Obviously, a New York area candidate's benefit would be much higher, while a Montana candidate's benefit would be much lower.

ESTIMATED TOTAL

To derive a national figure, we made a simple calculation, based on the assumption of 66 major party general election candidates, with no qualifying minor party candidates. Of course, it is a considerable assumption that all major party nominees would participate in this system, just as it is that no minor party candidates would qualify. But as your bill calls for an hour of free time per State, having minor parties qualify would not change the total. Hence, multiplying $92,400 by 66 candidates yields a national total of $6,098,400, rounded to $6 million.[5]

BENEFIT NO. 2: DISCOUNTED TV TIME

PROPOSAL

Your bill also provides participating Senate candidates the benefit of buying additional broadcast time at 50 percent of the lowest unit rate. This benefit would be available during the last 60 days of the general election (when the LUR requirement is in effect) and the last 30 days of the primary election (the LUR is now available to candidates in the 45 days before a primary, but your bill would change that to 30 days).

METHODOLOGY

Whereas the first benefit involves a specified amount of time in specific time periods, this provision would affect an indeterminate amount of broadcast purchases. Also, rather than involving a new form of candidate activity (i.e., a free service), this second benefit involves one candidates already use, but with a prospectively lower cost. Hence, whereas the first exercise was more theoretical, the second can be based more on what we know about current behavior among Senate candidates.[6]

Specifically, by estimating the current level of campaign air time, one can make a reasonable assessment of the dollar value of the reduced cost benefit to candidates. This exercise involves deriving a percentage estimate of the share of overall campaign expenditures that can be attributed to TV time buys during the periods affected by your bill, and then extrapolating this percentage onto campaign expenditure data.

There is no official source for data on broadcast expenditures in Federal elections. While campaign expenditures are required to be disclosed with the Federal Election Commission (FEC), payments to broadcast stations usually are not itemized and are often included among other payments to media consultants; nor do the reports group expenditures by category for easier retrieval of desired information. Furthermore, the Federal Communications Commission does not systematically compile data of this nature from the broadcast stations. Until very recently, observers were forced to rely on anecdotes, surveys, or estimates of the amount of campaign money that was directed specifically to broadcast time purchases.

Following the 1990 congressional elections, two reporters for The Los Angeles Times undertook a massive, systematic study of congressional campaign expenditures in that election—based on candidates' disclosure filings—and arranged the data into categories.[7] Comparable studies were done following the 1992 and 1994 elections, by Dwight Morris (one of the original authors) and Murielle Gamache. Because of their exhaustive efforts and professional skill, these studies are widely accepted by campaign finance experts as containing the most reliable, authoritative data on campaign expenditures by type of service. Consequently, my estimates are based heavily on the data in the most recent published study: Handbook of Campaign Spending: Money in the 1992 Congressional Races, By Dwight Morris and Murielle E. Gamache (Washington, Congressional Quarterly, Inc., 1994. 592 p.). (The 1994 edition will be published later in 1996.)

The summary tables, copies of which are attached, reveal that in 1992, major party Senate candidates who ran in the general election spend $86.8 million on "electronic media advertising." This category was defined on page xiv of Handbook of Campaign Spending as including: All payments to consultants, separate purchases of broadcast time, and production costs associated with the development of radio and television advertising.

Because the data unavoidably include production costs and consultant fees (which are irrelevant to the benefits in S. 1219 concerning air time), it is necessary to estimate the percentage solely for air time. The authors report that most media consultants add a 15-percent charge to media buys for their services (which include producing the ads). Hence, I would subtract this 15 percent, or $13.0 million, and assume the remaining 85 percent of the "electronic media advertising" total went for air time purchases. This leaves $73.8 million for air time costs.

Several other factors must be taken into account in making the data in this study applicable to our purposes. First, the electronic media figure includes radio advertising; our interest is solely in television. In a telephone discussion on February 1 with Dwight Morris, one of the authors, we agreed that it would be reasonable to assume that 95 percent of the total went for television. Hence, subtracting another 5 percent, or $3.7 million, leaves $70.1 million for TV air time cost.

Second, the data include spending by the candidates in the primary as well as the general election period, as FEC data unavoidably does. The benefits in S. 1219 would apply to both periods, but only for the last 30 days in the primary and the last 60 days in the general election. In our phone discussion, Dwight Morris and I agreed that it would be reasonable to assume that 90 percent of the media expenditures occurred in the general election period. Taking 10 percent of $70.1 million yields $7.0 million for primary TV air time spending and $63.1 million for TV air time in the general election.

The final estimation involved the extent to which the air time in the primary is bought in the last 30 days and the air time in the general election is bought in the last 60 days. Morris and I agreed (as did some of the media buyers I worked with in the first estimate) that at least 95 percent of the air time would be used in those periods. Hence, subtracting an additional 5 percent in each case leaves an estimated $6.7 million for TV air time in the last 30 days of a primary and $59.6 million for TV air time in the last 60 days of a general election.

GENERAL ELECTION BENEFIT

Step 1. Starting with $86.8 million total for electronic media advertising, I subtracted the estimates of $13.0 million for consultant fees, $3.7 million for radio time, $7.0 million for primary spending, and $3.5 million for time purchased before the final 60 days of the general election. The resulting $59.6 million (for TV air time in the final 60 days of the general election) represents approximately 69 percent of the "electronic media advertising" figure and 27 percent of the $219.1 million in total Senate candidate expenditures in the Morris/Gamache study.

Step 2. Although the comparable 1994 data are not yet available, it may be instructive to apply the 27 percent figure cited above to the total expenditures reported to the FEC by 1994 Senate candidates. The FEC reported

[1] Footnotes appear at end of letter.

that $270.7 million was spent by major party Senate general election candidates in the 1993–1994 election cycle.[8] Because the Morris/Gamache study included data for the six-year period leading up to and including 1992, I added the $12.6 million 1994 Senate candidates spent from 1989 to 1992 (which I calculated from the same press release). Hence, I arrived at a total of $283.3 million spent by major party Senate general election candidates in the entire six-year period. Assuming the same 27 percent of total spending went for TV air time in the last 60 days of the general election, I got an estimated 1994 figure of $76.5 million.

Step. 3. The 1992 estimated cost of TV air time of $59.6 million and the 1994 estimate of $76.5 million can be averaged (in case one of the years was an anomaly in the context of overall spending trends), to yield $68.1 million, rounded to $68 million for convenience. While this is just an estimate, subject to all the caveats inherent therein, I would be fairly comfortable using this as the basis for any further estimates you may wish to make, specifically that the value of the broadcast discount would be 50 percent of this, or roughly $34 million.

PRIMARY ELECTION BENEFIT

The process for estimating the benefit in the primary period is complicated by the fact that our primary data source not only does not distinguish between primary and general spending, but it leaves out candidates who lost the nomination contest. Hence, I added a fourth and fifth step to the process: (1) use the Morris/Gamache 1992 data on cost breakdowns, apportioning amounts to specific functions; (2) apply the same percentage to 1994 FEC data; (3) average the 1992 and 1994 figures; (4) examine 1992 and 1994 FEC data on primary losers, apply an appropriate percentage, and average the two dollar figures; and (5) add the average from step 4 to the figure in step 3.

Step 1. To apportion the share of primary election candidates expenditures that were spent on TV air time in the last 30 days of the primary, I started with the $86.8 million total for electronic media advertising in the Morris/Gamache study. I subtracted the estimates of: $13.0 million for consultant fees, $3.7 million for radio time, $63.1 million for general election spending, and $.35 million in time purchased before the final 30 days of the primary election. This left an estimate of $6.7 million as being spent by 1992 major party Senate candidates for TV air time in the final 30 days of the primary election. This figure represents approximately 8 percent of the figure listed for electronic media advertising and 3 percent of the $219.1 million in total Senate candidate expenditures in the Morris/Gamache study.

Step 2. I next applied the 3 percent figure cited above to the total expenditures reported to the FEC by 1994 Senate candidates. Again, I started with the $270.7 million spent by major party Senate general election candidates in the 1993–94 election cycle, and then added the $12.6 million these candidates spent from 1989 to 1992. Applying the 3 percent figure from 1992 to the resulting total of $283.3 million, I got a 1994 figure of $8.5 million for the cost of TV air time in the last 30 days of the primary election.

Step 3. I averaged the 1992 estimated TV cost of $6.7 million and the 1994 estimate of $8.5 million, to yield $7.6 million, rounded to $8 million for convenience. This represents estimated spending on TV air time during the last 30 days of the primary by candidates who went on to compete in the general election.

Step 4. Major party Senate candidates who were defeated in primary elections spent a total of $75.9 million in 1992[9] and $45.9 million in 1994.[10] Because all of this money was spent on the primary election, we adjusted only for consultant fees, radio time, and time purchased before the final 30 days. I assumed the same total percentage of money went for TV time by the primary losers as by all candidates in this six year study. Starting with the $86.8 million total for electronic media advertising, I subtracted the estimates of: $13.0 million for consultant fees, $3.7 million for radio time, and $.35 million for time purchased before the final 30 days of the primary. This left $69.8 million, which is approximately 32 percent of the $219.1 million in total expenditures reported in the Morris/Gamache study.

Applying this 32 percent to the $75.9 million spent by 1992 primary losers yields $24.3 million; applying the same percentage to the $45.9 million spent by 1994 primary losers yielded $14.7 million. Averaging the 1992 and 1994 figures gave us $19.5 million, rounded to $20 million; this represents an estimate of TV air time purchases in the last 30 days of the primary election by Senate primary losers.

Step 5. Finally, I added the $8 million from step 3 for party nominees to the $20 million for primary losers, yielding an estimated total of $28 million as being spent on TV air time by Senate candidates in the final 30 days of the primary.[11] Reducing this by half left us with $14 million, as the estimated value of the 50 percent LUR reduction to Senate primary candidates.

ESTIMATED PRIMARY AND GENERAL TOTAL

Using the methodology in this memorandum, I estimate the value of the 50 percent broadcast rate reduction to be worth $34 million to Senate candidates in the general election and $14 million in the primary—a total of $48 million.

I trust that this memorandum and the accompanying material meet your needs in this matter. Please feel free to contact me 7-7876 if I can be of further assistance.

FOOTNOTES

[1] Carole Mundy, of Fenn-King-Murphy-Putnam Communications, Inc. in Washington, D.C., assisted in developing the methodology and obtaining source material. Gail Neylan, of Neylan & Roy—an independent media buying service, provided guidance in corroborating and finetuning the approach developed with Ms. Mundy.

[2] Media Market Guide, 4th Quarter 1995 (October-December). NY, Bethlehem Publishing, Inc. 1995.

[3] Those cost per (rating) point is the standard unit used by advertisers and media buyers in evaluating relative costs of delivering one percent of the audience share in different markets.

[4] Ratings based on: A.C. Nielsen Company, Network Programs by DMA, November 1995.

[5] A more thorough effort might involve looking at each State's media dynamics, given the variations in media market configurations. A candidate in New Jersey, for example, has to buy time in both the New York and Philadelphia markets, while more than 90 percent of California voters are reached by seven markets, all within that State's boundaries. These types of calculations, while yielding perhaps a more accurate estimate, involved undue time investment and raised significant, complex additional questions.

[6] One caveat, of course, is that this approach is based on current candidate behavior, not taking into account prospective increased TV air time purchases because of the lower cost. While this could well occur, this tendency would be clearly circumscribed by the overall campaign spending limits to which participating candidates must agree.

[7] Fritz, Sara, and Dwight Morris. Handbook of Campaign Spending: Money in the 1990 Congressional Races. Washington, Congressional Quarterly, Inc., 1992. 567 p.

[8] U.S. Federal Election Commission. 1994 Congressional Fundraising Sets New Record (press release): November 1995.

[9] U.S. Federal Election Commission. 1991–92 Congressional Spending Soars to $680 Million (press release): January 1994.

[10] U.S. Federal Election Commission. 1994 Congressional Fundraising Sets New Record (press release): November 1995.

[11] It may seem counterintuitive that primary losers would spend twice as much on TV as primary winners, and this may point up a flaw in our estimation process. But it is often the case that well-funded primary candidates (often wealthy individuals) spend large sums of money in losing attempts at nomination, while in perhaps the majority of cases, Senate party nominees (especially incumbents) have little or no real opposition in the primary.

Mr. FEINGOLD. I yield the remainder of my time to my friend and a leader today in the future on campaign finance reform, the Senator from Arizona.

Mr. MCCAIN. I yield 30 seconds to the Senator from California.

Mrs. BOXER. Mr. President, I thank my friend for yielding. I thank him for his leadership, as well as that of Senator FEINGOLD. Let me say, as one of the two Senators from California, we need to raise at least $20 million—that is obscene—to win a Senate seat. That means a candidate running for Senate for California must raise $10,000 a day, 7 days a week, for each day of the 6-year term. This is unconscionable. I will support cloture. I will support campaign finance reform.

I intend to vote for campaign finance reform and for this measure cutting off debate so we can have the opportunity to discuss this crucial issue. We must pass campaign finance reform this year.

I feel we must limit the influence of special economic interests so that the public has no fear that Senators are representing those interests instead of the people of their State and the Nation.

As a Senator from the largest State in the Union, I am particularly aware of the need for reform. Candidates for the U.S. Senate in California must raise at least $20 million. This means that a candidate running for the Senate must raise at least $10,000 a day, 7 days a week, for each day of a 6-year term. This is obscene.

For me it is more important to meet with constituents here and in the State, write legislation, and participate in debates like this one, let alone read as much as I can.

There are several important aspects of campaign finance reform.

First, to establish limits on campaign spending. The root of our problems with the current system is that campaigns spend too much. To me limits are one of the most important elements of reform.

Second, we must end the practice of using soft money to evade contribution limits. Soft money originally was intended to be used for party building activities, but in many cases, it has turned into a negative campaign apparatus.

There are many approaches to campaign finance reform. I favor the Feinstein bill because it recognizes the

rights of organizations of every political persuasion to participate in the political process by gathering small donations to candidates.

I speak from the heart when I say that we must pass campaign finance reform this year and begin to restore the faith and confidence of the American people.

Mr. McCAIN. Mr. President, the Senate is about to determine whether bipartisan campaign finance reform will be an accomplishment of this Congress or not. As I noted yesterday, the Members of the 104th Congress can point with pride, well-earned pride, to the substantial institutional reforms that were passed by this Congress. But the reform which the public believes to be most necessary and most urgent—campaign finance reform—is not yet among the accomplishments of this reform-minded Congress.

Today, the Senate has an opportunity to begin remedying that deficiency, and take a giant step toward becoming one of the most important reform Congresses in American history. Invoking cloture cannot guarantee this legislation will be enacted into law, but we will be well on the way, Mr. President. Momentum toward final passage may well prove irresistible in the wake of a successful cloture vote.

But should we fall short of that goal today, it will not mean a permanent end to this effort. Mr. President, we will have campaign finance reform; if not this year, then next; if not the 104th Congress, then the 105th. We will have campaign finance reform because the people demand it. The people have perceived in the manner in which we finance our reelection a profound inequity between incumbent and challenger; an inequity which serves to distance Members of Congress from the will of the people; to further estrange us from our employers, and indebt us to an array of monied interests. The people's will cannot be forever denied no matter how well inoculated we are by the financial advantages we claim as incumbents. The people will have this reform, if not by our work, then by the work of our replacements.

Some may see in that statement a contradiction. If current campaign financing laws so greatly advantage incumbents then we should prove immune to public pressure for reform. We are indeed greatly advantaged by the current system, Mr. President, but no one, no matter how abundant his or her campaign coffers, can forever disregard a demand for reform that is supported by three-quarters or more of the American public. No one.

Not all campaigns are waged in such clear opposition to the public will. In most elections, candidates generally avoid giving great offense to the voters. It is in most elections that incumbents are undeniably, unmistakably, and overwhelmingly advantaged over challengers.

Opponents of this measure, who are my friends, argue eloquently that we who propose this reform are the enemies of the first amendment; that we are engaged in that most un-American of activities—the attempted abridgement of every American's right to free speech. I believe we have effectively refuted that serious charge, in part because we have had an ample body of opinion by constitutional scholars to rely on. For the record, let me state the obvious: I did not seek public office so that I might violate the Constitution. In my life, I have taken no oath more seriously than my oath to defend the Constitution. I hope my colleagues will accept that I am their equal in my love of our Constitution.

Mr. President, we proponents of campaign finance reform do not seek to curtail the free speech of incumbents. We seek to give voice—a greater voice—to challengers than is usually the case under the present system of campaign financing. These are voluntary spending limits we have proposed. Yes, there are incentives in this bill to encourage candidates to abide by these limits, and disincentives to discourage candidates from exceeding them. But if a candidate feels that circumstances necessitate campaign expenditures in excess of these voluntary limits, he or she is free to make those expenditures.

Their opponent, however, should not be unfairly disadvantaged by the other candidate's refusal of spending limits. So, we have included provisions in our legislation to help a candidate who abides by the limits keep pace with the campaign of the candidate who rejects the limits.

Implicit in the arguments of this bill's opponents is the definition of free speech as more speech. They argue that if an incumbent does not spend more money on advertising than the challenger, either because of voluntary limits or because the challenger is allowed more discounted advertising and postage rates, then somehow the incumbent's free speech has been curtailed. In reality, Mr. President, our legislation does not abridge the incumbent's right to free speech; it advances the free speech of challengers. It refutes the notion that for speech to be free, one candidate must have more of it than another.

Again, these are voluntary spending limits. They are voluntary and they are fair.

Mr. President, the opponents of campaign finance reform are as passionate in their opposition as we are in our support. I do not doubt the sincerity of their conviction that too little money is spent on campaigns today. I disagree, of course, but I cannot challenge their earnestness nor resent the passion with which they advance their argument. On a few occasions, I have been known to invest my arguments with a little heated rhetoric, and it would be unfair of me to begrudge the genuine ardor our opponents hold for their cause, as unsound as that cause might be.

I commend them for their willingness to extensively and openly debate this legislation, so that the public may judge from our arguments who has carried the day. The cloture vote will indicate legislative failure or success today. But it will not necessarily indicate whose argument has prevailed. Nor, as I noted at the beginning of my remarks, will this vote, should we fail to reach cloture, signal an end to this campaign for reform. We will be back next year. We will ultimately prevail.

Before I conclude, Mr. President, I want to again commend the Republicans and Democrats who sponsored and helped to craft this first genuinely bipartisan campaign finance reform bill. They have all distinguished themselves in this debate, and in this crusade to keep faith with the people's just demands for reform. First among these friends is my partner, the Senator from Wisconsin, RUSS FEINGOLD. The Senator is a man of honor, and his sense of honor prevails over his sense of politics. That is a virtue, Mr. President, a sometimes inexpedient virtue, but a virtue nonetheless, and one which I greatly admire.

Mr. President, the Senator from Wisconsin and I came to the Senate to argue with one another. We came to the Senate with different ideas about the proper size and role of Government in this country.

We came here to serve our constituents by serving those ideas, and we want to spend our time here in open, fair, and honest debate over whose ideas are the most sound. We did not come here to spend the majority of our time raising vast funds to ensure our reelection. Nor did we come here to incur obligations to a few narrowly defined segments of this country. All Americans deserve fair representation by their Congress.

Mr. President, despite our philosophical and political differences, Senator FEINGOLD and I have made a common cause in our pursuit of genuine campaign finance reform. To do so, we both knew that we would have to relinquish all partisan advantages that had undermined previous legislative attempts at reform. We were determined to be fair, Mr. President, and on no occasion—no occasion—did Senator FEINGOLD, or any of the cosponsors, attempt to seed into this legislation an advantage for one party or the other. We were fair, we were committed to genuine reform, and we were and are determined.

I have found the experience liberating, and I commend it to all of my colleagues. I urge all of my colleagues to join us in this necessary endeavor, to accept the public will and restore the public's respect for the institutions

that are derived from their consent. Vote for cloture. Vote for reform.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 1 o'clock having arrived, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 1:02 p.m., recessed until 2:14 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COATS).

CAMPAIGN FINANCE REFORM

The Senate continued with the consideration of the bill.

Mr. DASCHLE. Mr. President, the McCain-Feingold campaign finance reform bill is not a perfect bill. But it is a good bill. More important, it provides a good start on what ought to be one of our top priorities: loosening the grip of big-money special interests on politics.

I will vote for cloture not because I think this bill cannot be improved—it can—but because we must change the way campaigns are financed, and this is, for now, the only means we have to make that change.

There are those who say they oppose cloture because they want to be able to amend this bill and improve it. But let no one in this Chamber be fooled: a vote against cloture is a vote to kill campaign finance reform. We know that because the leading opponent of this bill has told us he intends to filibuster this bill and kill it if we give him the chance.

To block reform with calls for debate is more than cynical. It is dangerous.

A while back, the Kettering Institute conducted a survey of Americans' attitudes about the influence of money on politics. The survey found a widespread belief that "campaign contributions determine more than voting, so why bother?" It described "a political system that is perceived of as so autonomous that the public is no longer able to control or direct it."

"People talk about government," the study said, "as if it has been taken over by alien beings."

We will never restore faith in government if people believe the political system is rigged against them, if they believe it serves the wealthy, the powerful, and the politically connected at their expense.

The McCain-Feingold proposal, as I have said, is not perfect. For instance, I believe we should encourage participation in our political process by individuals who get together not because they have some narrow economic interest in a particular bill but because they have a broad interest in the direction of government. That is exactly the kind of grassroots participation that groups like EMILY'S List and, yes, WISH List, encourage. Yet this bill would ban such participation. In my opinion, that is a serious flaw.

But this bill does fix some of what is most broken about the current campaign finance system. It sets reasonable spending limits. It makes political campaigns more competitive for challengers. And it sets reasonable limits on the influence of PAC's.

This is not an attempt by one party to rewrite the rules to its own advantage. This is a bipartisan effort that will be good for both our parties, and for our Nation. I want to thank Senators MCCAIN and FEINGOLD for their leadership in getting us to this point against what must have seemed at times very long odds.

I will vote for cloture because I believe it is wrong if another Congress comes and goes and does nothing about campaign finance reform.

Talk may be cheap. But when endless talk is used to block action on campaign finance reform, it becomes terribly expensive because special interests are able to undermine efforts to solve the problems that matter most to America's families.

A while back, the Speaker of the House said, and I quote—"One of the big myths in modern politics is that campaigns are too expensive. The political process is not overfunded; it is underfunded."

Mr. President, the American people do not agree. A poll conducted earlier this year by a Republican and a Democratic pollster asked people whether they agreed that "those who make large campaign contributions get special favors from politicians." Sixty-eight percent said yes, they agreed, and they said they were deeply troubled by it.

So the need for campaign finance reform will not go away, even if, for some reason, campaign finance reform is not enacted in this Congress. Ultimately, we must change the rules. We must lessen the influence of money on politics. I urge my colleagues to join me in beginning that change by voting now to bring this reasonable, modest proposal forward for a vote.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I ask unanimous consent that I may use leader time for a very brief statement.

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

Mr. LOTT. Mr. President, just very briefly, I want to commend the Senate for the quality of the debate on this campaign finance reform issue. I have been able to listen to several of the speeches that have been given. I think on both sides of the issue and on both sides of the aisle, it has been an outstanding debate.

I commend specifically Senator MCCAIN, Senator FEINGOLD, Senator THOMPSON, and others who have sponsored this legislation, and for the quality of their cooperation and debate.

I also commend the courage, once again, of the outstanding leader of the opposition to this campaign finance reform, Senator MCCONNELL. He has done a magnificent job. I think we should recognize that.

I think this is an important issue which we will address, I am sure, again in the future. But I think it is too important to address right at this point in the heat of the national election debate.

I do not think we have the solutions here. So I urge that cloture not be invoked.

I hope the Senate will not invoke cloture on the McCain-Feingold substitute amendment to S. 1219.

We all agree that campaign finance reform is an important issue. But it's become too important to deal with it during the heat of a national election.

It is already too late in the calendar year to make this bill's provisions apply to the elections of 1996. So we are not going to lose anything by waiting until early next year to get this job done.

When we do it, we have to do it right—the first time. We should not make the same mistake the Senate made back in 1974, when it hastily cobbled together a campaign reform bill that later came apart at the seams before the Supreme Court.

Since the Court's decision in Buckley versus Valeo in 1974, the Congress has been on notice that, when it comes to imposing rules and restrictions on the financing of political campaigns, we must be scrupulously careful of the first amendment.

In short, our good intentions must pass constitutional muster. My personal judgment is that this bill does not do so.

I recognize that others may disagree, but when it comes to the free speech protections of the first amendment, I prefer to err on the side of caution, rather than zeal.

I need not go into all the details already covered by other speakers, but I note that one of the key provisions in this legislation—concerning political action committees—has a fallback provision, in case the original provision is overturned by the Supreme Court as a violation of the first amendment.

What that means to me is that we know at least some parts of this bill are on shaky ground. I think we should craft campaign finance reforms that are rock solid.

Two of our colleagues from the Republican side of the aisle have played crucial roles with regard to this legislation. Both have acted out of conscience and principle, and have come to opposite conclusions.

Senator MCCAIN took the lead in shaping this legislation and advancing

it to this point. His determination has kept this issue in the spotlight, and I know he will not give up the fight now.

I hope to work with him over the next several months to see how we can build on his efforts for a bill that will be more broadly supported and, finally, enacted into law.

Senator MCCONNELL has, in this 104th Congress as in preceding years, been a consistent critic of campaign finance laws which, in his judgment, would limit access to the political process or inhibit participation in it.

To speak bluntly, he has put his neck out to defend the first amendment rights of all Americans, even when it was not fashionable to do so. I commend him for doing so. I know he will be equally vigilant in the future, to ensure that the Congress does not attempt to achieve a worthy goal by less than worthy means.

I think everyone has had their say about campaign finance reform. Now it's time for the Senate to move on to other pressing issues.

So I will vote against cloture. And if my colleagues agree with me, and cloture is not invoked, it will then be my intention to return to the Department of Defense authorization bill.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the cloture motion having been presented under rule XXII, the Chair directs the clerk to read the cloture motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on S. 1219, the campaign finance reform bill:

Trent Lott, John McCain, Judd Gregg, Bob Smith, Rick Santorum, Sheila Frahm, Claiborne Pell, Jeff Bingaman, David Pryor, John F. Kerry, Paul Wellstone, Patty Murray, Fred Thompson, Bob Graham, Herb Kohl, Russell D. Feingold.

CALL OF THE ROLL

The PRESIDING OFFICER. The mandatory quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on S. 1219, the campaign finance reform bill, shall be brought to a close? The yeas and nays are required. The clerk will call the roll.

The legislative clerk called the roll.

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

The yeas and nays resulted—yeas 54, nays 46, as follows:

[Rollcall Vote No. 168 Leg.]

YEAS—54

Akaka	Ford	Mikulski
Baucus	Glenn	Moseley-Braun
Biden	Graham	Moynihan
Bingaman	Harkin	Murray
Boxer	Hollings	Nunn
Bradley	Inouye	Pell
Breaux	Jeffords	Pryor
Bryan	Johnston	Reid
Bumpers	Kassebaum	Robb
Byrd	Kennedy	Rockefeller
Cohen	Kerrey	Sarbanes
Conrad	Kerry	Simon
Daschle	Kohl	Simpson
Dodd	Lautenberg	Snowe
Dorgan	Leahy	Specter
Exon	Levin	Thompson
Feingold	Lieberman	Wellstone
Feinstein	McCain	Wyden

NAYS—46

Abraham	Frahm	Lugar
Ashcroft	Frist	Mack
Bennett	Gorton	McConnell
Bond	Gramm	Murkowski
Brown	Grams	Nickles
Burns	Grassley	Pressler
Campbell	Gregg	Roth
Chafee	Hatch	Santorum
Coats	Hatfield	Shelby
Cochran	Heflin	Smith
Coverdell	Helms	Stevens
Craig	Hutchison	Thomas
D'Amato	Inhofe	Thurmond
DeWine	Kempthorne	Warner
Domenici	Kyl	
Faircloth	Lott	

The PRESIDING OFFICER. On this vote the yeas are 54, the nays are 46. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. FEINGOLD. 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. LOTT. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

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

MORNING BUSINESS

Mr. LOTT. We do have some requests for time. With the agreement of the Democratic leader, I ask unanimous consent that we be in morning business until the hour of 3 p.m., at which time we hope to have the unanimous-consent request involving a number of issues ready.

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

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

IOWA STATE FAIR

Mr. GRASSLEY. Mr. President, one of the best ways to tell the Iowa story already unfolds each year in Iowa's capital city, Des Moines. The Iowa State Fair has become an icon of life in Iowa—it is a reflection of what is best about Iowa and its people. Sparking the interest of hundreds of thousands of visitors each year, the State fair offers a diverse range of exhibits and performances. And it is among the largest agricultural expositions in the Nation.

In 1854, 8 years after Iowa joined the Union, the first State fair was held in Fairfield, IA, on a 6-acre field. Even in those early years, Iowans came from miles around. Although the fair was only a 3-day event, an amazing crowd of 7,000 to 10,000 arrived 3 days before and camped in covered wagons along the road. In 1878, the fair grounds were permanently moved to Des Moines. Today, the fairgrounds span 400 acres, including 160 acres of campgrounds.

During the early years, a sampling of popular entertainment features included female equestrians and a contest among seven men to plow one-quarter or an acre the fastest. In 1911, the Wright brother's biplanes demonstrated each day of the fair.

The State fair began a unique tradition in 1916 that holds true today and continues to unite all ages of fair goers. That year, young 4-H club members started a livestock and beef judging show. The following year boasted the largest sheep exposition of its time. To this day, young Iowa 4-H and FFA exhibitors continue to impress visitors and judges with their livestock and homemaking projects. By the way, I am proud to say that 4-H was started in Iowa.

For over 141 years the essence of the Iowa State Fair has not changed. Its main focus continues to revolve around agriculture and its vast opportunities. The tradition of excellence in Iowa agriculture products has stood the test of time. Take a quote from a fair judge in 1854: "as to corn, it is useless to talk of finding any better."

Many Americans may have read a novel called, "State Fair," or perhaps watched a version of it on the big screen. Yes, it was written by an Iowa newspaperman and was based on the Iowa State Fair. The famous Rodgers and Hammerstein musical also was inspired by the Iowa State Fair. Last year, "State Fair" debuted at the Civic Center in Des Moines and opened on Broadway in March of this year.

Folks from all walks of life come each and every year to enjoy the sights, tastes, and sounds of the State fair. Iowans hold a very special place in their hearts and take pride in our annual celebration of Iowa's culture, history, agricultural products, and commerce. Without a doubt, individual and community efforts have made the Iowa State Fair a major event in the Midwest. The bounty and achievements from across our great Nation and from overseas is honored each summer at the Iowa State Fair.

So put on some comfortable clothes and shoes. Remember that the temperature will be hot and the air humid. And let us go help judge the jelly and jam, look at the livestock, take a ride

on the midway, eat a corn dog, and marvel at how realistic the cow sculpted from pure butter looks. Let us all go to the Iowa State Fair.

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. Thank you.

OUR NATION'S SCHOOLS

Ms. MOSELEY-BRAUN. Mr. President, 2 years ago my colleagues, Senators KENNEDY, PELL, SIMON, WELLSTONE, and KERRY joined me in asking the General Accounting Office to study the condition of America's schools. Since then, the GAO has surveyed 10,000 schools in over 5,000 school districts. They have visited 41 schools and interviewed State officials responsible for school facilities in all 50 States. They have now written six reports documenting the condition of America's schools.

Today, Mr. President, I am pleased to present the final two reports in the series. The first, "America's Schools Report Differing Conditions," documents crumbling school facilities in every State, in every region of the country, in every type of community, and in every type of school serving every kind of American child. The second report, "Profiles of School Condition by State," presents all the information that the GAO has compiled on the condition of school facilities in each State, building conditions and readiness for computers, as well as State funding needs and the level of State support for school facilities.

Mr. President, these reports document a problem that transcends geographic and demographic boundaries. Crumbling schools is not just an inner-city problem, it is not just a problem for poor children or for minority children. Crumbling schools are everywhere. It is an American problem. And it relates directly to our future ability to maintain the quality of life that Americans expect.

I have charts here that paint the picture of the schools' conditions in the four regions of our country. In every region, the GAO reports that whole buildings are inadequate, that building features, like roofs, walls, and windows, are inadequate, and that the environment for learning, like the lighting, ventilation, and indoor air quality is inadequate.

In the Northeast, 30 percent of the schools report inadequate buildings, 59 percent report inadequate building features, and 57 percent report inadequate environmental conditions.

In the Midwest, 31 percent of the schools report inadequate buildings, 57 percent report inadequate building features, and 57 percent report inadequate environmental learning conditions.

In the South, 31 percent of the schools report inadequate buildings, 53 percent report inadequate building features, and 54 percent report inadequate environmental conditions.

And in the West, 38 percent of the schools report inadequate buildings, fully 64 percent report inadequate building features, and 68 percent report inadequate environmental conditions. Mr. President, crumbling schools span our country.

In the urban areas, 38 percent of the schools reported at least one inadequate building. In rural areas, it is 30 percent. In the suburbs, it is 29 percent. This problem is not just confined to urban, rural, or suburban schools. It is across the board. Inner city schools are in disrepair, but so are suburban schools, as well as rural schools.

My home State of Illinois is a microcosm of the Nation. We have Chicago, farmland, wealthy suburbs, and the poorest slums. Schools are crumbling across my State. Mr. President, 31 percent of Illinois schools report at least one inadequate building, 62 percent report at least one inadequate building feature, 70 percent report at least one inadequate environmental condition.

In Illinois' wealthier communities, schools are full of computers and are designed to meet every student's and teacher's needs. The situation is different in all too many other communities. There, computers sit idle because the electrical power to run them is not available, or because there is nowhere to put them, or no one who knows how to use them.

Five years ago, in his book, "Savage Inequalities," John Kozol described the unbelievable conditions of some of Illinois schools. He reported schools "full of sewer water," without playgrounds, science labs, or art teachers. He went to schools where the stench of urine permeated the halls. He wrote of schools that were, in his words, "extraordinarily unhappy places."

Today, Mr. President, the GAO reports that these conditions still exist, in all 50 States—in States that place a high priority on education, as well as those that do not.

I point out that these facility problems are not cosmetic. A study released last month found a direct correlation between crumbling schools and student achievement in the North Dakota schools. This study is the latest in a string of reports that consistently prove that students can't learn if their schools are falling down.

When we send our children to crumbling schools, we subtract from their opportunities. A generation ago, a college graduate earned about twice as much as a high school dropout. Today, the ratio is nearly 3 to 1.

The income gap between educated Americans and uneducated Americans is growing. Gone are the days when strength and hard work were enough to raise a family. In the information age, education is a prerequisite to employment. A good education has become a form of currency that buys quality of life. According to the Department of Labor, by the year 2000, half of all new jobs will require an education beyond high school.

When we send our children to crumbling schools, we subtract from America's opportunities. Education benefits the Nation as much as it benefits the individual.

When students do not learn, we all contribute to the costs of remedial education. We pay for government-sponsored health care, welfare, child care, job training. We pay for crime prevention to house millions of prisoners, more than 80 percent of whom are high school dropouts.

Every year the Federal Government spends nearly half a trillion dollars on antipoverty, crime prevention, and health care programs.

Investing in education would save much of these costs and much of this money. Yet we have neglected the needs of our elementary and secondary schools, and it has shown up in our children's test scores. It affects their ability to concentrate and to learn and to receive the kind of education they need to keep America competitive in the 21st century.

The time has come for a new school facilities paradigm. Local school districts are simply overwhelmed. The local tax base often cannot itself keep up with routine maintenance costs—let alone the costs of upgrading schools for 21st century learning, or to ease overcrowding. Of course, local bonds issues fail regularly.

State governments, the GAO reports, are not fixing the problem. In 1994, they spent only $3.5 billion all told—a far cry from the $112 billion need that the GAO has documented.

I believe that the time has come for a partnership between all levels of government. The national interest compels us to support elementary and secondary educational opportunities on a consistent national basis, and in ways that do not interfere with local control of education.

Just as the Federal Government pays for the Interstate Highway System, but the construction decisions are made at the State and local levels, the Federal Government can support education infrastructure without getting involved in the kinds of decisions that belong at the State and local levels.

I have sent every Senator and Governor the GAO results for their State and for the country. I welcome their input. It is time for us to open a dialog about this issue because I believe that together we can address this problem and we can fix our schools.

When America was faced with a challenge of adapting to the industrial age, we did, and we emerged as the world's economic, military, and intellectual leader. Now, we are moving into the information age. We have to adapt again.

Investment in the infrastructure needed to support the technological change the world has witnessed is an inefficient and appropriate place to start.

These reports today complete the first comprehensive school facility survey in over 30 years and the most exhaustive study ever. Their work provides the foundation for the new kind of Federal, State, and local partnership that we need to make our schools work for the 21st century.

Mr. President, crumbling schools is a ticking time bomb. In this global economy, in the information age, we should be able to devote some small measure of our national resources to prepare our children with a chance to learn.

Mr. KENNEDY. Mr. President, the Nation's schools are facing enormous problems of physical decay. According to two GAO reports released today, "School Facilities: America's Schools Report Differing Conditions" and "School Facilities: Profiles of School Condition by State," 14 million of the Nation's children in one-third of our schools are learning in substandard school buildings. About half of the schools have at least one unsatisfactory environmental condition, such as poor air quality.

Massachusetts is no exception—Forty-one percent of Massachusetts schools report that at least one of their buildings needs extensive repair or should be replaced; 75-percent report having at least one inadequate building feature, such as a plumbing or heating problem, and 80 percent have at least one unsatisfactory environmental factor.

It is difficult to teach or learn in dilapidated classrooms. Student enrollments will reach an all-time high next year and continue to rise. By this fall, 51.7 million students will be enrolled in elementary and secondary schools—surpassing the previous record of 51.3 million in 1971, and enrollment will increase to 54.1 million by 2002. We cannot tolerate a situation in which facilities deteriorate while enrollments escalate.

GAO estimates that American schools would need $112 billion just to repair their facilities. Yet the Republican budget cuts education by $25 billion, or 20 percent in real terms, over the next 6 years, with no provision at all for maintaining or upgrading facilities. In the Republican appropriations bill scheduled for consideration in the House this week, Federal aid to Massachusetts schools would be cut by almost $40 million next year, compared to the President's budget.

Obviously, the Federal Government cannot meet all the needs of all the Nation's schools. But education is a national priority and a national investment. Clearly, Congress should not be slashing aid to schools when their needs are so vast.

LICKING VALLEY GIRL SCOUT COUNCIL GIRL SCOUT GOLD AWARDS

Mr. FORD. Mr. President, I want to draw special attention today to six young women from northern Kentucky. These six young women from the Licking Valley Girl Scout Council are recipients of the Girl Scout Gold Award—the highest achievement a Girl Scout can earn. Each one has demonstrated outstanding achievements in the area of leadership, community service, career planning and personal development.

Girl Scouts of the U.S.A. serves over 2.5 million girls and has awarded more than 20,000 Girl Scout Gold Awards to Senior Girl Scouts since the inception of the program in 1980. Recipients of the award have not only earned patches for the Senior Girl Scout Leadership Award, the Senior Girl Scout Challenge, and the Career Exploration Pin, but also designed and implemented a Girl Scout Gold Award project.

But perhaps most importantly, these six Gold Award recipients have made a commitment to community that should not go unrecognized.

Jacqui Meier, Julie Ann Greis, Angela Schierberg, Christina Teeters, Christie DeMoss, and Mindy Hiles have put an extraordinary amount of work into earning these awards, and in the process have received the community's and the Commonwealth's respect and admiration for their dedication and commitment.

For 85 years, the Girl Scouts have provided "an informal educational program to inspire girls with the highest ideals of character, conduct, patriotism, and service so they will become resourceful, responsible citizens." The Licking Valley Girl Scouts alone serve over 5,000 girl and adult members.

Mr. President, I know my colleagues share my enthusiasm and admiration for the Girl Scouts' commitment to excellence. And, I know you will agree with my belief that this award is just the beginning of a long list of accomplishments and successes from these six Girl Scouts.

COMMENDING INDIVIDUALS WHO HELPED RESOLVE FREEMEN STANDOFF

Mr. BAUCUS. Mr. President, I would like to take this opportunity to commend to the Senate some valiant individuals who demonstrated courage, patience, and understanding while working to end the standoff between the Government and the so-called Freemen.

We in Montana are not accustomed to the national spotlight. We are content to mind our own business. But we have received a great deal of publicity the last 2½ months for the standoff of the so-called Freemen.

The standoff took a long time, and was never without a serious threat of danger. Everyone involved with bringing these fugitives to justice deserves our respect.

First off, I would like to applaud two individuals who dealt with the situation years before the national media took an interest in the Freemen. Charles Phipps, Garfield County sheriff, and Nick Murnion, Garfield County attorney, had to endure death threats, imminent peril and, finally, intense media scrutiny. Through it all, they handled themselves and their jobs with calm rational professionalism and great courage.

I would also like to thank several Federal officials who were instrumental in bringing this confrontation to a peaceful resolution. Sherry Matteucci, U.S. attorney and Jim Seykora, assistant U.S. attorney. And working for the Federal Bureau of Investigation were: Weldon Kennedy, Robert Bryant, Robert Blitzer, Thomas Kubic, Robin Montgomery, James Cleaver and Thomas Canady. These people's dedicated service can best be seen in the final peaceful resolution of the conflict.

Their work on this case is a textbook example of how to get the job done right. I salute these individuals who gave and risked a lot to see that the Freemen were brought to justice without the loss of life.

And finally, I would like to thank the people who have been patient for over 2 years. They have exhibited a shining example to the rest of the country, and they welcomed the influx of law enforcement officials with open arms. These people are the residents of Jordan, MT, and the surrounding area. They are regular Montanans. I had the chance to visit with many of them. They were not particularly happy about all the fuss they were getting, but they knew that it would eventually pass. Without their patience and resolve, we could not be enjoying the results that we do today.

Now that the standoff is over, life in eastern Montana will return pretty much to normal. Folks can go back to the lives they have come to miss over the past few months. But as we do so, it is important that we learn from this experience. And due to the efforts of the individuals I named, my State, our country, is a little better and a little wiser.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, I think so often of that November evening long ago, in 1972, when the television networks reported that I had won the Senate race in North Carolina. It was 9:17 in the evening and I recall how stunned I was.

I had never really anticipated that I would be the first Republican in history to be elected to the U.S. Senate by the people of North Carolina. When I

got over that, I made a commitment to myself that I would never fail to see a young person, or a group of young people, who wanted to see me.

I have kept that commitment and it has proved enormously meaningful to me because I have been inspired by the estimated 60,000 young people with whom I have visited during the 23 years I have been in the Senate.

A large percentage of them are greatly concerned about the total Federal debt which back in February exceeded $5 trillion for the first time in history. Congress created this monstrous debt which coming generations will have to pay.

Mr. President, the young people who visit with me almost always are inclined to discuss the fact that under the U.S. Constitution, no President can spend a dime of Federal money that has not first been authorized and appropriated by both the House and Senate of the United States.

That is why I began making these daily reports to the Senate on February 25, 1992. I decided that it was important that a daily record be made of the precise size of the Federal debt which, at the close of business yesterday, Monday, June 24, 1996, stood at $5,110,926,525,572.12. On a per capita basis, the existing Federal debt amounts to $19,275.61 for every man, woman, and child in America on a per capita basis.

The increase in the national debt in the 24 hours since my report yesterday—which identified the total Federal debt as of close of business on Friday, June 21, 1996—shows an increase of more than $1 billion—$1,225,352,306.06, to be exact. That 1-day increase alone is enough to match the total amount needed to pay the college tuition for each of the 181,695 students for 4 years.

BILL EMERSON MEMORIAL BRIDGE

Mr. BOND. Mr. President, I rise to tell my colleagues of the death of a good friend and colleague, Congressman BILL EMERSON, who, until Saturday night, represented southeast Missouri's Eighth Congressional District. BILL EMERSON was, I believe, well known to many in this body, certainly to many around this city, and was loved by the people of southeast Missouri. He had a long and distinguished history of service in the U.S. Congress.

BILL EMERSON was a 15-year-old congressional page in 1954 when a Puerto Rican nationalist sprayed gunfire on the House floor. BILL helped carry a wounded Member off the House floor on a stretcher. After high school and graduation from Westminster College, he served as administrative assistant to Representative Bob Ellsworth of Kansas, and then to Senator Charles "Mac" Mathias of Maryland. Subsequently, he served in various legislative relations positions with Fairchild Industries, Interstate Natural Gas, Federal Elections Commission, and TRW.

In 1980, it was a new day. BILL was elected as a Republican Congressman in the Eighth Congressional District, the first Republican to win that seat in 52 years. BILL EMERSON was from that district. He knew the district. He spoke to the hearts and minds and souls of the people of that district. They returned him again and again, very strongly each time he ran. BILL always served his constituents. He was an expert in agriculture affairs. Had he lived, he would have been the Republican chairman of the House Agriculture Committee.

He was well known for his work in agriculture, including being a strong advocate of food donation programs. He had worked with the late Congressman Leland on many of the food programs that they shared a common interest in. One of his legislative priorities this session was a bill that would make it easier for food unused by restaurants, supermarkets, and other private businesses to end up in food pantries and shelters, rather than in garbage cans and dumpsters.

BILL EMERSON was also in touch with the needs of his constituents in southeast Missouri on transportation and other infrastructure improvement issues. He worked for levies, for highways, and most recently, a bridge—a bridge which he fought hard to get Federal funding from the Federal Highway Administration for. It took several years, but BILL's persistence paid off. The groundbreaking for the new Cape Girardeau bridge will occur this summer. It is estimated to be completed in the year 2000.

He commanded great respect on both sides of the aisle in both Houses, and was well known and well respected by the media. In honor of BILL EMERSON, I now send to the desk a bill to designate the bridge estimated to be completed by the year 2000 as the BILL EMERSON Memorial Bridge.

I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1903) to designate the bridge, estimated to be completed in the year 2000, that replaces the bridge on Missouri highway 74 spanning from East Cape Girardeau, Illinois, to Cape Girardeau, Missouri, as the "Bill Emerson Memorial Bridge," 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. BOND. Mr. President, I point out the mark of respect to BILL EMERSON is the fact that I introduced this bill on behalf of my colleague, Senator ASHCROFT, and we just started to work on the bill last night, and the cosponsors include Senator LOTT, Senator DASCHLE, Senator INHOFE, Senator JEFFORDS, Senator SMITH, Senator AKAKA, Senator CRAIG, Senator COATS, Senator DEWINE, Senator DORGAN, Senator THOMAS, Senator GREGG, Senator SIMON, Senator MIKULSKI, Senator BROWN, Senator SNOWE, Senator MACK, Senator KYL, and Senator CAMPBELL.

Mr. President, I ask unanimous consent that the distinguished President pro tempore, the distinguished Senator from South Carolina, be added as a cosponsor as well.

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

Mr. BOND. I ask unanimous consent that Senator ROBB be added as a cosponsor.

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

Mr. BOND. Mr. President, I ask unanimous consent that the bill be deemed read the third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

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

The bill (S. 1903) was deemed read the third time, and passed, as follows:

S. 1903

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

SECTION 1. DESIGNATION OF BILL EMERSON BRIDGE.

The bridge, estimated to be completed in the year 2000, that replaces the bridge on highway 74 spanning from East Cape Girardeau, Illinois, to Cape Girardeau, Missouri, shall be known and designated as the "Bill Emerson Memorial Bridge".

SEC. 2. REFERENCES.

Any reference in a law, map regulation, document, paper, or other record of the United States to the bridge referred to in section 1 shall be deemed to be a reference to the "Bill Emerson Memorial Bridge".

Mr. BOND. I thank the Chair and my colleagues. This means a great deal to the family of BILL EMERSON, to his constituents, and all of his good friends. We very much appreciate the expeditious handling of it.

Mr. THURMOND. Will the Senator yield?

Mr. BOND. I am happy to yield.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I want to commend the able Senator for taking the action that he has. I knew Congressman EMERSON. He was an outstanding man, a man of integrity, ability and dedication. I think the action taken here today categorizes this man for what he is: a man who loved this country, who served it well. This action taken is altogether taken to honor his memory.

I yield the floor.

Mr. ROBB addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ROBB. Mr. President, I would like to add a word on behalf of BILL EMERSON. My perspective comes principally from the personal side. All of the Members of Congress, of course, represent their districts and return to their districts often. But, frequently, they spend time in the communities here in or around the Washington area. BILL EMERSON and his family were members of our church, and were active participants. We sat with them. We saw them. We experienced part of this particular struggle, and we developed enormous respect for him and for his family.

I join with and commend the distinguished Senator from Missouri and the others who have cosponsored this particular resolution and have spoken out on behalf of BILL EMERSON. He was a very fine human being. I think all of us who had the privilege of knowing him certainly respect what he did for his country, for his State, and we will miss him in his service in the Congress of the United States.

With that, I yield the floor.

Mr. COATS. Mr. President, I came to the Congress in 1980, in the class that included BILL EMERSON. It was a special class, elected at a unique time, so we developed a pretty close relationship.

In addition to serving with BILL in the House of Representatives for 8 years, we were friends of the family. BILL's daughter, Tori, is the same age as my son, Andrew. They went through school together and just recently graduated together. We attend the same church as the Emersons, and so we have a number of things in common with them.

I have had the opportunity to observe BILL and his reaction to the tragic news of his illness and the way in which he handled that. It was an extraordinary demonstration of courage and faith that he so magnificently handled what many would view as a tragic situation.

There are many measures of BILL EMERSON. It would be impossible for me to list them all—diligent worker, someone who knew Congress inside and out, starting here at the age of 15, someone whose life was devoted to public service, someone who deeply loved his family and was a man of considerable faith. But I think the memory that I share of BILL EMERSON is one passed on to me by my wife during the graduation ceremony when our two children graduated just a week or so ago. I did not see BILL at that time. I rushed in from the Senate to the graduation just in time for the beginning of the ceremony, but Marsha had met BILL, just literally days away from his death, suffering from terminal cancer, sitting in a wheelchair, assisted in his breathing with oxygen, with two dozen roses in his lap and a big smile on his face, watching as his daughter received her high school diploma.

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

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

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1997

Mr. LOTT. Mr. President, I ask unanimous consent that we resume consideration of the Department of Defense authorization bill for debate only, until I seek further recognition at approximately 3:20, while we continue to put the final touches on our UC request involving a number of bills.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1745) to authorize appropriations for fiscal year 1997 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Kyl/Reid amendment No. 4049, to authorize underground nuclear testing under limited conditions.

Kempthorne amendment No. 4089, to waive any time limitation that is applicable to awards of the Distinguished Flying Cross to certain persons.

Warner/Hutchison amendment No. 4090 (to amendment No. 4089), to amend title 18, United States Code, with respect to the stalking of members of the Armed Forces of the United States and their immediate families.

Mr. NUNN. Mr. President, as we begin the fourth day of consideration of this bill, I thought it would be appropriate to give the Senate my own view of where we have been and where I think we are going if we are going to finish this bill, which is a very important measure.

Thus far, we have debated this bill for about 24 hours. We have disposed of 34 amendments. I have not kept an exact count of the amount of time consumed by consideration of three nonrelevant, nongermane amendments thus far to our bill, but I will make a conservative estimate, and a charitable observation, that well over half of the time of our debate has been devoted to these three nonrelevant amendments.

While I believe the issues of reopening Pennsylvania Avenue, pharmaceutical patents under the GATT agreement, and the stalking of women are certainly worthy of Senate debate, none of them are in the jurisdiction of this committee, and none of them are in the jurisdiction of the conference when we go to conference. All of them, even if they are passed on this bill, will require outside conferees and are unlikely to be accepted by the House.

The simple fact is that we cannot afford the time it takes to consider and to continue considering these nonrelevant amendments. I may vote for all of them. But, at some point, the Senate has to decide whether it wants to pass a defense bill. If so, then both sides of the aisle have to cooperate and not continue putting these kinds of amendments on the bill.

I know the leadership is now discussing a unanimous-consent agreement on the minimum wage, which would be a big step forward, because if that does not occur, then that will certainly come up on this bill, in which case we will never finish this bill this week.

I know Senators have a right to offer such amendments, but—and I know that my colleague from South Carolina, the chairman of the committee, and I have talked about this, and he has already addressed it—I hope that we can resist the temptation from this point on to have amendments that are not germane to the bill, have nothing to do with defense, are not in the jurisdiction of this committee, would not be in the jurisdiction of the conference, and would be very unlikely to be accepted in the conference. If we do that, we can push forward with completion of this bill by offering those amendments that are relevant to this bill.

Toward that end, over the past 4 days, the committee's Democratic staff has been working hard on our side of the aisle to compile a list of what would be considered the major defense amendments to be offered by Democratic Senators, and time agreements for the consideration of these amendments. We have that list, and we are working with the leadership to finalize the list. I would not say it is final now, but we certainly have some idea—more than we did the other day.

In addition, we will continue to urge Senators who have an amendment to offer on this bill to notify us of their intention as soon as possible so that we can develop a finite list of amendments that will lead to a time of completion of the Senate consideration of S. 1745.

I know that a cloture motion has been filed on the defense bill and a vote will occur on that tomorrow morning. I understand where the Senator from South Carolina and the leadership is coming from in proposing that motion. I do not intend to support cloture at this time. Invocation of cloture would require not only relevancy, but also germaneness. Many amendments that directly relate to defense and that are in the jurisdiction of the committee,

which would be considered by the conference and that would not require outside conferees, are relevant to the bill but not germane to the bill, which would be required under cloture.

So I do not intend to support cloture tomorrow. If it is invoked, everyone should realize that most of these amendments that I would call nonrelevant would be ruled out.

I mentioned that considerable time has been consumed on nonrelevant amendments. I hope that we can find ways to have time agreements. I hope we can find a way to get a definite list of amendments and make sure that those are the only ones that are going to be offered so we know we can finish this bill. If we can do that on both sides, then, of course, we will not need to invoke cloture. If we are not able to do that on both sides in the near term, then at some point I will support cloture. But I do not intend to do so tomorrow.

The defense bill was started last Tuesday, and one of the reasons I will not support cloture—in addition to the relevant and germane considerations, which are very technical but very important when people are frozen out of amendments—is we have been interrupted over and over again in the consideration of this bill. Although we have had the bill before us for 4 days, we have not had many hours for debate on the bill itself.

We have been interrupted, as I said, by nonrelevant, nongermane amendments. We were interrupted for consideration of Federal Reserve nominations on last Thursday. I understand that. I certainly understand that we had no choice on that.

We, also, of course, have had a day and a half of debate during this time on the campaign finance bill which we voted on cloture on a few minutes ago. That was on the floor both Monday and a half day Tuesday.

So we have not really had a clear shot at moving this bill forward with genuine defense amendments. I think we ought to give that a real try as we move forward this week. If we do not make progress in debating major defense amendments—we keep getting these amendments that are well-meaning and I am sure very sincerely pursued by Senators but that have nothing to do with defense and in all likelihood would not be part of a defense bill that went to the President. If we continue to get those, we will simply not be able to finish this bill.

So with the continued leadership of our chairman, Senator THURMOND, and the leaders, I am hopeful that by the end of the day today we will begin to have a road map to lead us to the conclusion of this bill. I urge everyone on this side of the aisle to let us know about your amendments. Many of them can be worked and altered somewhat and accepted. Some of them can be accepted the way they are now. But if we are able to get those amendments, I would want to work with the Senator from South Carolina in every way possible to have a definite list of amendments on the Democratic side that would represent all of the amendments that would be offered so that we could get a unanimous consent agreement that no other amendments would be offered, and then we would be able to see the light at the end of the tunnel.

Mr. President, I yield the floor.

Mr. ROBB addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

STUDY OF ALTERNATIVE FORCE STRUCTURES

Mr. ROBB. Mr. President, I first of all commend the ranking member of the committee for his work in attempting to reduce the number of amendments so that we can handle this bill. I expect to follow his lead tomorrow with respect to at least the first vote on cloture. Shortly we will resume consideration, and it would be appropriate to offer amendments, and at that time I believe the next amendment to be offered will be offered by the distinguished Senator from Connecticut, Senator LIEBERMAN, shared by the current occupant of the chair, the Senator from Indiana, Senator COATS, and a number of us.

I would like to speak for just a few minutes on that particular amendment in anticipation of its being offered sometime after the majority leader opens the bill up for amendments at that time.

Mr. President, the amendment that we are going to be considering very shortly will require a major review of the force structures of the Armed Forces and, in my judgment, it could be the most important matter we will address in the consideration of this year's Defense authorization bill, or in similar authorization bills through the end of the century, because it goes right to the heart of why we have a military and what we can expect in terms of national security for many years to come.

Admittedly, the Department of Defense had some reservations about our approach initially, but we have worked out those concerns, and I really believe this amendment is critical if we are serious about our role in the international community and our simultaneous quest for credible deterrence and fiscal responsibility.

Mr. President, we have to start by reexamining the basic structure of the U.S. Armed Forces. That structure, though smaller, has changed very little in its composition since the end of the cold war even though the nature of the threat and the means for countering it are dramatically different.

I believe we need to take a long, hard look at the weapons systems that are on the drawing board and determine which are truly critical for the 21st century. I believe we have to look for ways to leverage our Nation's technological advantages.

By expanding the range and accuracy of our weapons and the effectiveness of our support equipment, we may be able to reduce the number of troops and logistics operations. We certainly need to take greater advantage of our exceptional intelligence communications capabilities which have the potential to dramatically affect how we develop and deploy strategic doctrine and battlefield tactics.

Mr. President, each of these areas of endeavor ought to be explored in a major review of our force structure. We also need to assess the Bottom-Up Review's assumptions about our capabilities in a more realistic fiscal context.

In particular, we need to take a much more critical look at the kinds of threats to U.S. national security interests that we will likely face 15, 20, or even 30 years from now.

While the original Bottom-Up Review served a useful purpose, its analysis of the personnel, weapons, and military doctrine required by a 21st century American force is simply no longer adequate.

The review that we are proposing should take a tabula rasa look at the nature and effects of unconventional threats such as regional and ethnic conflicts, nationalism, political extremism, and failed nation-states, proliferation of weapons of mass destruction, technology transfer, and information warfare and terrorism, both international and domestic.

The review should, of course, look at the continuing threats of major regional conflicts such as that of the Persian Gulf, but it should specifically look as well at the possibility of a major peer emerging or reemerging as a competitor on the world stage.

The obvious candidates over the 15-year horizon are Russia, and especially China with its booming economy fueling its military revitalization and modernization program.

Mr. President, in our long-term planning, we should also consider anew the potential for armed conflict in broad geographic regions. Take, for example, the tinderbox of the so-called Rising East where the United States has fought five times in the last 100 years. In addition to the United States presence and the armies of Russia and China there, this vast area is home to the world's five other largest armed forces: North and South Korea, Vietnam, and the potentially nuclear-capable India and Pakistan. The latter may be particularly problematic.

What on its face looks like a regional conflict might require redefinition somewhere between global and regional, if nuclear weapons are exchanged, and affect a great many neighboring countries.

It would be incumbent on those conducting the review to detail the specific forces—by active, reserve, and

support force type—needed to execute alternative strategies that run the gamut from global war to two nearly simultaneous major regional conflicts—or MRC's, as we call them—to a number of contingencies smaller than an MRC.

Assumptions about Reserve readiness, allied mission sharing, warning times, and the effect of developing technologies on the force structure must also be addressed.

Other questions should include, at a minimum: What are the risks under alternative force structures, if funding through 2010 and beyond remains constant? Should forces be sized against specific enemy threats, against national security commitments, or against available national resources? Are the Reserves optimally trained, equipped, and deployed? Do peacekeeping operations necessitate changes in the way we have organized, trained, and deployed forces? How should we bring our teeth to tail ratio back in line.

What outsourcing opportunities offer the greatest potential for stretching the defense dollar? Are there better measures of readiness available? Does the current structure of the unified combatant commands make sense for the next century?

Mr. President, many defense analysts—in the Department, academia, and industry—are asking similar questions. I have been giving each of these matters a great deal of thought in recent months, and my staff has done a great deal of research. When I learned that Senator LIEBERMAN and others, including the current occupant of the chair, were looking at different elements of the same challenge, we joined forces on this amendment to ask the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, to consider all of the matters that I have just highlighted in the quadrennial defense review.

This review, recommended by the Roles and Missions Commission, is an examination of U.S. defense strategy and force structure through 2005. But we believe the Secretary ought to have a second opinion as well.

As such, this amendment will call for the creation of a parallel but independent panel of private experts from the Nation's major think tanks, academia, and the defense industry. The panel that we are going to describe would have full access to DOD resources and analyses and will provide its assessment of the quadrennial defense review by Secretary of Defense by March 14, 1997.

With this input, the Secretary of Defense would finalize his quadrennial defense review and provide his summary, an assessment by the panel, and comments by the Chairman of the Joint Chiefs of Staff to the congressional defense committees by not later than May 15. It is a safe bet, it seems to me, Mr. President, that the ensuing hearings would be provocative and enlightening.

Once the quadrennial defense review is completed, the panel will take the next step of pushing the envelope in long-range thinking.

Looking out to 2010 and beyond, the panel will explore a range of threat scenarios, build force structures to meet those scenarios, and explore the risks and costs associated with each. In the process of conducting this forward-thinking assessment, the panel will again have the authority to task any DOD component for data and analysis.

The panel's final product will be delivered to the Secretary of Defense not later than December 1, and the Secretary, in turn, will submit the panel's report to the Congress no later than December 15, along with his comments on the report.

In the final analysis, we need to acknowledge that defense spending has fallen to a level that simply will not meet the national military strategy for fighting and winning two nearly simultaneous major regional conflicts.

Overall defense spending as a percentage of GDP has fallen to its lowest level since just after World War II. It absorbed about 10 percent of the gross domestic product during the early 1960's. Today, that number has dropped to below 4 percent, and it is projected to continue to fall in the outyears.

I submit that we ignore the implications at our peril.

It is up to us to ensure that future generations of Americans are afforded the strong measure of security that we have come to expect as a Nation for the last 50 years, and the best way we can assure this is through the judicious application of foresight and steadfastness.

Defense spending in the 5 budget years immediately after the cold war was $350 billion less than the amount projected in the cold war budget. Make no mistake; that was a huge peace dividend, and our country has since cashed it on discretionary domestic spending, entitlements and interest on the national debt. When all is said and done, the only thing that remains of the peace dividend is the opportunity for continued peace. And we can only achieve that through the kind of preparedness to which this review will lead us.

It is my understanding that this amendment is now broadly acceptable on both sides of the aisle, and when it is formally offered by my distinguished colleague from Connecticut in a few minutes and discussed by a number of colleagues who have been working on it, I urge that all of my colleagues join in adopting this particular amendment.

With that, Mr. President, I yield the floor.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from Indiana is recognized.

Mr. COATS. Mr. President, very briefly, I wish to add to the remarks just made by the Senator from Virginia.

I had planned to be here when the Senator from Connecticut, Mr. LIEBERMAN, introduces this amendment. It is something that the Senator from Virginia, the Senator from Connecticut, the Senator from Arizona, the Senator from Georgia and I have worked together on. Unfortunately, I have a schedule conflict which will take me off the floor, so I would like to make a preliminary statement prior to our going to the amendment.

This amendment is a natural convergence of thinking of members on the Armed Services Committee and other Senators regarding the need for more information with which to make assessments about future defense spending programs and plans.

Clearly, we rely a great deal on the Department of Defense for provision of information and guidance in terms of how the committee operates, but I think many of us felt we needed additional information in order to take a longer look at how we strategize, plan for, fund, and program Department of Defense needs.

We felt it might be helpful to have an outside review panel help us in that process. So over the past several months, a number of us have talked about coordinating and combining our efforts into language that we can insert in the next fiscal year's defense authorization bill. This language will direct the Secretary of Defense to appoint and work with an independent review panel to give us a broader, longer look at defense strategy and defense needs.

I am pleased to join with Senator LIEBERMAN in authoring this effort. Senators ROBB, MCCAIN, NUNN, INHOFE, KEMPTHORNE, WARNER, HUTCHISON, SANTORUM, MURKOWSKI, LEVIN, and FORD have all joined in this effort. It is bipartisan, and I believe you could say a nonpartisan, effort. We do not provide for our national security as a partisan issue. We do not view it even necessarily as a bipartisan issue. Rather, our national security is a nonpartisan issue. We want to take as objective a look as we can at our current situation, at future threats to our national security and what kind of strategies, forces, and implementing needs we will have to face in the years ahead.

This is a worthy effort. I wish to commend my colleague from Connecticut for taking the bull by the horns and pulling this effort together. It has been a cooperative effort among a number of us who worked with the Department of Defense to iron out some concerns they had, and I think we have an excellent provision which we will

shortly be adding to the Defense Department bill.

PRIVILEGE OF THE FLOOR

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that Stanley Kaufman, a Brookings Institution fellow, and Mark Rosen, Institute for National Securities Studies fellow assigned to my office, be permitted the privilege of the floor for the duration of the debate on the fiscal year 1997 defense authorization bill.

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

Mr. LIEBERMAN. Mr. President, before he leaves the floor, I thank my colleague, the Senator from Indiana, for his support and his work in preparing the amendment that he spoke of on a force structures study for the United States and also to thank our colleague from Virginia, Senator ROBB, for the very thoughtful, forthright, and very constructive words that he spoke on behalf of the amendment that we hope to offer to the defense authorization bill before too long this afternoon, after a unanimous-consent request is agreed to by the leadership.

If I may, to expedite matters, I would like to take this opportunity to comment on the amendment that I will be offering at the appropriate time. I am honored to be offering it on behalf of Senators COATS, ROBB, MCCAIN, NUNN, INHOFE, KEMPTHORNE—the occupant of the chair—WARNER, HUTCHISON, SANTORUM, MURKOWSKI, LEVIN, FORD, BOND, and, I am pleased to say, last but not least—last but most—the distinguished majority leader of the Senate, the Senator from Mississippi, Mr. LOTT.

This amendment calls on the Secretary of Defense to conduct a thorough study of alternative force structures for our armed services. What are we talking about? We are really talking here about providing the members of the Senate Armed Services Committee, most of whom are cosponsors of this amendment, and then in turn the full Congress, with the information to help us answer fundamental questions about our future national security. The questions are as simple as this: To the best of our knowledge, to the best of the knowledge of the best thinkers we have on these matters, both inside and outside the Pentagon today, what are the security threats that America is likely to face in the next century and how can we best meet those security threats? It is as simple, and in some ways as complicated, as those simple questions suggest.

Those of us who are sponsoring this amendment believe that such a study is essential if the United States is going to be able to meet the security challenges of the 21st century in light of the dramatic changes that have occurred in the geopolitical situation, the changes in the threats to our security which, in the view of some experts, are even more daunting than those we faced in the cold war, and the ever-present but increasingly more difficult problems of resource constraints, which is to say budget pressure—limited amounts of money to spend on the full range of governmental responsibilities; remembering, as we approach this function of Government, that the reason governments were formed in the first place was to provide that underpinning of security without which we cannot then go on to secure and provide the freedom and opportunity and benefits that Government attempts to provide for our people.

This study that will be authorized by this amendment is also an attempt to not just provide a road map to our future national security, but to break out of the day-to-day momentum, the inertia of the process of authorization and appropriation for defense needs as it exists now. Many changes have occurred, dramatic changes responding to changes in technology, which provide our war fighters with capability that no war fighters in history have ever possessed. Yet the changes are so dramatic, the world so uncertain, our fundamental responsibility to provide for our national security so great, that what we who will put forth the amendment are asking is that we step back from the day-to-day, that we look out over the horizon. As one of my cosponsors said, that we go up to 30,000 feet and we look out as far as we can see to the future security threats we may face and how we can best meet them; to ask the bold questions, the questions that unsettle the status quo, that do not always, in the normal course of the process, get asked here. That is really what this is all about.

The United States obviously is, today, the world's only true superpower. On the other hand, there is no shortage of threats to our national interests. We see them all around. In many real ways our military has been operating at a greater tempo since the end of the cold war than it did before. We face many dangers—rogue states like Iran, Iraq, North Korea, the more profound and we hope longer range and perhaps never-realized potential for the emergence of another superpower peer competitor, perhaps a resurgent Russian nationalism, perhaps China in the next century—those are factors we need to consider and attempt to evaluate as we plan and execute our national security programs.

Obviously, there is also the insidious and dangerous and more near-term threat posed by terrorists who may come to possess weapons of mass destruction, and who also, unfortunately, possess a disregard for human life which might restrain rational actors from employing those weapons of mass destruction and, in fact, have restrained those who possessed those weapons in the past from doing so. Add to this the major advances in and proliferation of ballistic missile technology, which make possible the ability to deliver these weapons of mass destruction cheaply, effectively, and with stealth, and we have to conclude that the world is not only not as predictable as it once was but in many respects it is actually more dangerous than it was during the cold war.

Our ability to deal with these changing conditions is, of course, affected by limited defense budgets, as I have said. In moving, as we are doing, slowly but directly, to a balanced budget, we are going to be under increasing pressure, in meeting our defense needs and other needs, to get the maximum bang for the buck. If we are to succeed in making the best use of these limited defense dollars, we have to continually ask: Are we spending our defense dollars as wisely and efficiently as we possibly can? Are we buying the right things to support a properly sized force structure? Are we taking maximum advantage of technology to avoid being bested in the future, being defeated in the future by an opponent that is now inferior but one that may invest wisely in the next generation's technologies and take advantage of vulnerabilities that we may have?

Again, underlying all these questions are those fundamental questions I posed a few moments ago: What are the threats we will face in the future and what do we need to deter and, if necessary, defeat those threats?

We have to determine the bottom line of what is it we want our military to do, not just in the sense of military capabilities, but also in the broader context of what responsibilities we want the United States to accept in the next century and what we will need our military to be able to do in order for our country to fulfill those responsibilities.

Once we answer those questions—those fundamental questions—we can move on to define how we shape, size, and equip those military forces so they can confront the wide range of challenges we will face and if necessary, again, deter and defeat an opponent's military forces.

Mr. President, we need to generate here an informed national debate on what our defense posture should be in the 21st century. The fact is, that these questions of national security are too frequently discussed and debated only by a small group of Americans, yet they are the fundamental questions that any society faces. How do we protect our security? How does the Government best do that?

It is the hope of those of us who will introduce this amendment a bit later on in the afternoon that the study, the inquiry authorized by this amendment, both within the Pentagon and by the independent, nonpartisan commission created by the amendment, will engender what will challenge, not just those

of us here, but those outside the building, outside Washington, to engage with us in a great debate as to how we can continue to protect our national security in the next century.

We cannot afford, either fiscally or strategically, to continue to tinker at the margins of our military forces or to procure cold war systems we have previously bought but only in diminishing quantities and at ever-increasing prices. We need the Secretary of Defense and the chairman of the Joint Chiefs to put their best minds to work on these ideas and issues in a focused and comprehensive and independent way.

The amendment that we will offer does not in any way second-guess or infringe on the duties and prerogatives of the Department of Defense. In fact, we know that there is much thinking in the department today along the very lines this amendment would request. We believe our amendment will strengthen the department's hand and help it prepare in the assessment and recommendations which will serve as the basis for fortifying the national bipartisan, nonpartisan consensus for defense which we must have in the years ahead.

This is not just a question of measuring by the dollars. What the Senator from Virginia said is worth bearing in mind as we judge our defense spending, which is that we are now committing less money to defense as a percentage of our gross domestic product than we have since the second world war. The pressure is on to continue to reduce those expenditures.

We have to be devoted to eliminating waste and overlap and taking maximum advantage of new technologies so that the dollars are not the only measure. But it is worth noting, as we consider those broader and deeper measures, that even this year's defense authorization bill, with the additional money added by the Senate Armed Services Committee, represents the 11th consecutive year in which our spending for national defense has dropped in real dollars. That is something that all of us here, and as many people as we can stimulate into the discussion out there in the citizenry, ought to ponder.

Mr. President, this amendment has a unique feature which is central to the goal of the amendment, which we hope will help in reestablishing the kind of national debate on national security, and a consensus to follow, which I think we all believe is essential.

The amendment provides for what might be called a Team B, a group of wise men and women, recognized defense experts, to be appointed by the Secretary of Defense, in consultation with the Senate and House defense authorization committees, to review the work of the Pentagon called for in this amendment and to offer comments and suggestions on how America can most effectively meet our defense needs in the next century.

This group would provide its proposals and ideas to the Secretary for his consideration as he prepares to report to the Congress, required by the amendment. The real hope here is that this nine-person, nonpartisan commission, appointed by the Secretary of Defense, would essentially go out of the box and ask the questions that either we have not thought of or we have decided are unthinkable or that we should not think about, to force us to face the tough questions about our security needs, to help us do what we have been trying to do on the Armed Services Committee of the Senate, which is to break out of business as usual.

For the benefit of my colleagues, I will briefly explain what the amendment does. First, it acknowledges that the Defense Department has been planning to do a quadrennial defense review at the beginning of the next administration, pursuant to a recommendation made by the Commission on Roles and Missions. And it then, in a sense, makes statutory that quadrennial review. It requires the review to go forward.

It would be a comprehensive examination of the defense strategy, force structure, modernization plans, infrastructure, and other elements of the defense program with a view toward determining the defense strategy of our country as far forward as the year 2005.

Then the amendment would establish the nonpartisan, independent, nine-person panel of recognized defense experts that I have spoken of. We are calling it, in the amendment, the National Defense Panel. It would be tasked, first, with assessing the Pentagon's quadrennial defense review, as it progresses, as well as the final report upon completion, and then would comment on the findings of the review to the Secretary of Defense.

The amendment also requires the Panel to conduct an alternative force structure assessment which would result in a variety of proposed force structures that could meet anticipated threats to our national security. In this case we take it through the year 2010, and if the panel determines it is appropriate and rational, beyond the year 2010.

The amendment specifies, although it does not limit, a baseline of issues which this national defense panel must address. These will include near-term and long-term threats, including weapons of mass destruction, terrorism, and information warfare, a whole new category of threat to our country built on the dependence that we have developed on information technology and the fear that many have that an enemy may be able to disrupt our society by disrupting our information systems, our computer systems, particularly those critical ones, not only in the defense areas, but, for instance, in financial areas.

The National Defense Panel must also consider scenarios based on these threats, which would include the possibility of both large and small conflicts, recommended force structures that would permit military responses to those scenarios, and an assessment of the funding which would be required.

The Panel would submit its report to the Secretary of Defense, which in turn he would add his comments before providing it to the Senate Armed Services Committee and the House National Security Committee by December 15, 1997. So we have the Secretary of Defense, consistent with our belief of civilian control of the military that is so fundamental to our democracy, overseeing the development of the in-house quadrennial defense review.

The National Defense Panel convenes in December of this year if this amendment passes. It begins its own work, and it works with the Defense Department as the department is developing the quadrennial review.

It offers suggestions and responses to those working in the department on the quadrennial defense review. That review is then submitted to the Congress next spring. The National Defense Panel continues its work, comments on the final product of the quadrennial defense review, and then offers to the Secretary of Defense, by next fall and into the early winter, its report—bold, hopefully, in some measure unsettling and provocative, which the Secretary of Defense then turns over to us by December of next year.

Mr. President, there have been some concerns expressed about this schedule. Some, for instance, have said that December of next year is too late. Others have argued that this timetable does not give the Department of Defense adequate time to address all of these important issues.

I believe we have struck a good middle ground here with the schedule that is in the amendment, building on work which is underway, has been done, or will be initiated if this legislation passes. The sooner the Members of Congress can get these important analyses and these recommendations, the sooner we will be able to hold hearings on them, try to involve the public in our considerations, and begin to make the very important decisions that will affect our national security in the coming decades.

There is no time to waste, but, of course, these are such complicated, fundamental, important questions that we are giving both the Defense Department and the National Defense Panel, that we felt they deserved a reasonable amount of time to complete their work.

There is one last very important point which I do want to emphasize.

That is that this amendment was developed in a truly bipartisan way, such that we really consider it—those of us who are sponsoring it—to be a nonpartisan amendment. Of course, it ought to be. When we are dealing with our national defense, there ought not to be Democratic and Republican positions. There ought to be American positions. That is the spirit in which the work on this amendment has gone forward.

Members and staff from both sides of the aisle on the Armed Services Committee were involved in writing this amendment. The process we used resulted in lengthy, thoughtful, and spirited debates about the future of our national security and our Armed Forces. Each of us, I think, undertook this endeavor because we care about our national security and have tremendous respect for the professionals who serve every day, in and out of uniform, in the Department of Defense.

My special thanks go to Senators COATS, MCCAIN, ROBB, and their staffs who contributed so much to this effort, as well, of course, to Chairman THURMOND and Senator NUNN and their professional staff members, for their encouragement and their very, very concise and constructive support.

We also appreciate the time that was spent by personnel in the Department of Defense, particularly Deputy Secretary of Defense John White and his staff, who reviewed and advised us on this amendment, and who have wanted to go forward in a spirit of cooperation not only among the parties here but between the Congress and the executive branch.

The future of our national security is obviously far too important to be left to business as usual at either the executive or legislative branch. I cannot thank the Department of Defense enough for the support, encouragement, counsel, occasional disagreement, but ultimate consensus that is expressed in this amendment.

In summary, and finally, Mr. President, what this is all about is becoming engaged in a very difficult, complicated, farsighted but critical debate about how we can have the best national security possible for America, particularly now as we, in some sense, reign supreme, unchallenged, as the greatest superpower in the world, understanding that history teaches us that the special position of power and relative invulnerability is not enjoyed by nations for long periods of time unless they plan and act to make that so. Nations rise and nations fall over the course of history.

What this amendment is about is making sure that the United States of America remains strong and dominant, able to deter threats to our security and, if necessary, to defeat them far into the next century. We have the resources, we have the brain power, we have the courage and skill of our war fighters to make that happen. This amendment is all about making sure that we use and develop those natural strengths that America has to the best of our ability.

I come back to the final point that we have to involve the American people more in these discussions. Sometimes, particularly when we exist, as we do now, at a time of relative national security, it is hard to get people to focus in on the details and on the need to continue to commit adequate resources to our national defense. I am convinced that if we find ways to involve more of our citizens in these discussions, in the work of a nonpartisan panel, a national defense panel, in the hearings that it may hold, in the hearings that will surely be held here in Congress after we receive these reports from the Secretary of Defense, then the American people and we, their Representatives in Congress, will surely provide the resources necessary to preserve our liberties and defend our national principles and interests.

Mr. President, an informed public will always understand the wisdom and the memorable comment made by the great British soldier and leader, Sir John Slessor, when he said,

> It is customary in democratic countries to deplore expenditure on armaments as conflicting with the requirements of social services. There is a tendency to forget that the most important social service that a government can do for its people is to keep them alive and free.

Mr. President, I hope when we introduce this amendment later in the afternoon that other colleagues will join us in cosponsoring it and, of course, in voting for it.

I thank the Chair for the opportunity to address the amendment. I look forward to returning and actually introducing the amendment when the appropriate unanimous-consent agreement is entered. I yield the floor. I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. 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. THURMOND. Mr. President, I rise in support of this amendment to be proposed by the able Senator from Connecticut, and I ask unanimous consent that I be listed as a cosponsor.

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

Mr. President, for the past 3 years the Clinton administration has failed to articulate a sound and credible national security strategy. A large part of this failure is the result of the President refusing to submit a budget request which provides the necessary funds to support the force structure required by his own strategy. In fact, it is frequently noted that the force structure is underfunded by as much as $150 billion. Not only has this administration failed to provide the funds required to sustain the numerous foreign adventures in which the President involves our military forces, but the administration has also failed to provide the funds required to modernize our military forces for the conflicts of the 21st century.

Mr. President, the people of the United States cannot afford to continue down this dangerous path.

Since the collapse of the Soviet Union and the end of the cold war, the United States has conducted two substantial assessments of the force structure necessary to protect American interests in an increasingly chaotic world. The base force of the Bush administration laid a credible foundation for restructuring our forces in order to meet the realities of the post-cold war world. However, President Clinton's Bottom-Up-Review, which replaced the base force, failed to make any meaningful contribution because it did not outline a force structure that would protect American interests into the next century. As we look toward the future, it is essential that we re-examine the world security environment and develop a military force that will be capable of defending American interests in future conflicts.

Mr. President, the proposed amendment will set this reexamination in motion. The amendment requires the Secretary of Defense to perform an assessment of the national security strategy, and the force structure necessary to support that strategy, through the year 2005. In addition, the amendment creates an independent, nonpartisan panel of national security experts to review the Secretary's assessment and provide a report to the Congress which offers alternative force structures to that which is provided by the Secretary.

The information that is provided by each of these reports will be available to both the administration and the Congress for use in making decisions to prepare the armed forces of the United States for the 21st century. These reports will make a significant contribution to ensuring that our national security strategy is sufficient to protect American interests in the future, and that the force structure is sufficiently funded to support that strategy. We must be sure that the strategy and force structure are balanced and affordable.

Mr. President, now is the time that we should undertake a fundamental reexamination of our national security requirements. The national security strategy of the Clinton administration has failed to provide for the future security of the United States. We cannot

commit the security of our children to this failed strategy and insufficiently funded force structure. Therefore, I urge my fellow Senators to support this amendment.

Now, Mr. President, in closing, I want to commend the ranking member, Senator NUNN, for the remarks he made on this subject, about going ahead. We need to know what the amendments are. Any Senator who has an amendment to the defense authorization bill should come forth and present that amendment. Time is fleeting. We want to finish this bill by Thursday night, and we would like to know what it is.

The other thing I want to mention is that amendments should be defense-related. If they are not defense-related, they should be offered on some other bill and not on this particular bill.

Mr. President, this is important. We have to finish this bill in due time, and we should waste no time in getting these amendments in. Let the amendments be defense-related, or offer them to some other bill.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT—H.R. 3448, H.R. 3415, AND S. 295

Mr. LOTT. Mr. President, I would like to join now with the Democratic leader in getting a very large unanimous-consent agreement. A lot of effort has gone into the preparation of this unanimous-consent agreement. It is based on a lot of give and take in negotiations and trust and good faith. I will continue to try to proceed in that way.

I want to thank Senator DASCHLE for his cooperation, and I hope we can continue to work in this way. I would like to proceed now with the request, and we can discuss it further as we go along, or after we get the agreement entered into.

I ask unanimous consent that on Monday, July 8, at a time to be determined by the majority leader, after notification of the Democratic leader, the Senate turn to the consideration of H.R. 3448, the minimum wage bill, and it be considered under the following restraints:

That immediately following the clerk reporting the bill by title, the committee amendment be agreed to and considered original text for the purpose of further amendments, and the Senate then deal with amendments to title I, the small business tax title; that there be one first-degree amendment relevant to the small business tax title for each leader, with no other amendments or motions to refer in order to the bill, other than the minimum wage amendments listed below, except for any manager's amendment which can be cleared by the two managers and the two leaders, and that no points of order be considered as having been waived by this agreement.

I further ask unanimous consent that upon the disposition of the small business tax amendments, Senator KENNEDY be recognized to offer an amendment making modifications with respect to minimum wage and time on the Kennedy amendment be limited to 1 hour, to be equally divided in the usual form; that no amendments, points of order, or motions be in order during the pendency of the Kennedy amendment, and following the conclusion or yielding back of the time, the amendment be laid aside.

I further ask that following the debate on the Kennedy amendment, Senator LOTT or his designee be recognized to offer an amendment relative to minimum wage, and it be considered under the same restraints as outlined for the Kennedy amendment, and following the conclusion or yielding back of time, the Senate proceed to a vote on the Lott amendment, to be followed immediately, regardless of the outcome of the Lott amendment, by a vote on the Kennedy amendment.

I further ask that time for debate on the bill be limited to 1 hour to be equally divided in the usual form, and further, that following the disposition of the Kennedy amendment, no further minimum wage amendments be in order to the bill. I will ask at a later time that the minimum wage amendments be printed in the RECORD.

Further, I ask that all remaining first-degree amendments be submitted to each leader in the form of a summary by 12:30 p.m. on Wednesday, June 26, provided that either leader may void this agreement after consultation prior to 3 p.m. on Wednesday, June 26, 1996.

I emphasize here that this is so that everybody will be on notice as to what the content is. It is our intention that we would go forward and that it would not be void at that point. But we felt that extra protection was called for.

I further ask that following the disposition of the above listed amendments the bill be advanced to third reading and final passage occur, all without further action or debate.

I further ask unanimous consent that the Senate may turn to the consideration of H.R. 3415 regarding the gas tax repeal, at a time to be determined by the two leaders and if the bill has not been reported by the Finance Committee it be automatically discharged and the Senate proceed to its immediate consideration and it be considered under the following time agreement:

That there be 1 hour of debate on the bill to be equally divided in the usual form, that the bill be open to four first-degree amendments to be offered by Senator LOTT, or his designee, relevant to the gas tax bill, and subject to relevant second-degree amendments and four first-degree amendments to be offered by Senator DASCHLE, or his designee under the same terms as outlined for Senator LOTT, with no motion to refer in order and no points of order to be considered as having been waived by this agreement, and following the disposition of the above-listed amendments and the conclusion or yielding back of time the bill be advanced to third reading, and final passage occur, all without further action or debate.

Finally, I ask unanimous consent that immediately following the passage of H.R. 3448 the Senate proceed to calendar No. 389, S. 295, the TEAM Act, under the following restraints:

Two amendments in order to be offered by the Democratic leader, or his designee, and two amendments in order to be offered by the majority leader, or his designee, and that all first-degree amendments in order to S. 295 be relevant and submitted to the two leaders in the form of a summary under the same terms as described for H.R. 3448 with the same veto authority expiring at 3 p.m. on Wednesday, June 6, 1996, and that time for debate on the bill be limited to 1 hour in the usual form, with time on each amendment limited to 1 hour equally divided, and that no other amendments or motions to refer be in order and no points of order be considered waived by this agreement.

I further ask that following the disposition of the above-listed amendments the bill be advanced to third reading and the Labor Committee be discharged from further consideration of H.R. 743, and the Senate proceed to immediate consideration, that all after the enacting clause be stricken, the text of S. 295, as amended, if amended, be inserted, the bill be advanced to third reading and final passage occur, all without further action or debate.

And, finally, I ask unanimous consent that no call for the regular order serve to displace H.R. 3448, H.R. 3415, S. 295, or H.R. 743 during their pendency.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Reserving the right to object, I shall not object. I wonder if I might be afforded a few moments to comment after we get the agreement.

Mr. LOTT. I believe the Senator wanted 10 minutes. I ask unanimous consent that Senator KENNEDY be able to proceed for not more than 10 minutes after this agreement has been entered into.

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

Mr. PRYOR. Mr. President, reserving the right to object, I do not care to object at this moment. On last Thursday I attempted to lay down, but I did not actually send to the desk, an amendment to the defense authorization bill relative to closing of a loophole that we created in the GATT treaty that relates to two or three drug companies that are making enormous windfall profits as a result of our mistake.

Mr. President, I got in a little bit late on the distinguished majority leader's request. I am wondering if anywhere in the unanimous consent request if my thrust of offering this amendment is going to be impaired in any way, or will there be an opportunity?

Mr. LOTT. If I might respond, Mr. President, there is nothing in this agreement that in any way affects that, or stops it being offered. I know the Senator has indicated the desire to do that at any and every opportunity. This in no way impairs that right.

Mr. PRYOR. Mr. President, I was trying to protect my rights and protect the opportunity to offer this amendment at the appropriate time either on the DOD or some other subsequent piece of legislation.

Mr. President, I will not object. I thank the Chair for recognizing me.

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

Mr. LOTT. Mr. President, if I could be recognized—I know the distinguished Democratic leader would like to be recognized—to summarize.

This means we will take up the minimum wage, small business tax package, and amendments to that on Monday July 8, and I am sure it will go over until Tuesday, July 9. That will be followed by the TEAM Act which involves employee-employer relationships in the workplace. That will be taken to final passage.

And then at a time and in a way that we will work on further, the gas tax repeal bill will also be brought up at a later date.

I am sure there are a lot of Senators that are not totally happy with this on both sides of the aisle. But I think this is what needs to be done to move these issues through the process, allow the Senate to offer amendments, and have debate and have votes. And then we will see what the result is, and we will go on from there.

But we do have very serious work that we need to do for our country, and we are still working on hopefully an agreement on health care reform. We are hoping that we can—well, we intend to complete the defense authorization bill this week. We have a number of other bills that we need to consider for the good of the country—nominations that are pending. And I think this helps get us moving again.

Again, I want to thank all Senators on this side of the aisle for their cooperation, and also Senator DASCHLE for his cooperation. A lot of work has gone into this. I do not think it serves any purpose to say that this was given or that was taken. I think it is a fair enough deal for all concerned. I am glad we were able to achieve this agreement.

I yield the floor, Mr. President.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, let me associate myself with the remarks of the distinguished majority leader. A lot of work has gone into the negotiations on this compromise proposal now for the last several weeks. I appreciate his willingness to work with us to achieve this agreement today. We will have an up-or-down vote as we have requested on minimum wage on July 9. I appreciate very much his willingness to work with us to achieve that.

This effort would not have been successful were it not for the distinguished ranking member of the Labor Committee. He has been stalwart in the effort to find a way to ensure that we have this opportunity. I applaud and thank Senator KENNEDY for his contribution to these negotiations and his arduous work in making sure that we have been successful this afternoon.

As the distinguished majority leader said, this allows us to move the process forward. We will have a series of votes and an opportunity to vote on relevant amendments. That was key during these negotiations—relevant amendments during the consideration of these bills. Once that has been achieved we will go to conference.

I am very hopeful, very desirous, and fully confident that we can resolve these matters with the House in conference sometime during the month of July—sooner rather than later. It is my expectation they will be resolved successfully in a form that will allow us to bring back a conference report that is acceptable to the Democrats and that the President can sign. I will work with the majority leader to ensure that that happens. My colleagues have my commitment that I will make every effort to see that that happens in the next several weeks.

As the distinguished majority leader also mentioned, the health bill is not part of this package. It was our hope that we could resolve the differences with regard to health as well. But we will work on that next.

It is not our desire to offer the health bill as an amendment today to the defense bill. I hope that at some point in the next 24 hours, the majority leader and Senator KENNEDY and I can sit down to work on that, as we worked on minimum wage, to see if we can find a way to resolve the impasse and leave with the week intact and with the confidence of knowing we can resolve health, as now we have been able to resolve the matter of the minimum wage, in an acceptable manner procedurally at least.

So, again, I thank very much all of those who were involved in this negotiation. I am hopeful that we can now look with some promise, some confidence to this issue being resolved in a successful way in the very near future.

I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

THE MINIMUM WAGE BILL

Mr. KENNEDY. Mr. President, I join our two leaders in welcoming this agreement which will permit the Senate to vote on the issue about whether families that work hard 40 hours a week, 52 weeks a year, ought to have a livable wage. I think it is important to note that with this agreement the time of obstruction, delay, and stonewalling has been put aside.

It did not have to be this way. Increases in the minimum wage have been bipartisan in times past, and they should be bipartisan today if we are going to reward work and respect work and make sure that families that are working will have enough of an income to provide for themselves, for their children, to put food on the table, and pay a mortgage.

That has been a proud tradition for the last 58 years. Fifty-eight years ago today President Roosevelt signed the first minimum wage bill. It was 25 cents an hour. He predicted at that time there were going to be voices raised saying this was to be the end of democracy in America. So often with the increases that I have seen in the minimum wage since the early 1960's, there have been similar calls, that any increase was going to destroy the free enterprise system.

Of course, that is not what this is about. It is about fairness. It is about decency. It is about respect for work. It is about making sure American families are going to be treated fairly.

So I am grateful that we will have that issue before the Senate. Today is really a victory for working families, those working families that came here and appeared before various forums in the House of Representatives and the Senate of the United States. We were not permitted to have hearings to hear from these families, denied those hearings in the past year and a half. Nonetheless, we were able to have forums. Families told us about their hopes and dreams, told us how they work not one job but two jobs. Families pointed out they did not mind working one job, two jobs, three jobs but what they resented most was not having sufficient income so they could set aside a few hours to spend with their children and members of their family.

That is what this is about. Women in the work force, 65 percent of those who receive the minimum wage are women in the work force. It is about children of working families in the work force.

So, Mr. President, we will look forward to debating this issue when we come back after the Fourth of July break.

Finally, as we are looking at this moment, we also have to consider what our friends on the other side are offering as an amendment to the minimum wage and their view about what the minimum wage should be. If perchance their amendment is accepted, then even the position of the House of Representatives, which said that the minimum wage would have gone into effect at the time of July 1, just a couple of weeks after the time of the passage, their proposal is going to delay that until the early part of next year, January of next year—another delay.

Second, it is going to have a provision to provide 180-some days, so that any entrant into a new job for 180 days can still be paid at the old wage of $4.25 an hour. We have seen other gimmicks in the past on the minimum wage. We had a 90-day delay called the Youth Training Program, even though there never was a training program included, and then another 90 days included if that youth were under 18 years of age.

Now we have a delay of 180 days for the entrant at the minimum wage, whether that be a teenager—the 30 percent of those who are making the minimum wage who are teenagers—or whether that be a single mother who has to provide for her family. If we pass this bill and get it enacted into law, it is going to be delayed until the early part of next year under the Republican amendment, and then it will be delayed another 180 days under the Republican amendment. And then the final provision of the Republican amendment is to have a carveout for businesses of up to $500,000. That will carve out approximately 10 million Americans that will no longer be included in coverage for the minimum wage.

So on the one hand, as we are going to have an agreement to at least vote on this issue and to address this issue of fundamental fairness, we also have to be aware that there will be a proposal on the floor of the Senate that will carve out 10 million of the 13 million Americans who would be affected by this minimum wage, will carve out those new entrants into the job market at the lower level of the ladder for 180 days from getting any benefit of the increase in the minimum wage, should we support it, and then delay that program until the first of next year. That is a totally unacceptable proposal, and I hope it will be resisted here.

But I am grateful to our leaders for working out this proposal. I am particularly thankful to those on our committee and here on this side of the aisle who have been constant. Every Member on our side of the aisle has voted in support of the increase in the minimum wage, and I commend the number of Republicans who have also joined with us and have reflected their support for the minimum wage in the past. We thank them for their constancy and indication they were going to take every step that was going to be necessary to get a vote on this issue.

I hope that over the period of the next few weeks, the American people will look at what the alternative will be in this Chamber that effectively, on the one hand, will give an increase in the minimum wage and, on the other hand, withdraw it. That is an unacceptable way of proceeding. I hope that amendment will be defeated. It is important that the American people in these remaining days, when they see their Members of the Senate at the Fourth of July parades and at the picnics over this period of time, say, when you go on back to the Senate of the United States on the 8th and 9th, OK, take care of those small business men and women, up to $13 billion in terms of additional kinds of help and support; OK, take care of those small businesses—and many of those provisions I will support—but do not go in and carve out the millions and millions of Americans who otherwise would have participated in an increase in the minimum wage.

I am grateful for this agreement, and I thank the Senator from South Dakota, the Democratic leader, who has been the leader on this issue as in so many other issues and with his leadership has really brought us to this place where at last we will have an opportunity to vote on this matter.

Mr. President, I yield back the remainder of my time.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1997

The Senate continued with the consideration of the bill.

Mr. THURMOND. Are we ready to vote?

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I would like, in responding to the chairman, to now——

Mr. THURMOND. Has the Senator proposed the amendment yet?

Mr. LIEBERMAN. We have not, and if it is OK with the chairman, I would like to go ahead and introduce the amendment now.

AMENDMENT NO. 4156

(Purpose: To provide for a quadrennial defense review and an independent assessment of alternative force structures for the Armed Forces)

Mr. LIEBERMAN. Mr. President, I call up amendment No. 4156 to the Department of Defense authorization bill and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment will be set aside. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. LIEBERMAN], for himself, Mr. THURMOND, Mr. COATS, Mr. ROBB, Mr. MCCAIN, Mr. NUNN, Mr. INHOFE, Mr. KEMPTHORNE, Mr. WARNER, Mrs. HUTCHISON, Mr. SANTORUM, Mr. MURKOWSKI, Mr. LEVIN, Mr. FORD, and Mr. BOND, proposes an amendment numbered 4156.

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

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

The text of the amendment is printed in today's RECORD under "Amendments Submitted."

Mr. LIEBERMAN. I thank the Chair.

Mr. President, as previously discussed, this is the amendment which would provide for both an in-the-Pentagon-and-outside-the-Pentagon, under the Secretary of Defense, national defense panel review of our national security structure to answer basic questions: What are the threats to our national security in the coming decades, and how can we best meet them? It is an attempt to get out of the box, get out of the day-to-day here and look forward, over the horizon, so that we are ready to face and meet whatever threats to our security exist, and to do so in the most cost-effective way.

Mr. President, I appreciate the broad bipartisan support for the amendment, including the statement from the chairman of the committee, Senator THURMOND. I believe my cosponsor, the Senator from Indiana, who spoke only briefly before, does have further comments.

I do want to indicate to my colleagues here that Senator COATS and I do intend to ask for a rollcall vote on this. We do not expect the debate will be long, but we do hope to do so sometime soon this afternoon.

I look forward to the debate and I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, America's preeminence in the world is accompanied by the opportunity and burden of leadership to shape the international community. I have been somewhat perplexed that our concerns with national defense are often no broader than the level of defense spending, which we generally debate only during the annual authorization and appropriation cycles. It is incumbent that we consider the scope of the demands and expectations placed on our military in support of America's role in shaping the work today, and through the next century. Included are the fundamental issues of our national security interests, the nature of future conflicts, and

the most appropriate military strategy for which the Department of Defense should develop its military capabilities. These considerations must be made deliberately, not by default. Failing to do so will lead the United States to react, rather than control, events in the next century.

The actions we take on the defense authorization bill will fundamentally influence our national security strategy and force structure well into the next century. Properly done, these decisions will be a powerful investment in the future. Unfortunately, there is widespread consensus—both in and out of the Pentagon—that the administration's 1993 Bottom Up Review strategy is not the strategy America needs to guide its military into the 21st century. The strategy has been chronically underfunded, with shortfall estimates ranging anywhere from $50 to $150 billion. There is great skepticism with the two major regional conflict [MRC] yardstick that undergirds the Pentagon force planning. And, perhaps most disquieting, is the BUR's implicit assumption that the nature of future conflicts will closely resemble those of the past. The effects of misinvesting in a strategy that has lost its relevance are immense.

Congress has done its best to reconcile the sizable disconnect between the BUR's requirements to fight and win two nearly simultaneous MRC's and the funding needed to execute such a strategy. But, while Congress has supported the military in sustaining readiness, in modernizing for the future, and in holding the line against additional force structure cuts in order to meet the BUR requirements, the administration has accused Congress of pork barrel politics. When Congress has tried to rectify serious funding shortfalls in programs at the urgings of senior military leaders, the administration has accused Congress of contributing to inefficient defense spending. The political gamesmanship over issues crucial to America's national security has created such hyperbole that the merits in investing defense dollars today for an uncertain future tomorrow confuse most Americans. I have serious concerns over the impact this political spin may ultimately have a public support for our troops.

In an era of competing budget priorities, an expanding continuum of military operations, the uncertainty of future threats and emerging new technologies, we can ill afford a business as usual approach on investing in our future defense. Senator LIEBERMAN, myself, and a host of cosponsors have worked in a bipartisan effort to ensure that the Defense Department and Congress will make only the most prudent investments in defense. Through this amendment—a review of the Armed Forces force structure—we intend to do more than affect the next military strategy and its resultant force structure. In establishing an independent, nonpartisan National Defense Panel, prominent defense experts will assess alternative force structure strategies in light of future threats, emerging technologies, required capabilities, and a broad continuum of military operations that may be likely in the future. The National Defense Panel's assessment will be far more comprehensive than previous force structure assessments, and will explore innovative, forward-thinking ways of meeting future national security challenges. The complete assessment will provide alternatives to a singular military strategy and its resultant force structure that will, in turn, enable Congress, the Defense Department, and the American public to better consider the level of defense spending our Nation requires in support of its national interests.

The National Defense Panel will also assist the Defense Department as it undertakes its quadrennial strategy review over the next year. The Department's Quadrennial review, while more narrow in focus, will examine force structure, modernization plans, infrastructure, defense policies and other elements of the defense program to develop a new defense strategy replacing the Bottom Up Review.

A salient feature of this amendment is that it will challenge current thinking about defense. Senator LIEBERMAN and I, along with the cosponsors of this amendment, share the concern that the tendency to focus on immediate issues has distracted from the task of structuring the military to meet new operating environments, accommodate revolutionary changes in military technology and prepare for the possibility of entirely new kinds of threats and competitors. As Paul Bracken wrote in his 1993 article entitled "The Military After Next,"

> The military posture for the next 20 years is conceptualized implicitly in terms of the problems of today, rather than in terms of deeper forces that reflect both the changing character of war and the military transformation taking place in the world. Immediate U.S. problems are characterized by deep military budget cuts, regional contingencies, "messy operations" [such as Bosnia, Haiti and Somalia] and a substantial military capacity inherited as a legacy from the Cold War. All of these are worthy of attention. But, if anything is certain, it is that in 20 years the current budget crisis, the regional strategy . . . will be forgotten as new problems of national security and international order appear.

Although our Nation still faces a range of current threats, we must not let current threats lead us into assuming that incremental improvements to our military will be sufficient to deal with the range of scenarios we may face in the 21st century. Our country has a strong tendency to defer revolutionary changes in favor of these incremental improvements. The BUR strategy of fighting 2 MRC's is a prime example, taking the Desert Storm model and geographically tailoring it to future scenarios. But it is not an adequate guide for future innovation. We can no longer afford to conveniently fit current situations to existing planning and resource allocation processes. Doing so will yield a defense program geared to the most familiar threats, as opposed to those most likely to occur.

In closing, I would submit that the familiar path of the past—as convenient as it may be—will not necessarily lead us to the future we wish to shape. The review of the Armed Forces force structures amendment before us now will provide Congress and the Defense Department with comprehensive analysis addressing a range of force structures and capabilities appropriate for future threats. It is our hope that, ultimately, this amendment will serve to further public and congressional debate over the priority our Nation should place on its defense. Our Nation must have confidence in its military strategy, must provide for the capabilities our Armed Forces require to perform the missions expected of them, and must understand and accept the risks of doing otherwise. I urge the support of this amendment—it is a major step forward toward smarter defense planning and investing, and enjoys wide bipartisan support from Members throughout the Senate.

Mr. President, let me state this is the culmination of some effort on the part of the Senator from Connecticut, who has taken the lead in this effort, myself, and a number of other members of the Armed Services Committee who are concerned that we are not adequately addressing some of the major questions that need to be addressed in preparing a strategy and setting a program in place relative to our national security needs for the next century. The next century sounds like a long way away, but it is only 3½ years. In fact, it is actually the next millennium. It is almost difficult to comprehend.

As history has shown, civilizations have been weakened and even collapsed, and mighty armies and navies have been defeated because they were rooted in the wars of the past. They were rooted in the procurement of weapons to fight those wars based on what worked before, not what they might need in the future.

None of us has a crystal ball that can tell exactly what will constitute an adequate national security apparatus and national defense in the future. Yet we need to examine the questions about the kinds of threats and the nature of those threats that we will be faced with in the future.

We are in the midst of a technology explosion that obviously is impacting on warfare. We had a glimpse of that explosion and what it means during our viewing of the Persian Gulf war on

"CNN Live." There were remarkable pictures of a war in progress and a demonstration of what technology can do in terms of changing the terms of warfare. I am sure the nation of Iraq thought it was amply prepared to successfully defend its aggressive takeover of Kuwait, only to find itself hopelessly, not outmanned, but outsmarted, from a technological standpoint. No nation is going to make that mistake again. No aggressor is going to make that mistake again. Future aggressors will contemplate about what it is going to take in the future to encounter the United States. The conflicts we face in the future will be much different from those we have encountered in the past.

We need to take advantage of the remarkable research, development, time and ability to bring new technologies to bear in terms of our armed services and our national defense. Unfortunately, it seems the Congress is locked into a "what do we need right now" mentality. We do our thinking and spending and planning in 1-year increments, 2 years at best. As a result, it seems we are measuring on the basis of what we did last year, and trying to make a decision on what incremental changes we can adjust to for the future years. Basically what we do is make incremental changes.

The Pentagon is well aware of this problem, and they are attempting to address this through a strategy called the quadrennial review. That takes a 4-year look and it coincides with the possibilities of each administration, each new administration. But we need to look beyond that. To do so, we are asking the Pentagon to address a number of issues of concern to us, and establish an independent review panel to give us certain assessments. The results of these assessments will provide us with a better, broader body of knowledge with which to evaluate the potential threats, with which to evaluate the potential strategies—and I use the plural, not the singular use of the word—which we might employ to deter or counter those threats and on which we can make procurement decisions, research decisions, and allocate the increasingly scarce dollars available for our national defense. This was less of a problem in the 1980's because we had ample funds available from which to take advantage of many different alternatives and select the one which best fit. We do not have that luxury now. We do not have anywhere near that luxury. Defense is now in its 12th straight year of decline in terms of budget allocations. The military has been scaled back nearly 40 percent in just about every category. We have to make decisions on the basis of a far smaller margin of error.

In that regard, having a broader assessment of our potential threats, our potential responses to those threats, is going to allow us to make better decisions to spend those dollars more wisely. That is really what this amendment is all about.

I was pleased to have the opportunity to work with the Senator from Connecticut and with others of my colleagues on the Senate Armed Services Committee. I am pleased this amendment has a growing list of bipartisan—nonpartisan—support. I think a year from now we are going to be in the midst of a process which is going to give us some very relevant information from which we can base decisions that are extremely critical to our future. So I am pleased to be a coauthor and a cosponsor of this amendment.

With that, I observe we might be prepared, unless the managers are aware other Senators are coming to the floor to speak, to move to a vote.

I believe it is appropriate to ask unanimous consent the pending amendments be set aside. I am not exactly sure what the parliamentary request needs to be in order to bring this amendment up.

Mr. LIEBERMAN addressed the Chair.

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

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, it was my understanding the pending amendments had been set aside and this amendment was now the pending business. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. LIEBERMAN. Mr. President, after consultation with the chairman of the committee, I ask unanimous consent that, when the vote occurs on this amendment, it occur by rollcall and the rollcall be held at 5 this afternoon, with no second-degree amendments in order.

Mr. THURMOND. Mr. President, we have no objection.

The PRESIDING OFFICER. Is there objection to the vote occurring at 5 o'clock and that no second-degree amendments be in order?

Without objection, it is so ordered.

Is the Senator seeking the yeas and nays?

Mr. LIEBERMAN. I was about to do that. I was going to ask when a vote be taken it be taken by the yeas and nays.

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. McCAIN. Mr. President, I rise as an original cosponsor of an amendment to require a much-needed new assessment of future U.S. military force structure requirements. In March of this year, I released a paper which called for a new study of our national security strategy and the military force structure that supports our strategy. If adopted, this amendment will ensure that the Department of Defense and the Congress work together to create a flexible U.S. military force structure capable of adapting effectively to meet the ever-changing challenges of the 21st century.

Very briefly, let me summarize the amendment. First, it would require the Secretary of Defense to provide a report to Congress on the quadrennial defense review, which is expected to be completed in the spring of 1997. The QDR is the Secretary's effort to reassess our current strategy and force structure and is intended to form the basis of our military planning through the year 2005. The amendment would require the Secretary to consider certain specific issues in his review.

The amendment would also provide for two separate, independent assessments of the quadrennial defense review, to ensure that the Congress has a full understanding of the assumptions and conclusions of the QDR.

One assessment would be done by the Chairman of the Joint Chiefs of Staff and provided to Congress with the QDR. This provision is included in the amendment because it is essential that we have the views of our professional military leaders as we determine the future of our military strategy and force structure for the next century.

Another assessment of the QDR would be undertaken by an independent, nonpartisan National Defense Panel, which the amendment would establish. The Panel would also be charged with developing a variety of alternative proposals for force structures and budgets, using analyses and information acquired from the Department of Defense, the Joint Staff, and other agencies. The Panel would focus on developing a longer term assessment than the QDR, through the year 2010 and beyond, where possible. The Panel's assessment of the QDR and alternative proposals would also be provided to Congress.

Mr. President, the amendment enjoys broad bipartisan support among Senators with experience in defense issues. The principal cosponsors are Senators LIEBERMAN, COATS, and ROBB, joined by others of our colleagues.

Mr. President, we crafted this amendment in recognition of the pressing need for a full reassessment of our military force structure in light of the changing realities of the post-cold war world. In the past 5 years, since the collapse of the Soviet Union, our Armed Forces have shrunk from a force of 2.1 million active duty personnel to approximately 1.4 million people today. While these reductions were being implemented, the Pentagon has conducted two evaluations of the organization, composition, and equipment requirements of our smaller force in light of the changing realities of the post-cold war world. The results are contained in the Bush administration's

"Base Force" and Clinton administration's "Bottom Up Review" assessments.

Both assessments were laudable early efforts to adjust the post-cold war world, and both served an important purpose in focusing attention on the need to reevaluate the military posture of the United States. But neither were truly innovative approaches to a comprehensive, critical review, and reshaping of our strategy and military forces. In fact, the Bottom Up Review was a top down directive, shaped largely by budget targets established before the exercise began and by strategy and force goals that then-Congressman Aspin had developed a year earlier.

The pending amendment seeks to address many of the concerns expressed by Congress and national security experts alike about the last attempt to conduct a strategic review. The amendment is also driven by the recognition, just 3 years after completion of the Bottom Up Review, that the swift pace of global change has created the need for a new and fundamental reassessment of the force structure of the Armed Forces required to meet threats to the United States in the 21st century.

First, the amendment would require a comprehensive assessment of potential threats to our future security, which is an essential element of determining our future military force requirements. The amendment specifically identifies several categories of potential threats to our future security, both near- and long-term, which must be addressed in any strategic review. These threats include:

The continuing proliferation of weapons of mass destruction and means to deliver them, as well as the transfer of technology relating to such weapons,

Conventional threats across a spectrum of conflicts, which would include the rise of radical Islamic fundamentalism and other political extremist movements,

The vulnerability of our information systems and other advanced technologies to nontraditional threats,

Domestic and international terrorism, and

The potential emergence of a major challenger in the future.

The amendment would specifically direct the independent National Defense Panel to analyze each of these threats and provide an assessment of the challenges posed to our future security. The Panel would also provide its comments with respect to the threat assessment underlying the quadrennnial defense review, thus ensuring that all foreseeable future threats are examined and considered in the review.

Second, the amendment would ensure that both the quadrennial defense review and the Panel's independent assessment consider some very important issues which were not fully addressed in connection with the Bottom Up Review. Let me take a moment to mention several of the explicit instructions contained in this amendment:

The amendment requires a full analysis of the potential impact of allied cooperation and mission sharing on U.S. force size and structure.

It requires a clear explanation of assumptions about levels of acceptable risk in conflict scenarios and force levels.

It also requires a clear statement of the assumptions about warning time for future conflicts and planning for simultaneous or nearly simultaneous conflict scenarios.

It requires a full assessment of the impact of preparing for and participating in peace operations and military operations other than war on force structure requirements in likely conflict scenarios.

It requires a detailed description of anticipated future technology advancements and their impact on force size and organization.

It requires an analysis of manpower and sustainment policies, Reserve versus active component mix, tooth-to-tail ratio, and airlift and sealift requirements for the future.

These specific guidelines will result in a more thorough and detailed review of the military capabilities required to meet future threats.

Finally, this amendment recognizes the inadvisability of predetermining future Defense budgets before conducting an analysis of our security requirements—a significant flaw of the Bottom Up Review. The amendment would require that a topline funding projection be developed for each scenario-driven force structure plan developed by the Panel. It would also require the Panel to independently assess the validity of the budgetary requirements reported by the Secretary of Defense for his quadrennial defense review. In this way, the Department of Defense and the Congress will be able to consider both security requirements and affordability when reviewing alternative force structure options.

Mr. President, this last point is very important. We cannot ignore fiscal reality in military planning, but we must never acquiesce to demands for reduced defense spending regardless of the threats to our national security.

Because of the cuts in defense spending over the last 12 years—a nearly 40-percent reduction in real, inflation-adjusted terms, we now face a significant gap between our overall force plans and the resources available to implement them. Independent assessments of the cost of the Bottom-Up Review force show that it exceeds the funding levels dedicated by the Clinton administration in the Future Years Defense Program by $150 to almost $500 billion. As a result, we have had to make a series of Hobson's choices among defense priorities. We have had to choose among cutting force strength, maintaining readiness, or funding force modernization. The result has been reductions in all three areas.

The Republican-led Congress has added more than $18 billion to the defense budget in the past 2 years, but even this amount has not slowed the too-rapid decline in defense spending. The fact remains that our rising Federal debt and ongoing efforts to achieve a balanced Federal budget will continue to put enormous pressures on Federal spending.

Mr. President, this amendment will help us determine the appropriate level of funding to ensure our Nation's security in the next century. This amendment would ensure both the Department of Defense and the independent National Defense Panel conduct a thorough assessment of the threats we are likely to face, take a realistic look at potential future conflict scenarios, and provide alternatives for an effective military posture together with credible budget estimates. With the information this amendment would make available, the Congress and the administration could work together to ensure that our future national security requirements will be met while, at the same time, recognizing appropriate fiscal constraints.

Mr. President, let me take just a moment to thank Senator LIEBERMAN for taking the lead in putting this amendment together. I particularly want to thank John Lilley, who has left Senator LIEBERMAN'S staff for a more lucrative position in the private sector. He worked very closely with my staff and with the staffs of the other principal cosponsors of the amendment, and he is to be commended for his diligence and fairness in addressing all of our concerns.

Mr. President, in closing, the fast pace of change in our world requires that we create and maintain a flexible military force for the future, which will be able to adapt quickly to the changing requirements of our future security. It is now time to undertake a thorough and innovative effort to reassess our military force structure and the national security strategy that it supports. This amendment would ensure that all aspects of national security planning are thoroughly assessed in formulating recommendations for our future military force structure. I urge my colleagues to support the amendment.

Mr. FORD. Mr. President, I am happy to join my cochairman of the Senate National Guard Caucus in cosponsoring the amendment by Senators LIEBERMAN, COATS, ROBB, and MCCAIN to review the Armed Forces force structure.

Just a few years ago, Congress approved the establishment of the Roles

and Missions Commission. However, many of us were very disappointed with the Commission's findings, because those findings were clearly written with a bias against the National Guard.

Mr. President, the authors of this amendment have worked with Senator BOND and myself to make sure that the National Defense panel established by this legislation considers the Guard and Reserve without prejudice. To accomplish this, the amendment directs the "review is to involve a comprehensive examination of defense strategy to include Active, Guard, and Reserve components."

Just a few months ago, the chairman of the Readiness Subcommittee, Senator MCCAIN, along with the ranking member Senator GLENN, held a hearing on the readiness requirements of the National Guard and Reserve forces. At that time, the General Accounting Office presented information that Senator BOND and I found to be either out of date or simply inaccurate. I ask unanimous consent that the letter Senator BOND and I sent to Senator MCCAIN be printed in the RECORD at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. FORD. Mr. President, the National Guard Caucus is very concerned by the determination of individuals within the Defense establishment to keep putting out negative information on the National Guard. The inaccurate and out-of-date information from GAO is just another example in a long string of misinformation.

It is my hope this report will be different—that it will be accurate. Because the sponsors of this amendment have assured me that it will, I join with my cochairman, Senator BOND, in cosponsoring this amendment.

EXHIBIT 1

U.S. SENATE,
Washington, DC, April 29, 1996.

Hon. JOHN MCCAIN,
Chairman, Readiness Subcommittee, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As Co-Chairmen of the Senate National Guard Caucus, we commend you and Senator Glenn on your active roles in examining the readiness requirements of the National Guard and Reserve forces. We strongly support your efforts to provide sufficient resources to ensure that the nation has a capable and well trained military force. The Caucus remains convinced that, under the pressures of a reduced defense budget, the requirements to develop and produce modern replacement weapon systems coupled with a continued draw-down of our active forces, will result in an ever-increasing requirement for our nation to once again rely on part-time citizen soldier combat forces—the National Guard.

Over the past several years, the Caucus has attempted to identify those areas that are impediments to producing a combat ready National Guard which would be available in a timely manner to respond to major contingencies around the world. We are convinced that the recently-announced National guard proposal to convert and realign a large portion of the Guard combat divisions to meet other identified Army requirements, have gone a long way toward reaching that objective.

We do however have concerns regarding some of the material presented at your Subcommittee hearing by witnesses from the General Accounting Office. We believe this information to be out-of-date or otherwise inaccurate.

1. The GAO contended that the National Guard Enhanced brigades can't meet the 90-day readiness goal set for them in the current military strategy.

During Operation Desert Storm in 1990-91, the 48th Infantry Brigade was certified as combat ready in 91 days of which only 55 days were actually needed for training. this number is very close to their pre-mobilization estimate of up to 42 days.

2. The GAO testified that the brigades are having difficulty meeting the training goals set for their platoons.

Since the GAO did not indicate which brigades are supposedly having trouble, we can only say that the most up-to date information the Senate National Guard Caucus has indicates that the platoon goals of the Enhanced Brigades are being met ahead of time and some of the Enhanced Brigades are already operating at the battalion level.

3. The Roundout Brigades weren't ready in time "when they were needed" in Desert Storm.

The 48th Brigade from Georgia and the 155th of Mississippi had been replaced within their parent Division by active army units months before they were mobilized. The other brigade, the 256th from Louisiana rounded out an active duty army division that did not deploy. The major reason given by the Defense Department for not calling these units up earlier was the law at the time (10 USC 673) permitted only a 90 day call up with a 90 day extension and DOD felt at the time that the deployment would be for a longer period. As you are aware, Congress authorized a longer call up and these Brigades began mobilization on November 30, 1990. The brigades did not have to undergo six months of postmobilization training. The 48th had been validated as combat ready in 91 days (55 days of actual training). If the 48th had been mobilized when the Presidential Selected Reserve Call-up was authorized (August 22, 1990) and validated 91 days later (November 21, 1990), it could have deployed before the VII Corps began moving from the U.S. and Germany to Saudi Arabia.

4. Turbulence and turnover rates preclude reaching readiness goals and higher unit training.

This is the oddest GAO statement yet made and they obviously did not bother talking to anyone at the National Guard Bureau. If the GAO had bothered to check their facts, they would have learned that the turbulence and turnover rates in the National Guard enhanced readiness brigades are generally well below those of comparable active Army units! It is incredible that the GAO does not know that turbulence in the military is not caused by promoting a loader in a tank crew to the position of driver in the same crew! Maybe the Director of the General Accounting Office ought to send his employees to Fort Knox to learn about how a tank crew operates before they are assigned to develop a report such as that provided to your Committee. Military units—Active or Reserve—need a certain amount of turnover; they cannot keep the same soldiers in the same job forever. American soldiers, whether in the National Guard or active Army units, seek additional responsibility and status that come with promotion. Units that don't have a healthy level of turnover stagnate and have over-age-in-grade problems.

5. Combat arms jobs, particularly armor and infantry, are too hard to do for reservists with only 38 days training each year so our reserve components should be limited to only those tasks that are similar to what the soldiers do in their civilian occupation.

The average Guardsman trains 45.1 paid days each year. Officers and NCOs are more likely to train more than 45.1 paid days. At the lower enlisted levels, combat arms jobs are no harder to train for than most support jobs such as positions in Engineer and Field Artillery units. Yet National Guard Field Artillery brigades were deployed to Desert Storm with minimal post-mobilization training and performed well. The Marine Corps reserve deployed tank battalions to Desert Storm and performed well.

6. The Reserve Component soldiers can do well only those tasks that are similar to their civilian jobs so their roles should be limited to support tanks.

Once again it is obvious that the GAO did not discuss this conclusion with the National Guard Bureau. Had the GAO checked with the Guard they would have learned that there is very little correlation between Reserve Component civilian skills and military duties; across the board, fewer than 20% of the Guardsmen and women in a particular military field do a similar job in civilian life. Hers are some of the figures supplied to us by the National Guard Bureau: Aviators 14.8%; Military Police 19.4%; Truck Delivers 5.8%; Mechanics 16.9%; and Engineers 10.7%.

7. The GAO says it would take years to deploy all 15 Enhanced Brigades.

Since the GAO does not identify their source for this information, we think the Committee should take the information from responsible professionals at the United States Army Forces Command which is the responsible agency for developing plans to ensure that all Reserve Components are validated for deployment following mobilization. Their current plan, using only four post mobilization training sites, would deploy the first four brigades in 90 days or less and all 15 brigades in 180 days. Should additional sites be available and additional training resources be made available, potentially all 15 brigades could be deployed in 90 days or less. As to GAO's claim that there has been no analysis to justify the National Guard's 15 brigades and eight divisions, the only analysis that has been done to date (1993 Bottom-up Review) calls for the very force that exists today.

As the Defense Department forces are called upon to do more and more will less and less, the National Guard and Reserve will be required to perform their Federal missions with greater regularity. Military analysts agree that, in the near future, a spike in funding for the National Guard and Reserves will be required in order to keep these forces adequately resources. We raised these issues in order to highlight our concern over the funding, manning and utilization of our National Guard and Reserve forces nationwide.

We look forward to working with you and your staff during the year to ensure the National Guard remains a viable partner in the Total Force defense posture of the nation and remains more than capable of performing its state and Federal missions.

Sincerely,

CHRISTOPHER S. BOND.
WENDELL H. FORD.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, I ask unanimous consent the pending business be temporarily set aside and I be allowed to speak in morning business for no longer than 5 minutes.

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

The Senator from Indiana is recognized.

Mr. COATS. I thank the Chair.

(The remarks of Mr. COATS pertaining to the introduction of S. 1904 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I rise briefly to associate myself most emphatically with the remarks of the Senator from Connecticut and the Senator from Indiana in regard to the National Defense Panel to review of our defense needs. I ask unanimous consent that I be made a cosponsor of that amendment.

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

Mr. MOYNIHAN. Mr. President, I do so in the context of a commission created in the 103d Congress, the Commission on Protecting and Reducing Government Secrecy, which was established to review the whole pattern of the protection of the Nation's intelligence and defense secrets as we moved into a very different era from that from which we are clearly emerging.

The present regime for protecting secrecy in our country was basically put in place in a very few days, weeks at most, in the aftermath of the declaration of war on Germany in 1917. The Espionage Act of 1917 was introduced in the first week of April, 1917, as the United States entered the First World War, and is still in place, though an amendment passed the following year known as the Sedition Act—largely a revision of section 3 of the Espionage Act—was subsequently repealed.

In that same first week of April 1917, the Civil Service Commission presented to President Wilson a request for an Executive order on the question of the loyalty of Federal employees. Again, demonstrating a pattern, although one interrupted, that we see in our present situation—the arrangements put in place near the beginning of the century remain in place today.

These are very considerable arrangements. Some 2,300,000 American civil servants have clearances for various levels of access to classified material. Some 850,000 persons in civilian employment in defense industries in the main are similarly cleared for classified material. The cost is very considerable, the issue is consequential.

We did deal at great length with the problem of espionage in this country during the First World War. The Central Powers and the Allied Powers were very much contending for American support. It is a known fact that the German Ambassador to this country brought with him on one of his trips $150 million in Treasury bonds, the equivalent of $1 billion today, to use for just that purpose. And it had its consequences.

During the 1930's, again, there were efforts of this kind from Hitler's Germany. Simultaneously, from the beginning of the establishment of the Communist Party in the United States, the Soviet Union had been involved in espionage activities, having as their most dramatic event the infiltration of the Manhattan Project. They successfully transferred to the Soviet Union the essential plans for the first atomic bomb. The Soviet Union had an atomic bomb about four years from the time that the United States did. It was almost, bolt for bolt, modeled on the original device tested at Alamogordo and the bomb that was dropped on Nagasaki, Japan.

The details of this espionage effort are just emerging as the Venona transcripts are being released by the National Security Agency. We feel in our Commission that we have been something of a catalyst with regard to the Venona release, and with it we are beginning to see just how much the United States was up against and how necessary some of these measures were. We also begin to ask ourselves whether they are still necessary in the face of a very different international setting today.

The Commission has a distinguished membership. I serve as Chairman; the Honorable LARRY COMBEST, the chairman of the House Permanent Select Committee on Intelligence is Vice Chairman; the Honorable John Deutch was originally appointed when he was Deputy Secretary of Defense, and continues to serve on the Commission in his role as Director of Central Intelligence.

We are finding, and I think the Senator from Connecticut will know this and will agree, that in the new world of electronic communication, the security of American encrypted messages is very much problematic, and the capacities of persons all over the world, for whatever reason, to break into the Pentagon files and intercept messages is almost difficult to comprehend for someone over the age of 30. We learned just yesterday in the New York Times that a 16-year-old British youth with a small computer in his bedroom in North London was intercepting messages from American agents in North Korea, and there are several criminal prosecutions going on in the United Kingdom of that kind. How to deal with this entirely new set of challenges is the reason for establishing such bodies as the Commission on Protecting and Reducing Government Secrecy—and I think that the commission proposed here to inquire into the nature of our military defense needs in the future, with a larger view than the quadrennial review—is wholly in order. I am honored to be a cosponsor of the amendment. I hope the work of the Commission on Protecting and Reducing Secrecy might be of some utility to this commission, as it begins its work.

I thank the sponsors, and I yield the floor.

Mr. LIEBERMAN. Mr. President, I thank my friend and colleague, the Senator from New York, for joining me as a cosponsor and for his characteristic informed comments. He goes right to the heart of it.

The fact is that it was the experience of the commission with regard to the Nation's intelligence structure that worked in the 1970's that is the inspiration for that concept being included in this amendment. The work he is doing now in this area with this commission, I hope, will be considered by the panel convened under the amendment.

As the Senator indicates, changes that have occurred are extraordinary. Former Deputy Chief of Staff, Admiral Owens, who was very comfortable with the new technologies and very farsighted, said we are now at a point where our commanders can, for the most part now or on the verge in the very near future, can see the whole battlefield for miles ahead, around them, and in front of then. That has never been the case for people who have gone to war. This is because of these extraordinary not only satellites but helicopters, the unmanned aerial vehicles. The fact is at a given moment in real time today the commanders on the field—in fact, the heads of our military structure back at the Pentagon—can see exactly what is happening on the battlefield and be involved.

As the Senator indicated, the dependence we have on communication and information, the potential threats to current methods of encryption of our messages is exactly what I hope this commission will go at. The fact is that part of what we are asking it to do is look at the United States not as the world's great superpower, but from the perspective of one who would want to do us harm, and to begin to determine what are the points of vulnerability.

It may be, as Senator COATS indicated before, we are tremendously well defended to fight the last war, but some relatively weaker power than we may have the capacity to either break our communication systems or to shake up or incapacitate our information systems in a way that renders us as weak, as if we had suffered a major conventional military defeat.

I want to thank the Senator for his support and for his right-on-target comments and the thought-provoking words that he spoke. I thank the Senator.

Mr. MOYNIHAN. I thank my friend.

Mr. NUNN. Mr. President, I want to commend Senator LIEBERMAN and Senator COATS for their leadership on this issue. The amendment they are offering, of which I am an original cosponsor, and which I worked with them on, will build upon the recommendations of the 1995 report on the Commission on Roles and Missions of the Armed Forces, that there be a quadrennial defense review.

Secretary Perry has decided to conduct that review. This would ensure that a number of important defense issues are addressed during the course of that review, and will establish a national defense panel that will play a key role in the defense review that would conduct its own forward-looking review of force structures.

I am reminded, Admiral Owens, former Vice Chairman of Joints Chiefs of Staff, in his testimony on the eve of his retirement, and in frank discussions with many of us, stated that he believed that the acquisition of new platforms such as planes, ships, and tanks, are far less important than the incorporation of new, forward-edge technologies and information systems and the platforms already in the military's inventory. He even stated that such technologies would permit cuts in existing platforms, in terms of numbers.

It is my belief and my hope that national defense panel would be able to chart a road forward for us that takes a look at, certainly, Admiral Owens' review, looks at contrary views to that, and makes some recommendations that would be a benefit to both the Congress and the administration. I urge adoption of the amendment.

Mr. LIEBERMAN. Mr. President, I note there is a minute or two remaining. I add this word to everything that has been said. In one sense, Senator COATS said this is an attempt to liberate the process from the inevitable instinct that institutions have to continue down the road they have been down before and to make sure that the roads that we are heading down are the right roads. I am talking not just about the Defense Department, but our institution, as well.

In one sense, what I hope will come out of this, both from within the Quadrennial Review and the National Defense Panel, is the continuing effort that certainly has been going forward under Secretary Perry with the various reforms to our procurement, the examination of ways in which to essentially outsource, to bring in, to privatize, to gain the economic benefits of these creative actions, to make sure that we have maximum dollars available to actually provide for our national defense.

In one sense, what we are asking for here—and it is a big order—is to do what in the private sector we call reengineering the corporation, to go back and ask, if a piece of paper of the organizational structure and system in front of us was blank, what would we write on the paper to make sure we were fulfilling the goals that we have? I understand that is a big order in a system as historically successful and complicated as ours.

Essentially, what we are asking here in our national interest is that, together, we go back to first questions and say, what are the threats we are going to face to our security in the next century? If we could begin it all over again, how would we most effectively and efficiently meet those threats, and then to try, in the reality of the process, to get as close to that as we possibly can.

Again, I thank all of those who have spoken. I think it has been a very thoughtful and constructive debate. I cannot thank enough the broad group of bipartisan sponsors of this proposal, including, particularly, the chairman of the committee, Senator THURMOND, and the ranking Democrat, who I have occasionally burdened by referring to him as my mentor, the Senator from Georgia, Mr. NUNN.

I urge my colleagues to support the amendment. I thank the Chair and yield the floor.

The PRESIDING OFFICER. The hour of 5 o'clock having arrived, 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 bill clerk called the roll.

The result was announced—yeas, 100, nays, 0, as follows:

[Rollcall Vote No. 169 Leg.]

YEAS—100

Abraham	Feingold	Levin
Akaka	Feinstein	Lieberman
Ashcroft	Ford	Lott
Baucus	Frahm	Lugar
Bennett	Frist	Mack
Biden	Glenn	McCain
Bingaman	Gorton	McConnell
Bond	Graham	Mikulski
Boxer	Gramm	Moseley-Braun
Bradley	Grams	Moynihan
Breaux	Grassley	Murkowski
Brown	Gregg	Murray
Bryan	Harkin	Nickles
Bumpers	Hatch	Nunn
Burns	Hatfield	Pell
Byrd	Heflin	Pressler
Campbell	Helms	Pryor
Chafee	Hollings	Reid
Coats	Hutchison	Robb
Cochran	Inhofe	Rockefeller
Cohen	Inouye	Roth
Conrad	Jeffords	Santorum
Coverdell	Johnston	Sarbanes
Craig	Kassebaum	Shelby
D'Amato	Kempthorne	Simon
Daschle	Kennedy	Simpson
DeWine	Kerrey	Smith
Dodd	Kerry	Snowe
Domenici	Kohl	Specter
Dorgan	Kyl	Stevens
Exon	Lautenberg	Thomas
Faircloth	Leahy	Thompson
		Thurmond
		Warner
		Wellstone
		Wyden

The amendment (No. 4156) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote.

Mr. KEMPTHORNE. I move to lay that motion on the table. The motion to lay on the table was agreed to.

Mr. LIEBERMAN. Mr. President, I would like to take this opportunity to give very special thanks to several individuals who worked very hard on the amendment providing for the study of alternative force structures for the Armed Forces. They spent many long hours amidst their very heavy workloads assisting their Senators and me in developing the concept of a bipartisan approach toward pointing our Armed Forces in the right direction for the 21st century.

In particular, I would like to thank Ann Sauer of Senator MCCAIN's office, Rick Debobes of Senator NUNN's staff, Sharon Dunbar, a Brookings Institution Fellow working in Senator COATS' office, Bill Owens of Senator ROBB's office, and Stan Kaufman, a Brookings Fellow who works for me. Their dedication, expertise, professionalism and public service made me very proud to be associated with them. It has been a real pleasure being involved in such a successful bipartisan effort. In addition, I would also like to call out the exceptional responsiveness and quality advice we received from Charlie Armstrong of the Senate's Legislative Counsel's Office. When the staffers worked late into the evenings and over the weekends on this amendment, Charlie was right there for us.

But I would like to convey particular thanks to John Lilley, a former staffer of mine who recently left my employ to move on to a situation which could provide him more time to spend with his young family. When I originally conceived the idea of the alternative force study, it was John who was instrumental in developing the detailed proposals we have been discussing today and in working closely with the staff of the cosponsors in achieving a common approach. I will miss John's good counsel very much, and I wish him well in his future endeavors.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator will withhold.

The Senate will come to order, please.

The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I ask unanimous consent that the pending amendments be set aside that I may offer an amendment.

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

AMENDMENT NO. 4274

(Purpose: To provide for certain scientific research on possible causes of Gulf War syndrome; and to provide military medical and dental benefits for children of Gulf War veterans who have congenital defects or catastrophic illnesses)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 4274.

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

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

The amendment is as follows:

At the end of title VII add the following:

SEC. 708. RESEARCH AND BENEFITS RELATING TO GULF WAR SERVICE.

(a) RESEARCH.—(1) The Secretary of Defense shall, by contract, grant, or other transaction, provide for scientific research to be carried out by entities independent of the Federal Government on possible causal relationships between the complex of illnesses and symptoms commonly known as "Gulf War syndrome" and the possible exposures of members of the Armed Forces to chemical warfare agents or other hazardous materials during Gulf War service.

(2) The Secretary shall prescribe the procedures for making awards under paragraph (1). The procedures shall—

(A) include a comprehensive, independent peer-review process for the evaluation of proposals for scientific research that are submitted to the Department of Defense; and

(B) provide for the final selection of proposals for award to be based on the scientific merit and program relevance of the proposed research.

(3) Of the amount authorized to be appropriated under section 301(19), $10,000,000 is available for research under paragraph (1).

(b) HEALTH CARE BENEFITS FOR AFFLICTED CHILDREN OF GULF WAR VETERANS.—(1) Under regulations prescribed by the Secretary of Defense, any child of a Gulf War veteran who has been born after August 2, 1990, and has a congenital defect or catastrophic illness not excluded from coverage under paragraph (2) is eligible for medical and dental care under chapter 55 of title 10, United States Code, for the congenital defect or catastrophic illness, and associated conditions, of the child.

(2) The administering Secretaries may exclude from coverage under this subsection—

(A) any congenital defect or catastrophic illness that, as determined by the Secretary of Defense to a reasonable degree of scientific certainty on the basis of scientific research, is not a defect or catastrophic illness that can result in a child from an exposure of a parent of the child to a chemical warfare agent or other hazardous material to which members of the Armed Forces might have been exposed during Gulf War service; and

(B) a particular congenital defect or catastrophic illness (and any associated condition) of a particular child if the onset of the defect or illness is determined to have preceded any possible exposure of the parent or parents of the child to a chemical warfare agent or other hazardous material during Gulf War service.

(3) No fee, deductible, or copayment requirement may be imposed or enforced for medical or dental care provided under chapter 55 of title 10, United States Code, in the case of a child who is eligible for such care under this subsection (even if the child would otherwise be subject to such a requirement on the basis of any eligibility for such care that the child also has under any provision of law other than this subsection).

(c) DEFINITIONS.—(1) In this section:

(A) The term "Gulf War veteran" means a veteran of Gulf War service.

(B) The term "Gulf War service" means service on active duty as a member of the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War.

(C) The term "Persian Gulf War" has the meaning given that term in section 101(33) of title 38, United States Code.

(D) The term "administering Secretaries" has the meaning given that term in section 1072(3) of title 10, United States Code.

(E) The term "child" means a natural child.

(2) The Secretary of Defense shall prescribe in regulations a definition of the terms "congenital defect" and "catastrophic illness" for the purposes of this section.

Mr. BYRD. Mr. President, last Friday, the Department of Defense made a remarkable admission—as a matter of fact, it was a startling admission—regarding the possible exposure of some gulf war veterans to chemical warfare agents resulting from the destruction of Iraqi ammunition bunkers. In a widely covered news conference, Department of Defense spokesman Kenneth Bacon announced that between 300 and 400 U.S. soldiers were within 3 miles of a bunker complex when it was destroyed in March, 1991 and may have been exposed to mustard gas and sarin. U.N. inspectors have confirmed that the bunker complex contained rockets and artillery shells containing the chemical nerve agent sarin and the blister agent mustard gas.

Although none of these soldiers exhibited any symptoms associated with acute exposure to these chemical warfare agents, the Department of Defense announced that it would initiate research efforts into whether this exposure might have had long-term effects on the health of the soldiers.

I am concerned about the possible harm that might have been done to these 300 to 400 soldiers. I am even more concerned that they may only be the first drop in the bucket. Between 80,000 and 100,000 veterans are on the Department of Defense and Department of Veterans Affairs registry for gulf war veterans who suffer from a wide range of disabling symptoms collectively known as "gulf war syndrome." Some of these sufferers believe that they may have been exposed to chemical warfare agents while serving in the gulf and that this exposure may be the cause of their illness. DOD spokesman Kenneth Bacon alluded to the possibility when he noted that DOD is examining other reports and other bunkers for chemical weapons, so other groups of soldiers may also be at risk.

Additionally, U.S. and coalition forces bombed many bunker complexes and chemical and biological weapons production facilities during the air war in 1991, so U.S. forces may have been exposed as a result of those actions as well. This is a very troubling situation.

Mustard gas and sarin, the two chemical agents that were found in the destroyed bunker, are known, I am advised, to cause central and peripheral nervous system problems as well as to cause birth defects in children born to exposure victims. Medical research is needed to determine whether exposure to low levels of chemical warfare agents causes the symptoms described by gulf war veterans.

Previous funding provided by Congress for medical research into gulf war syndrome, awarded only last Thursday by the Department of Defense, investigates the possible links between the illness and exposure to diesel fuel, pesticides and insect repellents, stress, disease, fatigue, and nerve agent pretreatment pills. Almost $1 million of the $7.3 million total is designated for a study of ill British veterans. None of the research funded thus far examines the link between the illness and the exposure to chemical warfare agents. The amendment I am offering would provide $10 million from within other defense medical research efforts for independent medical research into this issue.

This amendment also provides relief to the most helpless victims of that war—the children of gulf war veterans with birth defects or other catastrophic illnesses that may be linked to their parents' exposure during the gulf war.

Life magazine ran a story about these children in November 1995. On the cover—and here is a replica of the cover of Life magazine, which ran the story about these children in November 1995. On the cover is a picture of Jayce Hanson, with his father. His father is Sergeant Paul Hanson of Wheeling, WVA. Three years old, Jayce was born with hands and feet attached to twisted stumps. As those who observe the picture of the cover of Life magazine can see in the picture to my left, they will notice the hands that were attached to twisted stumps, and his lower legs, which were amputated in order to accommodate prosthetic legs. He also had a hole in his heart and suffers from a hemophilia-like blood condition and underdeveloped ear canals that cause frequent ear infections.

Sergeant Hanson is still in the Army and is currently serving in Bosnia. During the Persian Gulf war, serving with the 16th Engineers of the 1st Armored Division, Sergeant Hanson was involved with bunker- and mine-clearing operations. He was not, apparently, involved in destroying the chemical weapons bunker identified in the Department of Defense announcement,

but it is not known if other bunkers he helped to destroy contained chemical weapons.

Mr. President, these children, like Jayce, suffer twice. First they are born with disabling and disfiguring birth defects, or suffer from invisible but equally devastating illnesses. Their parents may be suffering from gulf war syndrome. Then, when their soldier parent leaves or is discharged from the military as medically unfit due to illness, the family loses its health care. The insult added to the injury comes when the child is denied civilian health insurance because of its preexisting medical condition—its birth defect or illness.

Even gulf war veterans still on active duty, with birth-defect children, face difficulties. They must seek appropriate medical care from civilian doctors through the Department of Defense's CHAMPUS program, which has a 20 percent copayment requirement. These children need continuing medical attention; they may need multiple operations or expensive medical treatments before they can function normally. The costs of this care can reach $100,000, and a 20 percent copayment, or $20,000, can be financially crippling for an enlisted serviceman.

Sergeant Hanson's family has been helped by the Shriners organization, which has paid some of Sergeant Hanson's son's medical costs, but they were forced to seek assistance through the SSI program. Now Sergeant Hanson's combat pay for serving in Bosnia has pushed his income over the limit for SSI eligibility, so assistance is no longer available from that source.

Mr. President, an enlisted service member should not have to rely on a welfare program or charity to meet the health care needs of his family, particularly when there is some reason to believe that the catastrophic health care needs of his child might have resulted from his military service. Jayce deserves better than that. His father is willing to risk his life in the service of his country. He should not be asked to risk the life and health of his son.

The amendment I have offered would make these children eligible for care in the military health care system, which includes military hospitals and civilian practitioners through CHAMPUS, and would waive the 20 percent copayment requirement. The number of children affected is not large, according to the Department of Defense, but they are in truly desperate straits. Until research can prove that these children's maladies are not linked to their parents' service in the gulf war, they should be given the benefit of the doubt.

President Clinton last month announced that he would seek legislation to provide benefits for children of Vietnam veterans born with spina bifida as a result of their parents' exposure to Agent Orange. Let us not wait 20 years before we acknowledge the incalculable difficulties faced by the children of the gulf war that may have resulted from their parents' service.

Mr. President, I yield the floor. I had understood that the managers might be willing to accept the amendment.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, it appears this amendment has merit, and we will accept it.

Mr. BYRD. Mr. President, I thank the distinguished chairman of the committee, Mr. THURMOND.

The PRESIDING OFFICER. If there is no further debate, the question is on the amendment.

Mr. DOMENICI. Mr. President, before Senator BYRD leaves the floor, might I just take 1 minute? Is there a time limit on this?

The PRESIDING OFFICER. There is not.

Mr. DOMENICI. First, I congratulate Senator BYRD for bringing up this issue. Clearly, we have to come up with a better scientific answer to this problem than we have come up with. I just want to share with the Senator another research effort that is taking place. It is not in need of any of the resources he speaks of, but, in the State of New Mexico, there is a world renowned toxicology center that deals with what happens to our lungs depending on what we breathe. I have just recently learned that they are engaged now in an indepth research project with reference to the war that the Senator speaks of that centers around the kerosene heaters; that, in fact, they are going to be checking in depth to see if there possibly could be a relationship between some of the fume components and some injury to the pulmonary—breathing apparatus. I just wanted to share that as another proof of the fact that this is serious enough for our country to be involved in a very major way.

Of course, the Senator has added one that has not been looked at at all, that has just recently come to light. I wanted to share that with the Senator and commend him.

Mr. BYRD. Mr. President, I thank the distinguished Senator from New Mexico for his observation and his sharing of this information with me. I thank him also for his expression of support for the amendment.

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.

The PRESIDING OFFICER. Is there further debate?

The Senator from Georgia.

Mr. NUNN. Mr. President, I support the amendment offered by our colleague from West Virginia, Mr. BYRD. We need to do all we can to deal with gulf war syndrome. We have seen reports, just in the last week, about new discoveries that have been made relating to the Iraqi chemical stockpile and the possibility of that being connected to some of the terrible problems that our service people are experiencing.

We all know all the problems with Agent Orange and how long we spent on that one. I think it is time to come to grips with this, and I believe the Byrd amendment is a positive step in the right direction. So I urge our colleagues to support the amendment.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Georgia for his support.

Mr. President, I ask unanimous consent that the amendment be laid aside temporarily.

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

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 4275

(Purpose: To require the Secretary of Defense to take such actions as are necessary to reduce the cost of renovation of the Pentagon Reservation to not more than $1,118,000,000)

Mr. BINGAMAN. Mr. President, 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 New Mexico [Mr. BINGAMAN], for himself, Mr. BRADLEY, and Mr. FEINGOLD, proposes an amendment numbered 4275.

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

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

The amendment is as follows:

On page 398, after line 23, insert the following:

SEC. 2828. RENOVATION OF THE PENTAGON RESERVATION.

The Secretary of Defense shall take such action as is necessary to reduce the total cost of the renovation of the Pentagon Reservation to not more than $1,118,000,000.

Mr. BINGAMAN. Mr. President, this is an amendment that would have the effect of reducing the $1.2 billion cost of renovating the Pentagon by $100 million. I send this to the desk on behalf of myself, Senator BRADLEY, and Senator FEINGOLD. This would be the first reduction in funds for this very expensive project since its inception half a decade ago. It would amount to about a 10-percent reduction in the total.

Mr. President, dramatic shifts have occurred in geopolitical terms during the past decade, and these shifts have caused fundamental changes in our defense posture. As we have realigned our defense programs to meet changing needs, the funds for many projects have been reduced and eliminated.

Despite significant reductions in defense spending, the Pentagon renovation project has enjoyed a steady flow

of cash. In my view, the time has come to impose greater financial discipline on the Pentagon, just as the Pentagon has asked other military organizations to be more frugal. Too many of our military members are forced to work and live in unhealthy and unsafe conditions. We need to ensure that the renovation of the Pentagon does not jeopardize funding for other more urgent needs.

Many things have changed in this world since this 15-year-long project began, and I believe the Pentagon renovation plans can be better aligned with today's new realities. There are many factors which ease the impact of a reduced renovation budget. For example, the Department of Defense is downsizing. As the civilian military work force is steadily reduced, demands for work space have eased as well. Construction costs in the Washington, DC, area have fallen. Contract costs for the renovation have turned out to be considerably lower than originally estimated.

On one construction contract alone, for example, costs were 36 percent less than anticipated. Also, modern communications technology makes it unnecessary to have large staffs at the Pentagon to manage dispersed operations.

Mr. President, in 1990, Congress transferred responsibility for the operation, maintenance, and renovation of the Pentagon from the General Services Administration to the Secretary of Defense. Congress recognized that the serious structural problems in the Pentagon building had to be addressed without further delay, and we took this action to get the long overdue project moving forward.

Congress earmarked $1.2 billion that the DOD would have paid to GSA in rent for the next 12 or 13 years as a breakeven way to pay for the renovations. The $1.2 billion was not based on any projected cost of renovation, it was simply a sum that was available. This seemed to be a logical way to fund the renovation, so Congress provided the Department of Defense great flexibility in managing the project.

Mr. President, this $1.2 billion cap people need to understand, Senators need to particularly understand that this $1.2 billion cap which has been in the law for several years now does not include all the renovation costs. In fact, there are four categories of expenses which add substantial amounts to the total.

For example, the Pentagon estimates that the cost of buying and installing information management and telecommunications equipment will be another $750 million. This amount is not part of the $1.2 billion cap. Neither is the heating and refrigeration plant, the classified waste incinerator, the furniture or the 780,000 square feet of leased space for people who have to be moved during the renovation itself. The figure of $1.2 billion is, therefore, misleading. The expense of renovating the Pentagon easily will exceed $2 billion.

Last year, the Senate did pass essentially this same amendment that I am offering today to cut the Pentagon renovation expenses by $100 million. During the conference, unfortunately, the conferees agreed to eliminate that requirement and, instead, they directed that the Department of Defense review the renovation plans and recommend some cost saving options.

This review has been underway, I am informed, since March of 1995. The well-publicized review was supposed to produce a report which was expected in February of this year. We did not receive that report. On the 5th of June, the Armed Services Committee staff did receive a single-page memo which states that the Department has found a savings of $37 million and will continue to look for more.

A reduction of $37 million out of a total of $1.2 billion is not what I consider an aggressive response to our call to reduce costs, and the one-page memo is not what I consider a thorough analysis of options for reducing costs. Over the past 6 years, we have dramatically reduced defense spending and manpower without once reducing the funds for the renovation of the Pentagon.

Fifteen months ago, the Pentagon itself publicly announced its intent to reduce the cost of the project. The Department identified a new spending target only after last year's threat of a reduced cap and after I announced at the Readiness Subcommittee markup on April 30 that I would offer this same amendment this year if I was not convinced by the Pentagon's long overdue report.

Mr. President, that long overdue report is still overdue. I am not convinced that $37 million is the best the Pentagon can do in the way of savings. The only way in which we can force additional savings is to keep up the pressure and insist on more in the way of accountability for this very, very large project. That is what this amendment does. Americans have been asked to tighten their belts. They expect no less from their Government. The Pentagon needs to be expected to do the same.

I yield the floor.

YEAS AND NAYS VITIATED—AMENDMENT NO. 4274

Mr. BYRD. Mr. President, I ask unanimous consent that the order on the yeas and nays on my amendment be vitiated.

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

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

AMENDMENT NO. 4275

Mr. THURMOND. Mr. President, I want to say to the Senator that we think he has a meritorious amendment, and we will accept it.

Mr. NUNN. Mr. President, I urge the adoption of the Bingaman amendment and, as I have already done, I urge the adoption of the Byrd amendment.

The PRESIDING OFFICER. If there is no further debate on the Bingaman amendment, the Senate will proceed to vote.

The question is on agreeing to the amendment.

The amendment (No. 4275) was agreed to.

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

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

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 4274

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from West Virginia.

The amendment (No. 4274) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. THURMOND. I believe Senator BINGAMAN has an amendment.

AMENDMENT NO. 4276

(Purpose: To repeal the permanent end strengths)

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

The PRESIDING OFFICER. Without objection, the pending amendments are set aside. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] proposes an amendment numbered 4276.

Mr. BINGAMAN. 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:

Strike out section 402 and insert in lieu thereof the following:

SEC. 402. REPEAL OF PERMANENT END STRENGTHS.

(a) REPEAL.—Section 691 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 39 of such title is amended by striking out the item relating to section 691.

Mr. BINGAMAN. Mr. President, this amendment that I have just sent to the desk would propose to repeal a provision that was adopted in last year's defense authorization bill. That provision makes it the permanent law of the land that we will have at least 1,445,000 active duty military personnel, including

at least 495,000 in the Army, at least 395,000 in the Navy, at least 174,000 in the Marine Corps, and at least 381,000 in the Air Force.

That is a permanent provision of law that we added last year. The provision states these "end strengths . . . are the minimum strengths necessary to enable the armed forces to fulfill a national defense strategy calling for the United States to be able to successfully conduct two nearly simultaneous major regional contingencies."

The provision gives the Secretary of Defense only half a percentage point leeway in meeting these minimum active duty levels. Even if the Secretary of Defense, in any given year, persuades Congress to go to a lower end strength level, under the provision which is now permanent law, the following year the Secretary is again bound to the 1,445,000 end strength level unless he again asks and again Congress agrees to approve a waiver.

Mr. President, it is just bad law. The committee has included a provision in the bill before us that makes it minimally tolerable in the coming year by giving the Secretary of Defense not half a percent leeway but instead a 5 percent leeway for each of the services. The committee report points out that "the committee has found that one-half percent flexibility is not enough, is insufficient to prevent the services from taking short-term management actions that may adversely affect service members, solely to meet the assigned end strengths at the end of the fiscal year."

Mr. President, every year since I came to the Senate, section 401 of the defense authorization bill has established a maximum active duty end strength for each of the services. That seemed to me to make some sense. Last year however was the first time in memory that Congress established a minimum active duty end strength as well as a maximum.

In this coming year the minimum and maximum will be identical, or almost identical, for three of the services, the Army, the Marines, and the Air Force. This makes no sense from the point of view of running a personnel system.

This provision in permanent law is not just bad personnel policy; it is fundamentally flawed in its ties to the Bottom-Up Review and the need to "successfully conduct two nearly simultaneous major regional contingencies." This is the only place that I am aware of where the Congress has chosen to memorialize the Bottom-Up Review in permanent law.

During the debate we just had a few minutes ago on the Coats-Lieberman amendment, which mandates a new strategic review to replace the Bottom-Up Review, we heard a great deal of criticism of the Bottom-Up Review and its underlying assumptions. I agree with that criticism.

How then, assuming that criticism is accurate—and the vote certainly would reflect the Senate agrees that the criticism is valid—how do we justify leaving this provision in title 10 of the United States Code the permanent law of the country, when we know that next year, whoever is President, the Bottom-Up Review will be overtaken and the two major regional contingency assumptions will be history?

Mr. President, let me remind my colleagues that the Republican Congress and the President are fundamentally in agreement on the total resources this Nation will devote to defense in the coming years.

Let me just show a chart here that makes that point very dramatically, I believe. I know we hear a lot of rhetoric on this Senate floor about who is stronger, which of the parties has the strongest position with regard to our national defense, but this chart makes the case, I think very persuasively, that spending between fiscal year 1997 and 2002 under the President's budget as scored by the CBO and spending under the final Republican budget resolution is essentially indistinguishable.

The total spending increase over the 6 years proposed by the Republicans is $18.6 billion, with $11.3 billion of that coming in the first year. When you go through all the different numbers, Mr. President, it is clear that we have less than a 1 percent increase difference. This is the dire emergency that we have heard discussed in reference to spending. It turns out that President Clinton was 99 percent right on defense spending levels according to the Republican defense spending plans, if not according to their defense oratory.

Mr. President, the central justification which has been made for much of the additional money that is being added to this bill is that the Pentagon is underfunding modernization of our military. The bill that we have before us adds about $7.7 billion in procurement, about $3.7 billion in research and development. We have heard often during debate on this bill about the Joint Chiefs' $60 billion target for procurement and how short the bill is in meeting that goal, even with the additional money that we are adding in.

The fact is that the Republican outyear defense budgets will never reach that target either unless there is a significant additional drawdown in military personnel on the order of several hundred thousand active duty personnel. The fact is the Republican deficit hawks who put a premium on balancing the budget by 2002 have won the battle, the budget battle, over the Republican defense hawks. But they have generously granted a 1-year reprieve, one last spending spree to the defense hawks in an election year.

Mr. President, this does not make sense. You cannot say that you are going to balance the budget, that you are going to increase funds for modernization and for quality of life and for readiness, and you are going to keep the active duty force level at 1,445,000.

The Republican budget resolution does not add up, nor, for that matter, does the President's defense budget. What is going to give, I predict, whoever is President, has clearly got to be the force structure level.

Mr. President, I favor modernization of our Armed Forces. I favor quality housing for our troops. I favor providing full pay raises to our forces. I favor long-term research to help keep our forces at the forefront of this "revolution in military affairs."

I favor investments in the mobility of our forces and maintaining the readiness of our forces, although I welcome the efforts that have been made to look at tiered readiness.

But for this Senator, all of these priorities—modernization, pay, housing, readiness, mobility and research—all of them take precedence over the size of the force structure within constrained budgets. The Nation needs a well-equipped and well-paid and well-housed and highly mobile military to deal with the reduced threats of this post-cold-war world. It will be a smaller force than the Bottom-Up Review force. We will not have 1,445,000 active duty personnel.

We all know that that is where the Pentagon is headed next year, whoever is elected this fall. Under the bill that we have before us, we are going to put off until next year, perhaps even the year after, any serious discussion about future force requirements. We are going to put off any serious discussion about necessary trade-offs between force structure and modernization and readiness within budget constraints. This year this bill proposes one last shopping spree before we cut up the credit cards. That is not what we should be doing.

Mr. President, by passing my amendment and by repealing the provisions from last year's authorization bill that mandates the 1,445,000-person active duty force in permanent law, the Senate would spur a debate on these trade-offs. If we do not repeal the provision this year, we will be doing it next year or the year after. It is only a matter of time. I urge the adoption of my amendment. Mr. President, I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise to oppose this amendment.

This amendment would repeal the end strength floors enacted in the National Defense Authorization Act for fiscal year 1996. The goal in establishing these floors was to prevent the Department of Defense and the administration from sacrificing active duty strength below levels necessary to successfully prosecute two major regional

contingencies in favor of other budget priorities.

Earlier this afternoon, we debated and adopted an amendment offered by Senators LIEBERMAN, COATS, MCCAIN, NUNN, LOTT, ROBB, THURMOND, and others which called for a commission to review the national security strategy and to recommend a new, requirements-based force structure plan. I support that amendment and I think that repealing the active duty end strength floors before such a force structure review is completed would be premature.

Mr. President, just to set the record straight, I want my colleagues to understand that the uniformed personnel chiefs have not opposed the end strength floors. The floors are set at the level requested in the administration's Bottom-Up Review. This number represents the end state of the defense downsizing. No military or civilian leader in the Department of Defense has requested more reductions to our active force during testimony before our committee. Section 401 of the defense authorization bill we are now debating provides the services the flexibility which the uniformed personnel chiefs requested.

Any further reductions to military strengths must follow congressional concurrence with a new force structure review and a comprehensive revision to the roles and missions of our Armed Forces. Repeal of the active duty end strength floors in the absence of such reviews and recommendations would be foolhardy and ill-advised. I urge my colleagues to oppose this amendment.

Mr. President, I thank the chair and yield the floor.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I am persuaded that my amendment would substantially improve the bill if it were adopted. I think the legislation in the bill, the permanent law we are dealing with, is not appropriate for the time we live in and not appropriate for the budget constraints that we realistically have to deal with. I am also well aware that in this even-numbered year, it is very difficult to get the necessary majority to vote for an amendment such as the one I have proposed here.

One of the real fears of many in this body, I am sure, is that they might in some way be viewed as being soft on crime or weak on defense. I do not in any way think that my amendment is a signal that a person is weak on defense. I think it is a sign that a person is realistic about the resources that we have to devote to our national defenses, and that both the President and the Republican leadership here in Congress have committed to devote to our resources over the next several years.

I think we would be well off to get on with the repeal of these minimum force provisions that are in permanent law. I recognize, though, that with the opposition of the leadership of the Armed Services Committee on this issue, that we would not prevail with this amendment. For that reason, I will withdraw the amendment and keep it for another day when we will have a greater opportunity to prevail with it.

At this point, I withdraw the amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The amendment (No. 4276) was withdrawn.

Mr. THURMOND. Mr. President, I wish to thank the able Senator from New Mexico for withdrawing the amendment.

NATO SECURITY INVESTMENT PROGRAM

Mr. CAMPBELL. Mr. President, as we consider the fiscal year 1997 Defense Authorization bill, I would like to take this opportunity to point out our financial and security investments in NATO.

Too often, Mr President, we in Congress find ourselves in the position of having to justify to our constituents the rationale for providing foreign assistance, particularly during a time when budgetary constraints are hindering what we can do right here in our own home towns. For this reason, foreign spending often has become negative and is distorted in the public eye. While this is an understandable concern, few recognize just how much the United States benefits from its financial investments and active participation in foreign activity. The NATO Security Investment Program is a model that readily defies this negative image and I would like to highlight this for my colleagues today.

The NATO Security Investment Program, which sustains the NATO Alliance facility operations and technical requirements, supports U.S. security and economic interests, while providing an impressive commercial return on our investment. Where the United States has invested approximately $1 billion in the NATO Security Investment Program over the past 5 years, U.S. businesses have enjoyed a total of $1.7 billion in high-tech contracts. During this same time period, a $25 million investment of U.S. dollars yielded $100 million worth of military construction contracts which were awarded to U.S. companies. In fact, nearly 40 percent of all NATO high-tech and communications projects are awarded to U.S. contractors.

This current rate of return continues to grow and benefit the U.S. economy. Right now, there are 12 NATO contracts under way which total $73 million in returns for U.S. companies, significantly impacting five States. In the upcoming years, there will likely be 10 NATO projects awarded to American contractors in five States which will total nearly $169.8 million.

Since the collapse of the Warsaw Pact, the NATO alliance has undergone fundamental and significant changes as its strategy has shifted from a stationary defensive position to a lean, responsive body, capable of handling a variety of challenges. With the drawdown and overall mission redefinition complete, the NATO alliance has embarked upon several projects and operations that will refocus NATO's efforts throughout the European theater. These operations need our strong financial support.

Opposition remains, however, as many continue to argue that with the end of the cold war should come a decreased need for U.S. military dollars abroad. This position is readily refuted, when one considers the truly surprising financial opportunities and benefits that exist for our economy within these operations.

We must continue to recognize the tremendous tangible rewards that are generated by our leadership and participation in such foreign investment. These figures clearly reflect the direct benefits and future potential of our involvement in NATO, not only in terms of security but in economic terms as well. I would encourage my colleagues to observe and remember the many benefits the United States is afforded through our involvement in the NATO alliance.

AMENDMENT NO. 4277

(Purpose: To state the sense of the Senate relating to the apparent inappropriate use of Federal Bureau of Investigation files)

The PRESIDING OFFICER. The Senator from New Hampshire.

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

The PRESIDING OFFICER. Without objection, the pending amendment will be set aside.

The clerk will report the amendment.

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

Mr. FORD. Mr. President, I object.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

At the appropriate place, insert the following:

SEC. . (a) The Congress finds that—

(1) Federal Bureau of Investigation background files contain highly sensitive and extremely private information;

(2) the White House is entrusted with Federal Bureau of Investigation background files for legitimate security purposes but it should ensure that any files requested are needed for such purposes and that these files remain confidential and private;

(3) the White House has admitted that the personnel security office headed by Mr. Livingstone inappropriately requested the files of over 400 former White House pass holders who worked under the past two Republican Presidents;

(4) Craig Livingstone, the director of the White House personnel security office, has been placed on paid administrative leave at his own request;

(5) the President has taken no action to reprimand those responsible for improperly collecting sensitive Federal Bureau of Investigation files; and

(6) the taxpayers of the United States should not bear the financial responsibility of paying Mr. Livingstone's salary.

(b) It is the sense of the Senate that the President should terminate Mr. Livingstone from his position at the White House immediately.

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

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, I do believe it is appropriate for us to discuss this issue at this time. It is very obvious, in my opinion, and I think the opinion of many in this Chamber, that something unusual and inappropriate and——

Mr. FORD. No more votes tonight.

Mr. COATS. Mr. President, could we have order in the Senate, please.

The PRESIDING OFFICER. The Senate will be in order.

Mr. GREGG. More than 400 names, with FBI files, have been requested by the White House, pursuant to what appears to be the request of the director of the White House personnel security office. In this instance, this is clearly a violation of a proper handling of the most sensitive information about individuals who have worked for the Government or who may be politically active.

It appears from all press reports that these files represented primarily Republican members or Republican individuals who identify themselves with the Republican Party. The fact is that has created a clear concern amongst not only those people whose files were requested, but I think amongst anyone who is interested in the proper functioning of a democratic Government.

The issue here is, at what point can the police powers of the State be used for purposes of investigation which exceed the legitimate purposes of the White House or some other agency of the Government? The issue here involves the question of, when does the police power of the State, when abused, significantly abridge the rights of individuals and citizens of the country, because this information was collected under the authority of the police power, the FBI. But how information regarding 400 individuals, many of whom had not been involved in any form of White House access for years, could be legitimately requested by the White House raises very significant and serious questions. There is no doubt, really, that what happened here was some sort of, at the minimum, fishing expedition for information, and one suspects and is concerned that the goal and the purpose of that fishing expedition was not involved in the necessary function of access to the White House, because a large number of the people on this list involve people who had no active involvement with the White House and who, clearly, had no potential future active involvement with the White House. And, therefore, to obtain this sort of information on them makes no logical sense in relationship to the purpose of the security office of the White House. So what you have is a very serious issue of the proper usage of information, which had been developed by the FBI, or the police power of the State, in the functioning of the Government.

It has become pretty obvious from this exercise that at least one individual is primarily culpable for this action—this action which is not defensible. In fact, the White House has said it was not defensible. In fact, the White House has used terms such as "inexcusable." I believe the President has even used that term. Clearly, the Chief of Staff has used that term. But that individual continues to be paid by the taxpayers of this country. He was not asked to leave. He is on self-requested administrative leave, I believe. So your tax dollars, my tax dollars, the American people's tax dollars, and even the tax dollars of those 400 folks whose files have been gone through in this manner, are being used to fund the salary of this individual. That seems, to me, to be not only incredibly ironic, but extraordinarily inappropriate and inconsistent with the policy stated by the President when he was running for this office.

When the President was running for office, if people will recall, there was an incident that occurred at the State Department that involved the review of the passport file of the then-candidate, Governor Clinton. At that time, he stated with considerable and, I think, appropriate outrage that had such an incident occurred, or should such an incident occur during his administration, that person would be—the person responsible for that action—quickly terminated.

Well, not only has the person responsible not been quickly terminated, but the person responsible is now actually being paid by the taxpayers of this country his full salary. That is wrong.

I think it is wrong on all sorts of levels, but it is wrong on the issue of logic. It is wrong on the issue of fairness to the people whose files were gone through, but, most importantly, it sends the wrong signal on a matter of this seriousness. He should have been fired outright, as I think the President suggested when he was running for office. There is no question about that. That would have been the proper course of action. But, at the minimum, he should not have been able to request administrative leave. He should have been put on leave by this White House, without pay. What has happened, however, is just the opposite. He was put on leave at his request, with pay, an action which one has to question rather significantly.

Now, let us review again what happened. There were 400 names—maybe more, we are not absolutely sure yet—which were requested by the director of the office of White House personnel security. Now, the director of White House personnel security has the obligation, under the White House rules, to manage who has access to the White House. Traditionally, that post has been under the direction of career individuals, people who specialize, through their activities in the Government, in the management of security for the White House. That has been the traditional individual who has managed that office.

However, with the ascension of President Clinton to this White House, there was an individual appointed as director of the office of personnel security named Mr. Livingstone. It has been reported, rather widely, that Mr. Livingstone's basic experience was as a political operative within the campaigns of several different candidates—the President's candidacy, obviously, but I believe even the Vice President's candidacy at one time, and I believe he also worked for former Congresswoman Geraldine Ferraro. His basic purpose was to manage political affairs and security within the campaign structure. So he was moved into this position of director of the White House personnel.

It has, again, been reported that, in that position, he reported to a series of people within the White House, many of whom also managed political activity within the White House. That, of course, raises the question of, what is the proper way to manage this office? But that is a secondary question. The primary question was, why would this individual have requested these 400 files on these 400 individuals, almost all of whom are Republicans?

FBI files, by the way, are very unique files. They are not a credit union file. They are very serious reviews of a person's activities, going into all sorts of background checks that are extraordinarily substantive. The FBI, if nothing, is one of the most thorough investigative organizations in the country. They are not a credit union report. In fact, FBI files are so seriously viewed that when I, as a Member of the Senate, asked to look at an FBI file of a person nominated for a position, which is subject to senatorial review—for example, say, the Surgeon General—before I could look at that file, I have to request that file of the FBI, the FBI has to clear that request through the White House, and then a White House individual, who is designated by the FBI—and they may actually work for the FBI; I am not sure which, because sometimes I think it differentiates—in any event, a person from the White House physically comes to my office, or I go to their office, and sits with me

while I review that file. And I am only allowed to review that file by myself. I am not allowed to make any copies of anything in that file. I am not allowed to in any way reproduce any part of that file. While I review that file, sitting directly across from the table is this handler of that file—usually a White House individual but I believe a detailee of the FBI at the White House.

So it is not a casual event that somebody looks at an FBI file. It is not a casual event at all. It is a very seriously viewed event. It is that way because these files are so in depth and because they involve such a totality of information about the person whose name is in that file. These same types of files are no different from the one that I must sit in an office and review by myself with a member of either the FBI or the White House present. These same types of files are the exact types of files which were sent down to the White House en masse—400 of them approximately—and kept there under the auspices of the Director of White House Personnel for Security, Mr. Livingstone.

You would ask: What would he do with those 400 files as security officer? Logically, if somebody was going to come into the White House, the White House has every right to say, "We have to check out who that person is. We have to know who that person is. We have to know their background for security reasons."

So they have every right to an FBI file on individuals who are seeking access to the White House. But these 400 names were not people who had asked to get into the White House. That is the point. They had not asked for it. They were not seeking access. Many of them never expected to return to the White House in their life even for a tour, I do not think. Some of these 400 people were just folks who had a job there when Ronald Reagan was President or when George Bush was President; did their job, and had gone home. Some of them were national figures of fairly significant notoriety. But the one thing they had in common was that almost all of them were not seeking access to the White House.

In fact, one of the interesting questions here is, "Well, where did the list of 400 names come from if they had not actually asked to get into the White House?" Nobody appears quite clear on that. There was an indication, initially made by Mr. Livingstone, that the 400 names came off the list that he had been supplied by the Secret Service. But the manner in which these names were listed and the manner in which the files were requested is inconsistent with the Secret Service's filing system. They do not have a list of names which go from A to G—which are the names involved—that meets the identification or would be listed in the manner in which they are requested by the White House security. They do not have them in that form. So it was not the Secret Service which had brought the list of names forward. Rather, it was very clearly some other manner in which these names had evolved.

So, as a practical matter, what we have is a situation where a group of names were requested, 400 names with their FBI files, and the responsibility for that request—which was totally inappropriate, which was out of the normal mode of operation of the White House security office, and which was inconsistent with the rights of these individuals whose names were in these files —was under the auspices and management of the Director of White House Personnel and Security, Mr. Livingstone.

For the moment all roads, therefore, lead back for this rather incredible act of disregard for the constitutional rights of American citizens to Mr. Livingstone. And one must conclude that when the President said—or his spokesperson, Chief of Staff, Mr. Panetta, said—it was an inexcusable act, that it was just that and therefore it should not be excused. What do you do when you have an inexcusable act? You do not excuse it. You do not reward it. You do not say, "Well, we are going to continue to pay you. You did an inexcusable act, and we are going to continue to pay you." No. You should fire the person, and you should terminate their pay. But in this instance that has not happened.

So the taxpayers I believe have a right to ask: Why has this individual not been terminated? Why has his pay not been terminated? What is it that this individual has done which justifies him to continue to be paid by the taxpayers of this country? Even if you are not going to fire him, you should at least put him on leave without pay.

I suppose by some contorted manner of logic you could argue that he should not be fired. It would be inconsistent with what President Clinton had originally suggested during his campaign for the Presidency. But let us assume that was the decision that was made. But clearly, if he is going to be put on leave, he should not be paid.

I am not the only person that has reviewed this. In fact, I have sensed that on the other side of the aisle there is a fair amount of consternation about what has happened here, and I believe that is reasonable because there are good and decent people who are concerned about the status of the Constitution; many. All of us in this Chamber are. Some have reviewed and evaluated this situation and have said, "Listen. This individual should be fired." I believe the Senator from Illinois has made that statement on occasion, and I believe the Senator from Vermont has also.

So it is not a partisan position. It is simply a logical position that, if someone has acted in this manner, they should not be rewarded with taxpayer dollars.

Do we have the capacity in this bill to terminate him? Do we have the capacity to fire him? Do we have the capacity to say he should not be paid as a matter of law? Well, we might, I suppose. But it would be very hard and complex, and it would be tortuous to do that.

So rather than make it an amendment that would have the force of law, I have simply suggested that as a sense of the Senate we go on record and say that we feel that this individual should no longer be paid by the taxpayers of the United States. We are basically suggesting that what is right should be done. And it is not unreasonable to seek to do what is right.

This is such an obvious point—that what is appropriate and right almost should go unsaid. It should not have to be said. There should not have to be a sense of the Senate on this point. The President should have just done it just like he suggested that he would during the campaign. But in this instance that has not occurred.

So I believe it is appropriate that we take up this sense of the Senate. As a result, I have brought it forward at this time. I recognize the consternation this may create, and I certainly wish to apologize to the leader of the Armed Services bill, the Senator from South Carolina, who I greatly admire, and, as does everyone in this institution, hold in absolute esteem. But the vehicle to bring this up is the only vehicle that is on the floor. And if it were not brought up on this vehicle it would not be able to be brought up probably for weeks—certainly until after the Fourth of July recess, and maybe not even then. Thus, I feel that I should go forward at this time. And thus, I have.

At this point I would ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Several Senators addressed the Chair.

Mr. THURMOND. Mr. President, if the Senator will withdraw it for just a moment.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. 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. GREGG. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER (Mr. INHOFE). Without objection, it is so ordered.

AMENDMENT NO. 4277, WITHDRAWN

Mr. GREGG. Mr. President, in order to move the process along, and in order

to help the Senator from South Carolina, whom I greatly admire, I have decided at this time to withdraw my amendment. I ask that the amendment be withdrawn.

The PRESIDING OFFICER. The amendment is withdrawn.

The amendment (No. 4277) was withdrawn.

Mr. NICKLES. Mr. President, one, I compliment the Senator from New Hampshire for offering this amendment. This amendment deals with the issue of Filegate. It is not related to the Department of Defense bill. The chairman of the Armed Services Committee, Senator THURMOND, requested that he set this amendment aside or withdraw it so we can move ahead with the Department of Defense bill. I understand Senator THURMOND's request. Senator GREGG has assented to that request. But I think his amendment is an important one and it is a timely one.

There were very serious actions or deeds taken by officials in the White House that are very troubling. Over 400 FBI files were requested and received by White House officials, almost all of which are on Republicans who previously worked in the White House. They were requested in December 1993 and beyond so, in other words, all those officials had left the White House at least a year before, some quite some time before that. Yet, FBI files were requested as if for access to the White House, when those individuals did not need access to the White House.

That is a serious problem. It may have been a crime. I remember one individual became somewhat famous during Watergate. Chuck Colson went to prison for misusing or disclosing an FBI file. FBI files are very privileged information. I know in my tenure in the Senate I have only seen them a few times, primarily on judges for confirmation or possibly U.S. attorneys or marshals or something.

But I remember, every time we had an FBI file brought to my office, it was for my eyes only. While I had access to that FBI file I did not Xerox it, I could not make notes from it. I was not entitled to take that file home. I was not entitled to keep it in my office alone. During access to that file, there was an FBI agent present or a Senate staff person who had a particular clearance. So in other words, in the Senate we really protect FBI files, as we should. The files are locked up. They are not opened for staff. They are not opened for rummaging through the files. As a matter of fact, it is against the law to do so.

The Privacy Act, which was passed post-Watergate, was passed to protect individuals, to make sure that those files would not be misused or abused. That information should be kept secret for very limited access purposes, to make sure that individuals that have very high security operations or needs would be cleared, to make sure there are no real problems.

This is maybe the most serious abuse of FBI files in history. It remains to be seen. The Senator from New Hampshire is saying that the individual primarily responsible for that, Mr. Livingstone—he is still on salary, still on paid vacation, I guess. He is on leave but he is being paid. That is troubling. The Senator had a resolution that said he should be terminated. He should be terminated. I know I have heard that not just from Republicans, but Democrats alike.

So, Mr. President, I compliment the Senator from New Hampshire for, one, bringing this issue to the floor of the Senate. I note there will be hearings tomorrow dealing with this issue. Mr. Livingstone, and others, will be testifying before Congress. This is important. It is vitally important that Congress get to the bottom of it, find out the information. But in the process, it is troubling to think that at least one of the individuals that was responsible for it is not only on leave, but he is also on paid leave, that he is on a paid vacation, I guess, at taxpayers' expense.

So the Senator from New Hampshire, I think, had a resolution that if we vote on—I might mention he has withdrawn it so the Senate can proceed. I ask our colleagues on the Armed Services Committee to return to the floor so we can conduct business on the DOD authorization bill. He has withdrawn it so we can proceed. He agreed to the request by Senator THURMOND, the chairman of the Armed Services Committee, to move forward.

I respect the Senator from New Hampshire for his willingness to do so. I respect the Senator from South Carolina for his desire to move this bill forward. He also has a right to reoffer it at a different time, just as the Senator from Arkansas has for an amendment dealing with pharmaceuticals. He offered it last week; he withdrew it. He has a chance to offer it again. That is his right. It may be germane to this bill to some extent but somewhat limited in its germaneness. It is my hope, too, that we will pass this bill.

So, again, I thank the Senator from New Hampshire for his action in bringing this issue to the floor of the Senate and also for his willingness to withdraw the amendment so we can proceed and move forward with this bill tonight and hopefully make significant progress on this bill tonight.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, I also want to thank Senator GREGG. As a member of the Armed Services Committee obviously interested in moving this defense authorization bill forward, I appreciate Senator GREGG's willingness to withdraw the amendment. But I guess I join my colleague from Oklahoma in stating that it is a perfectly justifiable amendment given the circumstances of the situation.

I think a lot of us are feeling we do not quite understand what is going on down at the White House. The person in charge of the travel office, who is not political, gets fired because they want to put somebody who is political in the office; but the person who is political does not get fired. It seems to be kind of a double standard and a disconnect.

So Senator GREGG is pointing out something that I think needs to be addressed. I just appreciate the fact that he is willing to allow, in deference to the Senator from South Carolina and those of us who feel it is important to go forward with the defense authorization bill, the opportunity to move forward with this legislation.

But what is happening here is nothing more than what has happened to us. We have tried to move relevant legislation forward, and the Senator from Massachusetts and others insist on adding nongermane, nonrelevant amendments to every bill that the Republicans put on the floor. So, whether it is the minimum wage or whether it is the Glaxo issue, or whatever, there is a whole series of nongermane, nonrelevant amendments being offered to bills that everybody agrees need to be moved forward. So I think Senator GREGG is perfectly within his rights in offering that amendment. I think it is an appropriate subject for debate and discussion. I do commend him for recognizing the importance of the defense bill and being willing to withdraw it at this time.

I hope, Mr. President, that Members on the other side of the aisle will not now take the opportunity to continue the practice of offering nongermane bills, and I hope Members on this side of the aisle would also honor that from this point forward. It is a little tit for tat here. We spent 3 weeks, or a little less than that, trying to resolve an issue of a nongermane, nonrelevant amendment being offered on bill after bill after bill. We finally had a tortuous unanimous consent agreement—it probably set a record for the number of words or pages in that unanimous consent agreement—finally worked out by the new majority leader and the minority leader. Maybe the best thing we can do here is to agree to both move forward with the business at hand and then allow Members to take up these other issues.

Certainly the Senator from Massachusetts has the right to address the issue of minimum wage, but it ought to be done on a relevant bill. Certainly the Senator from Arkansas has the right to address the issue of the Glaxo-GATT matter, but it ought to be done on a relevant or standalone basis. Certainly the Senator from New Hampshire has the right to address what I

think is one of the most fundamental ethical issues that we are dealing with at this particular time.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I also want to commend the Senator from New Hampshire for offering that amendment. I know it is not germane to the defense authorization bill, yet I think it is important that we begin to discuss some very serious issues that I think deserve to be debated and discussed here on the floor of the U.S. Senate.

I was just made aware that the other partner in crime or potential partner in crime, Mr. Marceca, just announced that he has made available 300 additional files, in addition to the 481; there are now 300 additional files, some of them national security files, that he has now made available and has just showed up on an AP wire. This issue continues to get broader and broader and broader and more and more files trickling out. Frankly, not much has been said here on the floor of the U.S. Senate one way or another.

I can say this is an important issue. This is an important issue beyond the politics of it. It is an important issue of who has access to secure documents? Who has access to national security documents? And what are they doing with those documents? How to we treat people who do things with those documents? Who ordered them to do it? Who else knew about it? I like to think that Mr. Livingstone, maybe, was just a wild guy acting on his own, and Marceca was another one of these wild men who was off doing his own thing. I know a little bit about how things function in this town, and there are very few things that are run independently.

Now we are seeing this list getting broader and broader and information trickling out. We still have 2,000 pages under subpoena in the House that the Executive Office is claiming privilege over. By the way, they claim "privilege" over the original 1,000 documents, of which this file information was uncovered. If they claimed that under the original 1,000, what is in the 2,000 they are holding on to? Maybe some of these national security documents that are now being discussed or mentioned in these 2,000 documents being held by the White House under claim of Executive privilege.

I commend the Senator from New Hampshire for bringing this issue to the floor, for talking about the firing of Mr. Livingstone, but I do not think we want to make Mr. Livingstone to be the heavy here. The fact of the matter is this was a man who was trusted by very high-up people in the White House. George Stephanopoulos said this is a man who "knows how to get things done." If he only knew. Or maybe he did know. I do not know.

Those are the kind of things I think we should be discussing here and we should be investigating here. I think the Senator from New Hampshire's resolution was, frankly, pretty mild. I suspect if we had a public vote on that resolution—and the reason we are not having a public vote on that resolution is because, obviously, the other side does not want to debate or discuss this; they put in a quorum call, which means we have a time out and we cannot go back into play on the field here to move forward with our business until the other side allows us to go back into play. This institution would have been shut down the rest of the night as long as the Senator from New Hampshire's amendment was on the floor because they do not want to talk about this. They certainly do not want to vote on this. I suspect if there is a public vote on this, which is the way we do things in the U.S. Senate, it would pass 100 to 0. I do not think there are too many who would stand up and defend the conduct of Mr. Livingstone. I do not think the issue is that there are too many people over there that want to defend Mr. Livingstone.

The issue is that a lot of people do not want this to be the discussion on the U.S. Senate floor. I do not blame them. This is not a pretty subject, but it is a serious matter. It is a very serious matter, and it is not a political matter. Yes, there are political implications, I am not naive to that. But this is a very serious breach of security matter. The American public must have faith in their Government's ability to keep classified information just that, classified, and away from people for using it for dirty tricks or just for their own jollies, as may be the case here.

I do not know, maybe it was two rogue guys who were just having fun or maybe it was a bureaucratic snafu, where someone just made a mistake. But if someone just made a mistake, and I am the general counsel, and I am looking through these documents that were released just a few days ago, and I see in here that we have 481 documents that we should not have had sitting at the White House for a year at that time, when I am reviewing the subpoena request from the House and I see this, and I claim Executive privilege over this information for a year, then somebody else had to know something. It is not just these two folks running around having fun in the basement of the White House. Someone very high up said, "Yes, we know these documents are here. In fact, we will let them sit here for another year, and we are going to claim privilege over these documents." That someone, at least tacitly, is condoning what they are doing in the general counsel's office.

The American public has a right to know that people in the White House or in the Congress are not playing fast and loose with the private lives of ordinary American citizens. At the very least, that is what is going on here. I heard the Senator from Oklahoma talk about when he has reviewed FBI files. I have reviewed FBI files as a member of the Armed Services Committee. They do bring the files and they sit there with you while you review them. You cannot take notes, you cannot make copies, you cannot do anything with those files. If you have a question, you ask the question of the individual and they track down the answer for you. They do treat these things as very confidential because there is information in there that is not substantiated. It is a lot of hearsay in many cases. "A said this about B, who said this about this person." There is all sorts of stuff in there, and a lot of it is unsubstantiated, and probably some of it is false. It is a complete record. It is unedited. To have those laying around the White House or someplace for 2 years, 1 of those 2 years the information letting us know that those documents were there, was under subpoena, and they held it, that is serious.

To suggest the Senator from New Hampshire should not be able to come up here and debate that subject and get a decision on the part of the U.S. Senate when the evidence is very clear of what is going on here—we will have testimony tomorrow by these two gentleman who are going to tell their story, or maybe tell their story. We will see. I do not know whether they will tell their story. I hope they do. They will be there tomorrow. Maybe after we hear the testimony of Mr. Livingstone, maybe there will be a resolution that will be bipartisan that calls for his resignation or dismissal. Somehow, I think we need to send a message out of the floor here of the U.S. Senate that this is a serious matter that should be treated as such by a President, who I think right before the election said he would have the most ethical administration in the history of this country. Do you want to talk about a promise? That is a great promise. I will leave it to you to determine whether you think he has kept that promise, whether you believe this administration has been the most ethical administration in the history of this country, whether you believe it is ethical for members of the administration to gather FBI files on, conveniently, almost all Republicans and have them laying around the White House—private, confidential files, classified files—for 2 years.

As I said, that is only a third of the papers that have been asked for. There are still other documents out there that we are waiting to look at, which are being protected by the White House, which I suspect they consider more politically damaging. I think we have an obligation, not from a partisan perspective, but from the perspective

of getting to the bottom line of what is going on here. Maybe all of those 2,000 pages will show the snafu, will exonerate the President, will exonerate everyone up and down the chain of authority there, that this was, in fact, what they are claiming—a little mistake. It would take a lot of paper—much more than 2,000 pages, in my opinion—to do that, but maybe it will.

So be it. But we should have that information. What is hanging over this investigation right now is a cloud of potential criminal activity. The White House knows if there is potential criminal activity discussed in those documents, they cannot claim Executive privilege. It is clear that they cannot claim Executive privilege if there is illegal activity involved in those documents.

So let us wait and see. Let us wait and see how this is going to play out. If there is any problem I have with the resolution of the Senator from New Hampshire, it is that it targets one person. I would suspect that what we are going to see here, as this issue develops, is that we are going to see everyone turn in their guns on Mr. Livingstone and Mr. Marceca. They are going to have horns and a little beard, and they are going to be the scapegoats, the bad guys. Everybody is going to point the finger at them and try to make them out to be the villains and the guys who did all the bad things here, and all of the rest of us are as pure as the wind-driven snow, and we did not know what the bad boys were doing all this time.

That is what, I guarantee you, will be the line. Once we find out this was not a snafu, that this was, in fact, a pretty bad happening, we will then turn from the snafu to the scapegoat. And they will stonewall and stonewall as long as they can, putting those two guys out front to take the fall.

Well, let us see what this body is going to do about it. Let us see how bipartisan we can be to get to the truth on something that has serious, serious liberties implications. Let us see how bipartisan we are going to be. Let us see how much we really want to find out the truth, or how much we want to protect for political purposes.

I am willing and anxious to see the bipartisanship on this investigation. I am anxious to see resolutions brought to the floor that have bipartisan support, which say that we need to get to the bottom of this, and we need to speak as one voice in the Senate and speak up for privacy rights of individuals and against unethical behavior in the White House.

When I start to see some of that happening, then maybe we will not have to have these little breaks in time here on the floor. Maybe we would not have to have a shutdown like the one that occurred this afternoon, the shutdown of this bill, which is a very important bill to this country, the defense authorization bill. Maybe we will not have to see a shutdown. Maybe we will see true cooperation for the betterment of this country, instead of a continual, well, let us try to put this behind us. There is an investigation going on, and let us not deal with this. Let us not talk about it. Let us not put it before the American public so that they know what the heck is going on. Let us not tell them what is really at stake here, and what classified files really mean.

Mr. President, I think we do need to talk about that. I think the American public needs to know what is involved in these documents, what is involved in the law. I hope that Members who certainly know the acts better than I do, who are on the Judiciary Committee, will come here and actually talk about that, talk about what is involved. I know many Senators have done so. I think it needs to be explained more.

This is a serious problem, and the Senator from New Hampshire, who, I would say, somewhat courageously stood up and took the risk of getting some missiles fired at him—which was done—did so. But I think he did so to let it be known that this is not an issue that we believe is exempt from discussion here on the Senate floor during this very important time.

So I am anxious to see what happens tomorrow. And maybe depending on what happens tomorrow, we may be back here on the Senate floor with further discussion and possibly other kinds of resolutions that express the sense of the Senate, or even do more than that, with regard to this situation. It is one that I hope we can deal with in a bipartisan fashion, as I said before. If the Senator from New Hampshire actually had a chance to have a vote on his resolution, I think if the vote was public, it would be 100 to 0—even if it was private, it would be 100 to 0. That is how most Members feel about it.

Most Members feel very uncomfortable about this. I am not asking them to defend this. There is a reasonable side to say that the jury is still out, and let us wait and see what happens, let us not draw conclusions from everything. I think, certainly, from the evidence revealed so far, we have some very serious problems here that need to be addressed, and I hope this body will be as active in pursuing that oversight responsibility that we have as the House of Representatives Government Oversight Committee.

I want to commend my colleague from Pennsylvania, someone whom I have known for a long, long time, BILL CLINGER, the chairman of the Governmental Affairs Committee over in the House of Representatives. I had the honor, as a college student at Penn State, to work as an intern for BILL CLINGER. He is someone who I think, frankly, is seen in the House as being beyond partisanship. BILL has been a stand-up guy, who is not engaged in partisan activities. I think maybe more than any other Member over there, he has the ability and legitimacy to take on this issue in a very fair-minded way. I think he has done that. BILL CLINGER does not pursue things unless he believes there were some misdeeds. He pursued it, and he pursued it honestly and forthrightly. He did not make partisan statements during that time. He stuck to his guns, stuck to the facts, and he has done an outstanding job. I am only disappointed that he is not running for reelection. I hope he does so, and that he finishes his term in the same manner that he has conducted himself—keeping to the facts, keeping on this case, and following through to its conclusion.

Thank you, Mr. President.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, normally they serve sandwiches and coffee following a political speech. We have had four of them. Although the Senate is not a Republican precinct convention, and it would violate the rules to serve sandwiches and coffee, one would almost expect that following the speech we have been treated to.

I come from ranching country in western North Dakota. I am thinking of the old phrase, "All hat and no cattle." It is kind of interesting to listen to this discussion. The last speaker just told us that he has registered his verdict on a whole series of issues, and now tomorrow he is going to a committee hearing to hear the evidence. That is a new approach, I guess, to making judgments about things.

One hour ago this Chamber was filled with Senators. In these six seats sat the chairman of the Armed Services Committee, the ranking member of the Armed Services Committee, and their staff. We were voting on defense authorization amendments. Senator BYRD offered an amendment. Senator BINGAMAN offered an amendment. We had other amendments. We were working on a series of amendments on the defense authorization bill. Some of us thought that those who said they wanted to finish this bill were serious and we were interested in getting the work of the Senate done and offering amendments to this bill.

Then a Senator, perfectly within his rights, jumped up and offered an amendment that had nothing at all to do with this bill but had instead to do with an issue dealing with the White House. In four subsequent speeches, four Members of the Senate used the time of the Senate sufficiently so that now nearly 2 hours later the Senate is vacant. There will be no more business tonight. There will be no further votes tonight. There will be no further work done on the serious business of the defense authorization bill.

But the accomplishment was that four relatively political speeches were made on the floor of the Senate. It is an election year. It is June. The election is in November. We understand it all. I am not divergent about all of this. I understand. Everyone has the right to do this. But you do not have the right, it seems to me, to complain that you are not getting anything done if you are causing the circumstances to avoid getting things done.

Last week on this bill we were treated to an amendment—and I think a several-hour debate—about whether Pennsylvania Avenue in front of the White House should be opened or closed; a very significant military issue apparently. Or was it an issue that had nothing at all to do with this bill? I think it was the latter.

The issue has been raised about files at the White House. I would say this—I think the President would say this if he were standing on the floor of the Senate: If anyone has been guilty of wrongdoing, if laws have been violated, if people have abused their privileges with respect to those files, they deserve to be fired—end of story; no excuses. As all my colleagues know, we have an independent prosecutor, an independent counsel, now at the request of the Attorney General conducting an investigation at the White House, hopefully as we speak. If it is discovered that anyone has abused those files, or misused information in the files, or requested files that were inappropriate, or done anything in any way that would lead the American people and Members of Congress to believe that they have not behaved properly, I fully expect this President to discharge them and to do so immediately. But that is not what this is about.

There is one common element between all of the Members who spoke—myself, my friend, the Senator from Kentucky, and the Senator from West Virginia. There is one common element that binds us all together tonight; that is, none of us know the facts. We are going to. But we do not know because there is an independent investigator trying to understand what those facts are. If ignorance is bliss, this place must be ecstatic on this issue. None of us understand the facts. Get the facts, get them quickly, understand them, digest them, and then take appropriate action.

But that is not what this was about. This was about something much different from that. We have for a number of months here in the U.S. Senate seen an agenda in the Senate that wants to stay away from things that really affect families and their circumstances as they try to work every day, do their business, and take care of their needs.

That is not what the agenda has been on the floor of the Senate by the majority party. One aspect of being in the majority is that you control the agenda on the floor of the Senate. You decide what comes up and when it comes up. The fact is the majority party did not want the minimum wage to come to the floor of the Senate.

Some of us suggested the last time there was an adjustment in the minimum wage was in 1989. Those who work at the bottom rung of the minimum wage economic ladder, 40 percent of whom are the sole breadwinners of their family out working hard trying to make ends meet, those people have not had an adjustment in 6 years. Some said maybe it is time for at least a modest adjustment on the bottom. We have folks on the top getting adjustments worth millions. They downsize, fire 20,000 people and get a $4 million raise; that is, the folks at the top of the economic ladder.

We ask whether it was not reasonable that the folks at the bottom of the ladder, the kind of people that I referred to in some letters I used the other day who work at the bottom of the ladder for minimum wage—the woman who told me that they had lost everything in a fire in their trailer house. They had sickness and problems in their family. She works. Her husband works for minimum wage. She says,

> I don't know how I am going to tell my two sons who want to play summer baseball that I do not have the $25 that it requires as a fee to sign them up let alone buy them baseball gloves.

That is the daily story of people at the bottom of the economic ladder.

We said that we would kind of like to see an adjustment after 6 years. But they do not want that on the floor of the Senate.

So for 4 months we have been wrestling with the notion of whether we could bring to the floor of the Senate a modest adjustment that helps those at the bottom of the economic ladder. For 4 months we are the ones that have advanced this legislation saying that we ought to do something about health care.

We finally passed the Kennedy-Kassebaum health care bill that says you can take your insurance with you when you move from job to job so you are no longer held prisoner in a job because you are going to lose your insurance. It says you are not going to be able to be denied insurance because of preexisting conditions. It is the right thing to do. But do you know what? That is being held hostage because we have people saying we are not going to let you pass that bill that millions of American families need unless you agree with us on these things called medical savings accounts, and if you do not agree with us, as far as we are concerned, they say, we are going to hold that bill hostage.

So they would deny the opportunity to get a minimum adjustment on the minimum wage at the bottom of the economic ladder, deny the opportunity of families to have the kind of health coverage and protection that will be allowed them under the Kassebaum-Kennedy bill. What they say is, Well, we want tax cuts. So we say to them, All right, you want tax cuts. We think we ought to reduce the deficit first. Let us reduce the deficit first and then let us talk about tax cuts. They say no, they cannot do that. We want tax cuts. We want to cut Medicare to give you tax cuts. We said, Well, look, is there any common ground at all? How about agreeing with us on this? How about agreeing with us that you will limit the tax cuts to those families earning $100,000 a year or less? They said no, we will not agree to that at all.

We had a vote, a partisan line vote. We lost. We say, Well, what about at least agreeing with us that you limit the tax cuts to those families making under a quarter of a million dollars a year and less? No, we will not agree to do that. We insist people above a quarter million dollars a year get a tax cut as well. All right, we said. At least could you agree that at a time when we are up to our neck in debt trying to reduce the Federal deficit, at a time when you are saying that 60,000 kids, all of whom have names, aged 3 and 4, living in homes of low income and in difficult circumstances, you are going to say to them we cannot afford to keep you on the Head Start Program, Timmy, Tommy, Jane, we are going to kick you off the Head Start Program, a program that we know works, a program that we know improves their lives; cannot we at least agree when you are suggesting that we will not give tax breaks to families whose incomes are over $1 million a year, at least limit the tax cuts to families $1 million a year and less? Do you know what? The majority voted no. Said, no, we will not limit it. Why? Because the package of tax cuts that they truck into this Chamber is a package of tax cuts that have very, very generous plums to some of the richest, the wealthiest families in this country, at a time when we have a deficit problem, at a time when we are telling children that we cannot afford them on the Head Start rolls, at a time when they are saying that it ought not be an entitlement that a child be eligible for Medicaid, at a time we are saying that it ought not be an entitlement for a poor kid to get a hot meal in the middle of the day at school because we cannot afford it. But we can afford to give a family that has $10 million a year in income a big tax cut?

That is the agenda that they do not want discussed. Instead, what they want to do is talk about extraneous issues, nongermane amendments offered to this bill and that bill in order to take us over into this political corner or that political corner.

I have been trying to offer an amendment for some long while that I would

have hoped one of these days I could get passed. It defies imagination that we actually say to companies in this country, shut your doors, close your company, fire your workers, and move overseas and hire a bunch of foreign workers and ship your goods back to America. Guess what? If you do that, we will give you a tax break.

Yes, that is right. That is what our Tax Code says. Move your plant overseas. Get rid of your American workers. Hire foreign workers. Make the same product and ship it back, and we will pay you to do it—$2.2 billion in 7 years. We will pay you to do it. But you think we can get that amendment, the amendment that shuts down that insidious tax break, that actually pays companies to move jobs overseas, do you think we can get that back in this Chamber to get rid of that tax break? No, because that is not part of the agenda. You see, that tax break inures to the largest multinational companies that no longer say the Pledge of Allegiance, that are international corporations, and whatever they want—if they have a headache, we want to treat them. If they have a shoulder ache, we want to give them an aspirin. That is the attitude of the majority party.

Let me conclude by saying there will not be any wallflowers in this Senate, in my judgment, on the issue of protecting the confidentiality of the American people with respect to any files, FBI files or any files. If someone is determined to have broken the law, to have violated procedures, to have in any other way abused the privileges of the information contained in those files, then they ought to be fired and fired instantly.

I will say this about President Clinton. Some might say they like him, some do not like him. It seems to me that this President has done exactly what he was required to do when this latest issue developed, and that is to have his Attorney General immediately investigate, and she decided she wanted the independent counsel to do that investigation. Wherever that investigation leads, this President will, in my judgment—I am confident he will—take immediate action to resolve it.

Not only that, but this administration has taken action now with respect to the files that are used for background checks, has taken steps that are unprecedented, that have never been taken before in this country to safeguard that information. But there is not disagreement between any of us and any others in this Chamber about whether this ought to be investigated. Of course, it should, and it is.

There is not disagreement, I hope, about the fact that none of us know what has happened, including the President at this point. When this investigation tells us what has happened, then I would expect the President to be the first to take action, appropriate action and decisive action, so the American people can have confidence in this process.

I finally say this. I hope that as we meander through this process this year in the Senate and talk about the agenda we want to pursue, the agenda is one that finally begins to address some of the things we are concerned about, and those things are the things that families talk about at night when they sit down for supper and talk about their lot in life. How is it going? How is the job? Did you get downsized? Are you age 50 and just lost your job, have no more health care? You expected your retirement to be there, but somebody took it. How about Junior? Junior is getting out of college. Will Junior have a job? And how about the daughter-in-law who is working on minimum wage and has been there 4 years and has not had a change in the minimum wage?

Those are some of the issues we ought to deal with, appropriate issues, issues that respond to the needs of families who, when they sit down and talk about their lot in life, worry about these things.

So, Mr. President, I started by suggesting there should be sandwiches and coffee following the other four speeches. I suppose some would suggest that they could now be served as well. It was my intention, however, to have talked about the things that I think we should be addressing in the Chamber of the Senate.

Everyone has a right to offer an amendment even if it is nongermane. Everyone has a right. The Senator who offered this amendment early this evening is a good friend of mine. I like him a lot. He has the right to do that. But another Senator stood up a little later and complained about those who offered nongermane amendments; you cannot do that.

I do not understand this. They offer nongermane amendments, and then they stand up and complain about people who offer nongermane amendments? Walk around with a mirror, for gosh sakes. Either we are going to finish this bill and stop this political nonsense, or we are not. If we have people who want to just play political games on this bill, then this bill is never going to get done. My preference would be we decide let us advance down the road, do the amendments, get rid of this bill, deal with the bill appropriately.

This is a very large piece of legislation with very important issues involved in it, but it is not going to help this Senate to do what we just saw happen about 2 hours ago. It essentially shut down the process. There will be no further work tonight, and that puts us behind rather than ahead. I hope that this is not the way we will begin a new set of leadership and begin dealing with the issues that all of us know this Senate has a responsibility to deal with in the weeks and months ahead.

Mr. President, I yield the floor.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, a long time ago, I was a Republican, and I was brought up in a Republican family. It was not the kind of Republican family which is very much respected these days because it was referred to as "Rockefeller Republicanism," and that is about the worst thing you can say about a Republican because this primarily came from my Uncle Nelson, who liked to get things done for the people of New York State and also for the country. He was also Vice President. He was very active. He was constantly worried about housing, and he wanted to get things done.

I grew up, and I was not very political, was not very interested in politics. I was interested mostly in Japanese language and Chinese history and all kinds of things which were not very germane to politics. But I got into politics the way people really should get into politics, and that is because they started a program. I remember President Eisenhower used to call it "the Kiddy Corps," and I was still in Japan at the time. It was actually the Peace Corps they were talking about starting, and I was in Japan when President Kennedy was elected. He was my first vote. I came back in time to vote for him and not for Nixon, but that did not make me a Democrat. It was just that Kennedy was obviously going to be a better President than Nixon.

I did not care that much about politics. Then I got into the Peace Corps, and I saw what was going on in the rest of the world. And then I joined a program which really was started by the Democrats also, in this case, President Johnson, along with Bobby Kennedy, that now is called VISTA.

As the Senator from Kentucky knows, I went to West Virginia in 1964, and I was a registered Republican. Now, I had been voting Democratic, but politics did not mean that much to me. What West Virginia taught me and what the people of West Virginia taught me was that getting things done for people that have a variety of types of problems, much like the Senator from North Dakota was talking about, was what really interested me. I really cared about that.

I did not know I had really cared about that. I was in my midtwenties, but that was something that really grabbed me, and all of a sudden being able to speak Chinese or talk about Japanese history or whatever did not seem quite as important to me. So I made a decision to get into politics. At that point, I had been, in effect, a Democrat for 6 years.

It is very interesting, this whole day and particularly this last couple of

hours helps me understand again and again and again and again why it was I became a Democrat, because the complaint that you constantly hear about Republicans and about us in Congress in general, but the Republicans run the Congress—they run the House. They run the Senate. We just had an election of the new majority leader. He has a new team, all in power, all set to go. And the question that is always raised is: Why don't they ever talk about things which affect average people's lives?

I think that is a pretty fair question, because they do not. It is the fact that the Senator from New Hampshire got up and started rambling on about something he did not know anything about, or when he withdrew the amendment the Senator from Pennsylvania, who represents people who have all kinds of problems in Allegheny County, PA, and the counties around there, and the steel towns and coal towns—used to be coal towns and steel towns—lots of unemployment, lots and lots of problems, that he went on for a long period of time after the amendment had been withdrawn. And, as the Senator from North Dakota said, it shut down the Senate. We were on an authorization bill. We had the Senator from South Carolina who certainly, shall we say, has some experience around here and has put in some time around here. I assume he wants to get that done. It is called defense authorization, one of the most important bills that we have. Now that is dead and gone.

Yesterday, I gave a speech about things we have to take up in this Congress, that we have to solve, that people expect us to solve. We are the only people who can solve it. It cannot be done by Executive order. It cannot be done by the States. It can only be done by us. I do not know exactly how many legislative days we have left, but it cannot be very many, 35, 40, 45 days? If this is the way we are going to spend our time, then I can understand why the American people say those people up there do not get anything done. But, even more, it helps me understand why it is that I am a Democrat, because Democrats keep worrying and coalescing and forming coalitions and meeting about how they were to get things done for average working families.

Raising the minimum wage is one of them. What is the minimum wage worth today? About $3.10 in purchasing power, compared to 20 years ago. That would affect, I say to the Senator from Kentucky, one out of every four workers in West Virginia, working people in West Virginia—not people on welfare, people who work every day who could go on welfare and who, in many cases, would do better to go on welfare in terms of their own financial self-interest because they would get health care, they would get lower rent, they would get food stamps. But no, they are interested in something called pride. Welfare is down in West Virginia; work is up in West Virginia, as it is in a lot of the country.

We should be doing something about raising that minimum wage to encourage people to stay off welfare and to continue working. Some of us spent a lot of time fighting for something called the earned-income tax credit. I would say to the Presiding Officer, if the earned-income tax credit was combined with the minimum wage, increased as we did it for George Bush in 1991, with bipartisan support—I do not know what is so different about today—then the great majority of American families would move out of poverty. That may not be of interest to the majority party but that is of enormous interest to me and makes me very proud about being a Democrat, and very concerned about doing something about these problems. The politics part is not important but the inactivity part is important, the fact that nothing is getting done here, week after week after week after week after week.

Tomorrow or the next day in the Finance Committee, on which I serve, they are going to take up Medicaid and make it into a block grant. The majority party is going to pass that. It will pass the Senate Finance Committee because they control that. They control the floor. It will pass. It will happen. And then we are going to see the results.

But we have done nothing, and we have been talking about it for months, about the Kassebaum-Kennedy bill. The Senator from Kansas, with all of the things she has done for her people and this country over all of these years, I would think there would be some on the other side who would really want to make certain that, when she left, she had her name on the only piece of health care legislation that passed in the first 4 years of the Clinton Presidency. But I am now beginning to be convinced that the majority party does not want to see that happen. I really do not understand that. That is very hurtful to the people I represent, many of whom are Republicans, many of whom are Democrats. Why do they not want to do that?

It is because of a single insurance company that had a tremendous amount of influence on a previous Member, so it was laid out there, and the House Republican leadership is very strongly attached to that concept, and it is called MSA's, medical savings accounts. It is very, very effective for savings and for all kinds of things for people who are rich and healthy, and does absolutely no good to people who are average working families and are not wealthy, and are not necessarily healthy.

Why can we not pass the Kassebaum-Kennedy bill? It passed the Senate 100 to nothing. Why can we not pass that? Nothing takes place around here. That is why the American people say, about the majority party, why do they not ever talk about things which relate to my life? And they do not. We get, instead, diatribes on political things. People fire up from the other side—and we do from our side, presumably, from time to time—but they fire up. For anything that is remotely political they are on their feet and ready to go. I am so sick of telling the story of how many hearings we have had on Medicare and Medicaid as opposed to Whitewater, I will not even do it.

We are not discussing the things that affect the American people and there are some of us here who desperately want to do that because we come from States where that kind of discussion, and the action that comes from it, is needed.

The Senator from Kentucky represents three States: western Kentucky, central Kentucky, and eastern Kentucky. And eastern Kentucky is just exactly like my southern West Virginia, and they need a lot of help. They have a whole lot of people in eastern Kentucky who do not have any insurance, cannot possibly afford it because they have something called a preexisting condition, or they are laid off from one job and they would like to be able to carry their insurance to another job. But they cannot do it now. Except that NANCY KASSEBAUM changed that and made it possible for them to do it in a bill which passed this body 100 to nothing. Now we cannot get it passed. We cannot get it taken up. We cannot get it passed: MSA's.

I do not understand that. And I regret that. I regret that we have a chance to lift people out of poverty through something called welfare reform and we do not seem to be able to get to it. I resent that we have a chance to lift people out of poverty by increasing the minimum wage—which is no shocking deal. It was not in 1991, when George Bush passed it and signed it. Business people were not screaming and yelling, or if they were they stopped pretty quickly because nothing much happened except people began to get some more money. Now, actually, we are offering a smaller amount of money increase. It is exactly the same that he offered, $4.25 to $5.15 in 2 years—wow, that is really throwing money around—but of course that is worth much less today, what we are offering, than the same amount of change back in 1991.

People criticize us because we are not getting things done. I want to say, some of us are trying. Some of us are really trying. We care about what happens in the Persian Gulf. We care what happens in health care. We care what happens with average working families. We care what happens with pension security. We care what happens with job

instability. We care what happens with minimum wage. We care what happens with welfare reform. We care what happens with neglected and abused children. We care about what happens with a whole lot of things which people pay us a very good salary to come up here and do something about—and we are not doing it. I think the principal reason we are not doing it is because the proclivity of the majority party, there is some kind of a gene or something, or computer chip stuck into that majority party, that causes them to always aim, go cutthroat for politics. The meanest politics I have heard in the 12 years I have been up here, frankly, have come from the other side.

Am I out of place with what I said? I have no idea. It is what I believe. I know I am a Democrat, but I do not really care about that so much because I know why I am here in the Senate. I am here to help average people, people I represent and the people we all represent. Nobody has to represent millionaires, they represent themselves. Our duty is to help people who need wise public policy. That is our job, and we are not doing it. It is sad, and it is shameful.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

CLOTURE MOTION

Mr. GRAMS. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Calendar No. 433, S. 1745, the Department of Defense authorization bill:

Trent Lott, Don Nickles, Dirk Kempthorne, Rod Grams, Jim Jeffords, Craig Thomas, Kay Bailey Hutchison, Christopher S. Bond, John Ashcroft, Conrad Burns, Judd Gregg, Larry Pressler, Orrin G. Hatch, Mitch McConnell, Hank Brown, Sheila Frahm.

Mr. GRAMS. Mr. President, for the information of all Senators, this second cloture vote, if necessary, will occur on Thursday, June 27, 1996, and also Senators should be reminded that all first-degree amendments to the DOD authorization bill must be filed by 1 p.m. on Wednesday, June 26, in order to qualify under the provisions of rule XXII.

MORNING BUSINESS

Mr. GRAMS. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak up to 5 minutes each.

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

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

ENROLLED BILLS SIGNED

Under the authority of the order of the Senate of January 4, 1995, the Secretary of the Senate, on June 25, 1996, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills:

H.R. 2803. An act to amend the anti-car theft provisions of title 49, United States Code, to increase the utility of motor vehicle title information to State and Federal law enforcement officials, and for other purposes.

S. 1579. An act to streamline and improve the effectiveness of chapter 75 of title 31, United States Code (commonly referred to as the "Single Audit Act").

The enrolled bills were signed subsequently by the President pro tempore [Mr. THURMOND].

MESSAGE FROM THE HOUSE

At 7:10 pm., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the resolution (H. Res. 459) expressing profound sorrow of the death of the Honorable Bill Emerson, a Representative from the State of Missouri.

The message also announced that the House has passed the following bill, without amendment:

S. 1903. An act to designate the bridge, estimated to be completed in the year 2000, that replaces the bridge on Missouri highway 74 spanning from East Cape Girardeau, Illinois, to Cape Girardeau, Missouri, as the "Bill Emerson Memorial Bridge," and for other purposes.

MEASURES REFERRED

The following bill, previously received by the House of Representatives for the concurrence of the Senate, was read the first and second times by unanimous consent and referred as indicated:

H.R. 3415. An act to amend the Internal Revenue Code of 1986 to repeal the 4.3-cent increase in the transportation motor fuels excise tax rates enacted by the Omnibus Budget Reconciliation Act of 1993 and dedicated to the general fund of the Treasury; to the Committee on Finance.

MEASURES PLACED ON THE CALENDAR

The following measure was placed on the calendar:

S. 1219. A bill to reform the financing of Federal elections, and for other purposes.

ENROLLED BILLS PRESENTED

The Secretary of Senate reported that on June 25, 1996, he had presented to the President of the United States, the following enrolled bills:

S. 1136. An act to control and prevent commercial counterfeiting, and for other purposes.

S. 1579. An act to streamline and improve the effectiveness of chapter 75 of title 31, United States Code (commonly referred to as the "Single Audit Act").

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–3133. A communication from the Secretary of Transportation, transmitting, pursuant to law, an annual report concerning maritime terrorism for calendar year 1995; to the Committee on Foreign Relations.

EC–3134. A communication from the Acting Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a final rule concerning an amendment to the list of proscribed destinations, received on June 13, 1996; to the Committee on Foreign Relations.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–627. A resolution adopted by the Legislature of the State of Colorado; to the Committee on Armed Services.

SENATE MEMORIAL 96–1

"Whereas, For more than 40 years, the federal government developed, produced, and tested nuclear weapons in a number of government-owned facilities throughout the country, including Rocky Flats in Colorado; and

"Whereas, Contamination from these facilities has contributed to environmental damage at the sites, including radiological had hazardous surface and subsurface soil and groundwater contamination at Rocky Flats; and

"Whereas, As a result of the end of the Cold War, the federal government has shifted its focus to environmental restoration and waste cleanup at the facilities; and

"Whereas, The Department of Energy has committed to clean up the nuclear weapons complex; and

"Whereas, If the nuclear weapons complex is not cleaned up in accordance with known health standards, citizens in Colorado and across America will be affected directly or indirectly by the dangers that will continue to exist; and

"Whereas, the cost of cleaning up the Rocky Flats site is estimated to be $9 billion or more; and

"Whereas, To reach total cleanup, an increase in funding over the next five years is needed but no commitment to this funding has yet been made by the federal government; and

"Whereas, Commitment by the federal government to the full funding of the necessary costs associated with these cleanup activities may be sacrificed as a result of current budget discussions by Congress; now, therefore, be it

"*Resolved by the Senate of the Sixtieth General Assembly of the State of Colorado, the House of Representatives concurring herein,* That we, the members of the Colorado General Assembly, urge the federal government to recognize that cleanup of Rocky Flats and other weapons facilities is a related expenditure to the $4 trillion spent for the Cold war; be it further

"*Resolved,* That we urge the federal government to:

"(1) Make a sustained commitment to completing environmental cleanup at Rocky Flats and its other facilities at a reasonable and justifiable pace that protects human health and the environment;

"(2) Strive not only to comply with environmental laws, but also to be a leader in the field of environmental cleanup, including addressing public health concerns, ecological restoration, and waste management; and

"(3) Consult with officials in Jefferson county, Colorado, and other affected county governments regarding transportation of cleanup materials; and be it further

"*Resolved,* That we urge Congress and the President of the United States to approve full funding of all necessary cleanup activities at Rocky Flats and other nuclear weapons facilities."

POM-628. A resolution adopted by the Municipal Assembly of Trujillo Alto, Puerto Rico relative to Cabotage; to the Committee on Energy and Natural Resources.

POM-629. A resolution adopted by the Legislature of the State of Alaska; to the Committee on Energy and Natural Resources.

"LEGISLATIVE RESOLVE NO. 46

"Whereas Alaska has at least 26 trillion cubic feet of natural gas reserves in the Prudhoe Bay field and perhaps two to three times that amount of potential natural gas reserves; and

"Whereas, beginning in the period 2002-2005, there may be an increasing gap between supply and demand for natural gas in the Pacific Rim; and

"Whereas market and economic studies indicate favorable conditions for the sale of liquefied natural gas (LNG) to these Pacific Rim markets; and

"Whereas major permits for a pipeline route from the North Slope to Valdez have been completed; and

* * * * *

"and be it further

"*Resolved,* That the State of Alaska respectfully requests the President of the United States to demonstrate national support for an ANS gas transmission project to Asian LNG buyers; and be it further

"*Resolved,* That the Governor is respectfully requested to

"(1) assure the Asian LNG buyers that the state will provide continuity and stability in regards to North Slope natural gas supply, tax structure, and regulatory policy;

"(2) continue support of the Joint Pipeline Office, which administers an innovative, efficient, and cost-effective permitting system;

"(3) encourage the private developers of the gas pipeline and the state's labor forces to develop an Alaska hire agreement for the ANS gas transmission project; and

"(4) meet with all parties to determine how the state can help facilitate the ANS gas transmission pipeline; and be it further

"*Resolved,* That the President of the Senate and the Speaker of the House of Representatives, Alaska State Legislature, appoint an interim working group to track progress and assist the transportation permit holder, the working interest owners of the Prudhoe Bay and Point Thompson units, and the administration in developing a unified proposal for presentation to the Asian market; the legislative interim working group shall report on the status of the project and any proposed legislative actions to the Resources Committees of the Alaska House of Representatives and Alaska Senate by February 1, 1997; and be it further

"*Resolved,* That the Alaska State Legislature strongly supports the construction of an ANS gas transmission pipeline and offers its assistance to the parties involved in order to speed completion of an ANS gas transmission project."

POM-630. A concurrent resolution adopted by the Legislature of the State of Michigan; to the Committee on Environment and Public Works.

"SENATE CONCURRENT RESOLUTION NO. 266.

"A concurrent resolution to make an urgent request to the Congress of the United States to release to the states, including Michigan, all federal road funding due under the gas tax formula.

"Whereas, The quality of Michigan roadways has a great deal to do with the state's competitiveness in attracting and retaining jobs for our citizens. Every individual and every business in Michigan is affected when Michigan roads suffer from insufficient maintenance. Finding the means to meet this financial challenge is of the utmost importance to both state and local policymakers as we prepare for the twenty-first century; and

"Whereas, The difficult task of providing excellence in transportation in Michigan is made far worse by some of the current practices of the federal government with regard to the allocation of money raised by the federal gas tax; and

"Whereas, The current practices of the federal government with regards to the allocation of dollars raised by the federal tax made it difficult for Michigan to improve and expand its transportation system. Of the states required to send money to the federal government, in accordance with the federal funding formula, Michigan sends significantly more money to Washington than it receives back. In 1993, for example, Michigan paid a total of $733.7 million to the Federal Highway Trust Fund, and only $520.1 million was returned; and

"Whereas, In addition, even more money designated for return to Michigan, and several other states, is being withheld by federal transportation authorities. This money is critical to our transportation infrastructure and a vital component of the state's economic well-being.

"Whereas, The current budget debate offers an opportunity to reexamine this critical aspect of public spending. This examination should include immediately correcting the gross inequities in allocating the funds generated by the federal gas tax; now, therefore, be it

"*Resolved,* by the Senate (the House of Representatives concurring), That we respectfully, but urgently, ask the Congress of the United States to release to the states, including Michigan, any federal road funding due under the gas tax formula but currently being held back by the federal government; and be it further

"*Resolved,* That copies of this resolution be transmitted to the President of the United States Senate, the Speaker, of the United States House of Representatives, and to each member of the Michigan congressional delegation with the request that each member review this issue, offering a formal response to this body, the Michigan State Senate."

POM-631. A joint resolution adopted by the Legislature of the State of Colorado; to the Committee on Finance.

"SENATE JOINT RESOLUTION 96-11

"Whereas, Encouraging the private provision of health care coverage is a laudable and legitimate governmental objective; and

"Whereas, The provision of health care insurance or other health care coverage assists in mitigating the impacts of providing uncompensated health care on the health care system; and

"Whereas, Tax benefits associated with the payment of health care insurance premiums and the costs of funding other methods of covering health care costs should be fair and equitable regardless of the method used; and

"Whereas, Individuals and employees should be encouraged and have the freedom to choose the method by which they provide for the expenses of the health care they receive; now, therefore, be it

"*Resolved by the Senate of the Sixtieth General Assembly of the State of Colorado, the House of Representatives concurring herein:* That we, the members of the Colorado General Assembly, are desirous of federal legislation that affords equal tax treatment for the costs of health care insurance purchased by employers, by employees and individuals who are self-employed, and by individuals who are not self-employed; be it further

"*Resolved,* That we support federal legislation that affords equal tax treatment for the management of health care costs through the use of medical savings accounts; be it further

"*Resolved,* That we call for the United States Congress to establish a plan for tax equity in the treatment of contributions, expenses and costs associated with employer-based health care insurance, individually-paid health care insurance, health care not covered by Medicare, and the use of individual medical savings accounts; and be it further

"*Resolved,* That copies of this Resolution be sent to the President of the United States, the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, and to each member of Colorado's Congressional delegation."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATFIELD, from the Committee on Appropriations:

Special Report entitled "Revised Allocation to Subcommittees of Budget Totals from the Concurrent Resolution for Fiscal Year 1996" (Rept. No. 104-289).

By Mr. CHAFEE, from the Committee on Environment and Public Works, without amendment:

S. 1802. A bill to direct the Secretary of the Interior to convey certain property containing a fish and wildlife facility to the State of Wyoming, and for other purposes (Rept. No. 104-290).

By Mr. CHAFEE, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 1871. A bill to expand the Pettaquamscutt Cove National Wildlife Refuge, and for other purposes (Rept. No. 104-291).

By Mr. CHAFEE, from the Committee on Environment and Public Works, without amendment:

H.R. 1772. A bill to authorize the Secretary of the Interior to acquire certain interests in the Waihee Marsh for inclusion in the Oahu National Wildlife Refuge Complex.

H.R. 2660. A bill to increase the amount authorized to be appropriated to the Department of the Interior for the Tensas River National Wildlife Refuge.

H.R. 2679. A bill to revise the boundary of the North Platte National Wildlife Refuge.

H.R. 2982. A bill to direct the Secretary of the Interior to convey the Carbon Hill National Fish Hatchery to the State of Alabama.

By Mr. BOND, from the Committee on Small Business, with an amendment in the nature of a substitute:

S. 1784. A bill to amend the Small Business Investment Act of 1958, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HEFLIN:

S. 1902. A bill to provide for the establishment of National Senior Citizen Hall of Fame Commission, and for other purposes; to the Committee on Governmental Affairs.

By Mr. BOND (for himself, Mr. ASHCROFT, Mr. LOTT, Mr. DASCHLE, Mr. INHOFE, Mr. JEFFORDS, Mr. SMITH, Mr. AKAKA, Mr. CRAIG, Mr. COATS, Mr. DEWINE, Mr. DORGAN, Mr. THOMAS, Mr. GREGG, Mr. SIMON, Ms. MIKULSKI, Mr. BROWN, Ms. SNOWE, Mr. KYL, Mr. CAMPBELL, Mr. MACK, Mr. GRAMM, Mr. THURMOND, and Mr. ROBB):

S. 1903. A bill to designate the bridge, estimated to be completed in the year 2000, that replaces the bridge on Missouri highway 74 spanning from East Girardeau, Illinois, to Cape Girardeau, Missouri, as the "Bill Emerson Memorial Bridge", and for other purposes; considered and passed.

By Mr. COATS:

S. 1904. A bill to implement the Project for American Renewal, and for other purposes; to the Committee on Finance.

By Mr. KOHL:

S. 1905. A bill to establish an independent commission to recommend reforms in the laws relating to elections for Federal Office; to the Committee on Rules and Administration.

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 1906. A bill to include certain territory within the jurisdiction of the State of Hawaii, and for other purposes; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HEFLIN:

S. 1902. A bill to provide for the establishment of National Senior Citizen Hall of Fame Commission, and for other purposes; to the Committee on Governmental Affairs.

THE NATIONAL SENIOR CITIZENS HALL OF FAME ACT OF 1996

Mr. HEFLIN. Mr. President, I rise to introduce a bill which will provide for the establishment of a National Senior Citizens Hall of Fame Commission. This concept grew out of an idea by Dr. Ruben Hanan, who chairs the Alabama Senior Citizens Hall of Fame Commission, and Dr. Earl Potts.

Each year, the Alabama Senior Citizens Hall of Fame Commission bestows honor upon living Alabamians in recognition of their outstanding accomplishments, services, and contributions to the lives of older American citizens.

The Alabama Senior Citizens Hall of Fame was created by the Alabama State legislature in 1933, and has been very successful in inducting worthy individuals into the organization. I am delighted that Dr. Hanan and Dr. Potts came up with the idea of establishing a National Senior Citizens Hall of Fame. The National Hall of Fame will provide a forum to bestow honor and recognition upon deserving citizens for their outstanding accomplishments, services and contributions to the lives of older American citizens.

Mr. President, the population of older Americans is projected to increase to 35 million by the year 2000. This means that older Americans would constitute 13 percent of the total population. As the national population is projected to exceed 300 million by the year 2000, the senior population would drastically increase with the entry of the baby-boomers in the senior population. Therefore, by the year 2030, the senior population will increase to approximately 70 million.

Mr. President, the older population is growing. If we look back over the last few years, we will notice that in 1993, the age group between 75 and 84 was 10,800,000. This was 14 times larger than in 1900. Every day, more than 5,000 individuals in the United States celebrate their 65th birthday. Their mature judgment, keen insight, historical perspective, perceptive vision, and gifted leadership are invaluable to our Nation.

By establishing a Senior Citizens Hall of Fame, we will have in place an organization that will recognize the contributions made by older American citizens to our Nation. I am delighted that the Alabama Senior Citizens Hall of Fame Commission, which has contributed greatly to the well being of thousands of Alabamians, will serve as a model for this national entity. In addition, the Alabama Hall of Fame Commission has improved the quality of life of those in need, and many have served in the Retired Senior Volunteer Program.

Finally, a National Senior Citizens Hall of Fame will also honor patriotic Americans for their spirit of loyalty and selfless labor in serving the needs of the people of our Nation.

I urge the entire Congress to join me in the adoption of this important legislation.

By Mr. COATS:

S. 1904. A bill to implement that Project for American Renewal, and for other purposes; to the Committee on Finance.

THE PROJECT FOR AMERICAN RENEWAL ACT

Mr. COATS. Mr. President, earlier today I joined with my colleagues from the House, the chairman of the Budget Committee, JOHN KASICH, in reintroducing a program that I have been working on for a long time. It is called the Project For American Renewal.

It attempts to address the question of how we can more effectively provide assistance to people in need, people living in poverty, without resorting to more of the same, which is simply funneling money into Washington, establishing a bureaucracy, and handing out welfare checks to, in many cases, perpetuate a lifestyle and a behavior that is not desirable, not giving us the results we wanted.

A lot of well-intentioned programs have been offered to deal with some of the social problems that exist in our country: teen pregnancy, spousal abuse, juvenile delinquency, substance abuse, and on and on it goes. Many of those, as I have said, have been well-intentioned but have simply missed the mark. They have not solved the problem. And, in many cases, they have made it worse.

It seems that the alternative to that that has been discussed in the last year or so is what was called devolution, a word that I hate. I do not know for sure exactly what it means, but I think it means washing our hands of the problem, and let somebody else worry about it.

I do not believe either of those alternatives are acceptable alternatives. I do not believe more of the same or none of the above are the alternatives we ought to be examining. I believe there is a place for our encouragement of hopeful solutions to some of the problems that exist in our society as it affects our families and our children and our neighborhoods and our communities.

The Project for American Renewal is my attempt at addressing those questions, to strengthen families, to encourage communities and to utilize mediating institutions of volunteer associations, of charities, particularly of faith-based charities, to address some of these most pressing problems. Utilization of these institutions, other than Government institutions, means that we can bring to bear not just efforts to meet the material needs of individuals, but also the spiritual needs of individuals. We can bring to bear values that are important in addressing some of these more fundamental problems.

The Project for American Renewal consists of 16 separate pieces of legislation designed to strengthen families, to provide mentors where fathers are not present, to strengthen communities, rebuild communities across America, and to provide effective compassion. The centerpiece of this is the charity tax credit, which will allow a joint-filing couple to contribute up to $1,000 a year as an offset against their taxes.

Today I joined with Congressman KASICH in announcing how we would pay for this charity tax credit, estimated at $44.8 billion over a 5-year period of time. We propose that we will ask the Ways and Means and the Finance Committee to designate a third of that amount in corporate loophole closings, corporate welfare.

We think if we are addressing some of the most fundamental problems in America, we ought to look for funding sources to offset the revenue loss from subsidies given to special interests over the years that do not serve as high a national purpose.

We also think it is appropriate to shift some resources from some of the existing Federal social policy programs that have not proven effective. While we do not specify directly what those offsets should be in the corporate welfare area, we do specify offsets of some of the Federal programs that we do not think are as effective as they ought to be.

The goal here is to encourage mediating institutions to play a greater role in addressing some of our more fundamental problems. They can bring hope and a vision of hope that, in many cases, Government is constrained to bring or is unable to bring.

I am today reintroducing this legislation, with the hope that it will continue to be a topic of discussion among our colleagues as to where we go next with some of these great social debates. It is my hope that it can be a very important part of our party's platform, a very important part of the discussion that will take place, as this is a Presidential election year and an election year that will elect or reelect 435 Congressmen and 34 Senators.

It is then, finally, my hope that we can seriously address this issue in the next Congress, make it part of our budget discussion, and examine ways in which we can more effectively provide assistance to those in need.

These programs are directed to those in poverty. The credit is available to those programs either currently existing or which will be constituted as a result of this legislation that devote 75 percent or more of their effort to either preventing or alleviating poverty.

It is a solution that goes beyond Government. It acknowledges the failure of Government, in many instances, to address these problems. It does not offer the total solution, but it offers, I believe, a step in the right direction. I hope it will become an important part of the debate ahead.

By Mr. KOHL:

S. 1905. A bill to establish an independent commission to recommend reforms in the laws relating to elections for Federal office; to the Committee on Rules and Administration.

THE CAMPAIGN FINANCE REFORM COMMISSION ACT OF 1996

Mr. KOHL. Mr. President, I rise today to continue the debate on the issue which we have voted on today—campaign finance reform. Today the Senate voted on S. 1219, the Senate Campaign Finance Reform Act of 1996. While a majority of the Senate voiced its support for this meaningful legislation, sadly, we did not get the required 60 votes to end the filibuster against the bill.

Mr. President, I supported and cosponsored S. 1219 because I felt it was the best legislation moving through the Congress to reform our campaign finance system. My Wisconsin colleague, Senator FEINGOLD and Senator JOHN MCCAIN deserve our gratitude and praise for keeping this issue alive. It's been nearly 20 years since Congress enacted meaningful campaign finance reform, and they have come closer than anyone at passing a bipartisan plan.

We are, however, at a crossroads in this debate. America's campaign finance laws have not been significantly altered since the 1970's. Since that time we have seen an explosion in the costs of running campaigns and a growing public perception that special interests are far too influential in the electoral process. Despite these widely agreed-upon problems, Congress and the President seem incapable of enacting a campaign finance reform bill.

We have seen initiatives by Democratic and Republican Presidents, Democratic and Republican Congresses, even widely-hailed bipartisan approaches all fail. One can only conclude that this issue is so mired in partisan politics, trapped in a quagmire of self-interest and special interest, that Congress will not be able craft a comprehensive reform bill. S. 1219 was the best legislation to be proposed in two decades, and yet we can not get 60 Senators to support it, and the House of Representatives will not even guarantee the House counterpart legislation will get an up-or-down vote.

Mr. President, after two decades it is time to try a new approach—time for us to embrace a new method for addressing this vital issue.

Therefore, I am introducing today the Campaign Finance Reform Commission Act of 1996. Let me be clear from the outset: I would prefer to pass a bill such as S. 1219. But after today's vote, we must be honest with ourselves and the American public—that is not going to happen.

The Campaign Finance Reform Commission is modeled on the successful Base Realignment and Closure Commissions. The legislation would establish a balanced, bipartisan commission, appointed by Senate leaders, House leaders and the President to propose comprehensive campaign finance reform. Like the BRAC Commissions, the proposals of the Campaign Finance Reform Commission would be subject to congressional approval or disapproval, but no amendments would be permitted. The Commission would have a limited duration—1 year after its creation. And Congress would have a limited time to consider the Commission's proposals.

Mr. President, there are many who will object to this plan and argue that, through the creation of a commission, the Congress is conceding that it cannot solve this problem on its own. To the contrary, the creation of a Campaign Finance Reform Commission would be a concrete sign to the American public that Congress is serious about reforming our election laws. We have seen the success of the BRAC Commissions in removing political influences from the decision-making process. This same formula could be used for our campaign finance reform laws.

When Congress enacted the first BRAC Commission law, it was argued that a non-partisan commission was required because the closure of military bases was so politically sensitive, Congress could not be expected to make the tough choices of closing bases. Well, Mr. President, if closing military bases is considered tough, altering the campaign laws that literally determine whether Members could retain their jobs must be just as politically sensitive, if not more so.

Again, I wish to praise the efforts of Senators FEINGOLD, MCCAIN, and the broad coalition of grassroots organizations which have kept the campaign finance issue in front of the American public and the Congress. We have come so close to enacting real campaign finance reform. The creation of a pure bipartisan commission, modeled on the Base Closure Commission, is final act to achieve the reform we all desire.

Mr. President, like all common sense ideas, this one did not spring from a text book but came from a simpler setting. A year ago President Clinton and House Speaker Newt Gingrich held an historic conversation at a New Hampshire meeting. The first question came from a retiree, Mr. Frank McConnell Jr. Mr. McConnell had a simple, common sense idea—form a commission like the one that closed the military bases to reform our election system, so, in Mr. McConnell's words, "it would be out of the political scene." The time for Mr. McConnell's idea has come.

I am pleased to put Mr. McConnell's idea into legislative form and urge my colleagues to join me in this effort. This commission could give us the reform we all demand. And, it would give

the American public a restored faith that their democratic institutions have responded to their cry for change in our electoral system.

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. 1905

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 "Campaign Finance Reform Commission Act of 1996".

SEC. 2. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the "Federal Election Law Reform Commission" (referred to in this Act as the "Commission").

(b) MEMBERSHIP.—

(1) APPOINTMENTS.—The Commission shall be comprised of 8 qualified members, who shall be appointed not later than 30 days after the date of enactment of this Act as follows:

(A) APPOINTMENTS BY MAJORITY LEADER AND SPEAKER.—The Majority Leader of the Senate and the Speaker of the House of Representatives shall jointly appoint to the Commission—

(i) 1 member who is a retired Federal judge as of the date on which the appointment is made;

(ii) 1 member who is a former Member of Congress as of the date on which the appointment is made; and

(iii) 1 member who is from the academic community.

(B) APPOINTMENTS BY MINORITY LEADERS.—The Minority Leader of the Senate and the Minority Leader of the House of Representatives shall jointly appoint to the Commission—

(i) 1 member who is a retired Federal judge as of the date on which the appointment is made; and

(ii) 1 member who is a former Member of Congress as of the date on which the appointment is made.

(C) APPOINTMENT BY PRESIDENT.—The President shall appoint to the Commission 1 member who is from the academic community.

(D) APPOINTMENTS BY COMMISSION MEMBERS.—The members appointed under subparagraphs (A), (B), and (C) shall jointly appoint 2 members to the Commission, neither of whom shall have held any elected or appointed public or political party office, including any position with an election campaign for Federal office, during the 15 years preceding the date on which the appointment is made.

(2) QUALIFICATIONS.—

(A) IN GENERAL.—A person shall not be qualified for an appointment under this subsection if that person, during the 10-year period preceding the date on which the appointment is made—

(i) held a position under schedule C of subpart C of part 213 of title 5 of the Code of Federal Regulations;

(ii) was an employee of the legislative branch of the Federal Government, not including any service as a Member of Congress; or

(iii) was required to register under the Lobbying Disclosure Act of 1995 (2 U.S.C. 1601 et seq.) or derived a significant income from influencing, or attempting to influence, members or employees of the executive or legislative branches of the Federal Government.

(B) PARTY AFFILIATIONS.—Not more than 3 members of the Commission shall be members of, or associated with, the same political party (as that term is defined in section 301(16) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(16)).

(3) CHAIRPERSON AND VICE CHAIRPERSON.—The members of the Commission shall designate a chairperson and a vice chairperson from among the membership of the Commission. The chairperson shall be from a political party other than the political party of the vice chairperson.

(4) FINANCIAL DISCLOSURE.—Not later than 60 days after appointment to the Commission, each member of the Commission shall file with the Secretary of the Senate, the Office of the Clerk of the House of Representatives, and the Federal Election Commission a report containing the information contained in section 102 of title 5, United States Code.

(5) PERIOD OF APPOINTMENT; VACANCIES.—Members of the Commission shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(6) TERMINATION OF COMMISSION.—The Commission shall terminate 1 year after the date of enactment of this Act.

(c) POWERS.—

(1) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this Act.

(2) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this Act. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(3) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) PAY AND TRAVEL EXPENSES.—

(1) MEMBERS.—Each member of the Commission, other than the Chairperson, shall be paid at a rate equal to the daily equivalent of the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Commission.

(2) CHAIRPERSON.—The Chairperson shall be paid for each day referred to in paragraph (1) at a rate equal to the daily equivalent of the annual rate of basic pay payable for level III of the Executive Schedule under section 5314 of title 5, United States Code.

(e) STAFF.—

(1) EXECUTIVE DIRECTOR.—The Chairperson of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director of the Commission, who shall be paid at the rate of basic payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(2) OTHER PERSONNEL.—(A) Subject to subparagraph (B), the executive director may, without regard to the civil service laws and regulations, appoint and fix the pay of such other additional personnel as may be necessary to enable the Commission to perform its duties.

(B) The pay of any individual appointed under this paragraph shall be not more than the maximum annual rate of basic pay payable for grade GS–15 of the General Schedule under section 5332 of title 5, United States Code.

(3) DETAIL OF FEDERAL EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(f) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 3. DUTIES OF COMMISSION.

(a) IN GENERAL.—The Commission shall—

(1) identify the appropriate goals and values for Federal campaign finance laws;

(2) evaluate the extent to which the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) has promoted or hindered the attainment of the goals identified under paragraph (1); and

(3) make recommendations to the Congress for the achievement of those goals, taking into consideration the impact of the Federal Election Campaign Act of 1971.

(b) CONSIDERATIONS.—In making recommendations under subsection (a)(3), the Commission shall consider with respect to Federal election campaigns—

(1) whether campaign spending levels should be limited, and, if so, to what extent;

(2) the role of interest groups and whether that role should be limited or regulated;

(3) the role of other funding sources, including political parties, candidates, individuals from inside and outside the State in which the contribution is made;

(4) public financing and benefits; and

(5) problems in existing campaign finance law, such as soft money, bundling, and independent expenditures.

(c) REPORT AND RECOMMENDATIONS.—Not later than 1 year after the date of enactment of this Act, the Commission shall submit to the Congress—

(1) a report on the activities of the Commission; and

(2) a draft of legislation (including technical and conforming provisions) recommended by the Commission to amend the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) and any other law relating to elections for Federal office.

SEC. 4. FAST-TRACK PROCEDURES.

(a) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—This section is enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such it shall be considered as part of the rules of each House, respectively, or of that House to which it specifically applies, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to such House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(b) DEFINITIONS.—As used in this section, the term "Federal election bill" means only a bill of either House of the Congress which is introduced as provided in subsection (c) to carry out the recommendations of the Commission as set forth in the draft legislation referred to in section 5.

(c) INTRODUCTION AND REFERRAL.—Not later than 3 days after the Commission submits its draft legislation under section 5, a Federal election bill shall be introduced (by request) in the House of Representatives by the Majority Leader of the House and shall be introduced (by request) in the Senate by the Majority Leader of the Senate. Such bills shall be referred to the appropriate committees.

(d) AMENDMENTS PROHIBITED.—No amendment to a Federal election bill shall be in order in either the House of Representatives or the Senate; and no motion to suspend the application of this subsection shall be in order in either House; nor shall it be in order in either House to entertain a request to suspend the application of this subsection by unanimous consent.

(e) PERIOD FOR COMMITTEE AND FLOOR CONSIDERATION.—(1) If the committee of either House to which a Federal election bill has been referred has not reported it at the close of the 30th day after its introduction, such committee shall be automatically discharged from further consideration of the bill and it shall be placed on the appropriate calendar. If prior to the passage by one House of a Federal election bill of that House, that House receives the same Federal election bill from the other House, then—

(A) the procedure in that House shall be the same as if no Federal election bill had been received from the other House; but

(B) the vote on final passage shall be on the Federal election bill of the other House.

(2) For purposes of paragraph (1), in computing a number of days in either House, there shall be excluded the days on which that House is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die.

(f) FLOOR CONSIDERATION IN THE HOUSE.—(1) A motion in the House of Representatives to proceed to the consideration of a Federal election bill shall be highly privileged except that a motion to proceed to consider may only be made on the second legislative day after the calendar day on which the Member making the motion announces to the House his intention to do so. The motion to proceed to consider is not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) Consideration of a Federal election bill in the House of Representatives shall be in the House with debate limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the bill. The previous question on the Federal election bill shall be considered as ordered to final passage without intervening motion. It shall not be in order to move to reconsider the vote by which a Federal election bill is agreed to or disagreed to.

(3) All appeals from the decisions of the Chairperson relating to the application of the Rules of the House of Representatives to the procedure relating to a Federal election bill shall be decided without debate.

(g) FLOOR CONSIDERATION IN THE SENATE.—(1) A motion in the Senate to proceed to the consideration of a Federal election bill shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) Debate in the Senate on a Federal election bill, and all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours. The time shall be equally divided between, and controlled by, the Majority Leader and the Minority Leader or their designees.

(3) Debate in the Senate on any debatable motion or appeal in connection with a Federal election bill shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the Minority Leader or a designee of the Minority Leader. Such leaders, or either of them, may, from time under their control on the passage of a Federal election bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(4) A motion in the Senate to further limit debate is not debatable. A motion to recommit a Federal election bill is not in order.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission such sums as are necessary to carry out the duties of the Commission under this Act.

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 1906. A bill to include certain territory with the jurisdiction of the State of Hawaii, and for other purposes; to the Committee on Energy and Natural Resources.

THE INSULAR AREAS CONSOLIDATION ACT OF 1996

Mr. AKAKA. Mr. President, with Senator INOUYE as a cosponsor, I am introducing legislation to give the State of Hawaii a greater say over proposals to develop seven U.S. possessions in the Pacific which are currently not affiliated with any U.S. State or territory. These islands are Baker Island, Jarvis Island, Howland Island, Johnston Atoll, Kingman Reef, Midway Island, and Palmyra Atoll. My legislation would transfer jurisdiction, but not title, of these areas to the State of Hawaii.

Proposals to consolidate these Pacific islands into the State of Hawaii's jurisdiction have surfaced before. Last year, Congressman ELTON GALLEGLY introduced a nearly identical bill in the House and a hearing was held on the measure by the Subcommittee on Native American and Insular Affairs on January 31, 1995. The Clinton Administration supported the proposal, as did Hawaii's State Senate. At the time of its introduction, however, there were many people in the State of Hawaii who wanted to know more about the potential benefits and liabilities that would accrue to the State should jurisdiction be transferred under the Gallegly bill. As a consequence, Hawaii's Gov. Benjamin Cayetano convened a task force headed by the Office of State Planning and the Pacific Basin Development Council to review the implications of the proposal.

My reason for reviving this legislation is that recent proposals to develop these islands have greatly alarmed the people of Hawaii and the Pacific. In blatant disregard for the welfare of people residing in the mid-Pacific region, a group of developers and financiers have announced a proposal to store high-level nuclear fuel on Palmyra Atoll, a privately owned U.S. possession located 1,000 miles from Hawaii. This action occurred after the group failed to secure Midway Island for their joint venture. On June 13, I introduced legislation to prohibit an interim or permanent nuclear storage facility on any U.S. possession outside of the 50 States, including Palmyra. However, I believe that the developers of Palmyra have forced us to consider a much broader issue; that is, how can we give the people of Hawaii a greater say in what goes on in our own backyard? While the cold war has ended, the threat of storing nuclear waste in isolated Pacific islands is just as alarming to the people of Hawaii. Instead of the tropical Pacific, nuclear entrepreneurs in search of a Pacific island for storing high-level waste would turn our region into the toxic Pacific.

The legislation I introduce today will give the people of Hawaii the opportunity to respond, at the local level, to efforts to store nuclear waste on Palmyra or any of these U.S. possessions. At the moment, Hawaii residents are effectively precluded from decisions on issues confronting these islands, despite the fact that some of these islands are geographically part of the Hawaiian islands and have historical, political, or cultural links to Hawaii. Through the transfer of jurisdiction to the State of Hawaii, the Governor of Hawaii, the State legislature, and the residents of Hawaii can have a real voice in determining the future of these islands.

Five of the islands under my bill—Baker Island, Jarvis Island, Howland Island, Kingman Reef, and Palmyra Atoll—are uninhabited U.S. possessions, though Palmyra is privately owned. The other two islands—Johnston Atoll and Midway Island—fall under Department of Defense jurisdiction. Five of the islands, excluding Palmyra Atoll and Kingman Reef, are national wildlife refuges.

Midway Island has been managed as an overlay national wildlife refuge since 1988 when the U.S. Navy signed a cooperative agreement with the U.S. Fish and Wildlife Service. Most recently, on May 22, 1996, the Navy transferred custody of and accountability for Midway to the U.S. Fish and Wildlife Service.

Johnston Atoll is currently being used by the U.S. Army for the Johnston Atoll Chemical Agent Disposal System. There are about 960 civilian and 250 military personnel working on the island. Most recently, the Army

testified that it expects to complete the destruction of chemical weapons by the year 2000. This is welcome news to all of us in the Pacific.

Mr. President, to ensure that U.S national security interests are not jeopardized, my bill would allow the United States to maintain its current defense operations and needs.

In summary, Mr. President, the State of Hawaii has more at stake in what happens in the Pacific than any other State in the Union. The legislation I introduce today preserves U.S. interests in the Pacific while ensuring that the State of Hawaii has a clear voice over decisions that affect the region.

ADDITIONAL COSPONSORS

S. 704

At the request of Mr. SIMON, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 704, a bill to establish the Gambling Impact Study Commission.

S. 794

At the request of Mr. LUGAR, the name of the Senator from Missouri [Mr. ASHCROFT] was added as a cosponsor of S. 794, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to facilitate the minor use of a pesticide, and for other purposes.

S. 949

At the request of Mr. GRAHAM, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of S. 949, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the death of George Washington.

S. 1199

At the request of Mrs. BOXER, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 1199, a bill to amend the Internal Revenue Code of 1986 to permit tax-exempt financing of certain transportation facilities.

S. 1400

At the request of Mrs. KASSEBAUM, the name of the Senator from Missouri [Mr. ASHCROFT] was added as a cosponsor of S. 1400, a bill to require the Secretary of Labor to issue guidance as to the application of the Employee Retirement Income Security Act of 1974 to insurance company general accounts.

S. 1734

At the request of Mr. SPECTER, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of S. 1734, a bill to prohibit false statements to Congress, to clarify congressional authority to obtain truthful testimony, and for other purposes.

S. 1743

At the request of Mr. BINGAMAN, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 1743, a bill to provide temporary emergency livestock feed assistance for certain producers, and for other purposes.

S. 1744

At the request of Mr. INOUYE, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 1744, a bill to permit duty free treatment for certain structures, parts, and components used in the Gemini Telescope Project.

S. 1878

At the request of Mr. AKAKA, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1878, a bill to amend the Nuclear Waste Policy Act of 1982 to prohibit the licensing of a permanent or interim nuclear waste storage facility outside the 50 States or the District of Columbia, and for other purposes.

SENATE JOINT RESOLUTION 52

At the request of Mr. KYL, the names of the Senator from Wyoming [Mr. SIMPSON], the Senator from Alaska [Mr. STEVENS], the Senator from Oklahoma [Mr. INHOFE], the Senator from Indiana [Mr. COATS], the Senator from North Carolina [Mr. HELMS], the Senator from Mississippi [Mr. LOTT], the Senator from Alabama [Mr. SHELBY], the Senator from Texas [Mrs. HUTCHISON], the Senator from Tennessee [Mr. FRIST], the Senator from Georgia [Mr. COVERDELL], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Ohio [Mr. DEWINE], the Senator from Iowa [Mr. GRASSLEY], the Senator from South Carolina [Mr. THURMOND], the Senator from North Carolina [Mr. FAIRCLOTH], the Senator from Florida [Mr. MACK], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Joint Resolution 52, a joint resolution proposing an amendment to the Constitution of the United States to protect the rights of victims of crimes.

AMENDMENT NO. 4090

At the request of Mr. WARNER, the name of the Senator from West Virginia [Mr. BYRD] was added as a cosponsor of amendment No. 4090 proposed to S. 1745, an original bill to authorize appropriations for fiscal year 1997 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENTS SUBMITTED

THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1997

MCCAIN AMENDMENTS NOS. 4115–4116

(Ordered to lie on the table.)

Mr. MCCAIN submitted two amendments intended to be proposed by him to the bill (S. 1745) to authorize appropriations for fiscal year 1997 for military activities of the Department of Defense, for military construction, and for defense activities for the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

AMENDMENT NO. 4115

At the end of the amendment, add the following:

At the end of title XXVII, add the following:

SEC. 2706. PROHIBITION ON USE OF FUNDS FOR CERTAIN PROJECTS.

(A) PROHIBITION.—Notwithstanding any other provision of this Act, no funds authorized to be appropriated by this Act may be obligated or expended for the military construction project listed under subsection (b) until the Secretary of Defense certifies to Congress that the project is included in the current future-years defense program.

(b) COVERED PROJECTS.—Subsection (a) applies to the following military construction projects: Phase II of the Consolidated Education Center at Fort Campbell, Kentucky; and Phase III of The Western Kentucky Training Site.

AMENDMENT NO. 4116

At the end of subtitle F of title X, add the following:

SEC. . VALUATION OF DEFENSE ARTICLES TRANSFERRED TO ASSIST BOSNIA AND HERCEGOVINA.

Section 540 of the Foreign Operations, Export Financing, and Related Appropriations Act, 1996 (Public Law 104–107) is amended by adding at the end the following new subsection:

"(e) Notwithstanding any other provision of law, the value of each defense article transferred under this section shall not exceed the lowest value calculable for such article under section 7000.14–R of volume 15 of the Department of Defense Financial Management Regulations for Security Assistance Policy and Procedures, as in effect on the date of enactment of this Act, pursuant to section 644(m) of the Foreign Assistance Act of 1961.".

GREGG AMENDMENT NO. 4117

(Ordered to lie on the table.)

Mr. GREGG submitted an amendment intended to proposed by him to the bill, S. 1745, supra; as follows:

At the appropriate place, insert:

SEC. . WRITTEN CONSENT REQUIRED TO USE UNION DUES AND OTHER MANDATORY EMPLOYEE FEES FOR POLITICAL ACTIVITIES.

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

"(8)(A) No dues, fees, or other money required as a condition of membership in a labor organization or as a condition of employment shall be collected from an individual for use in activities described in subparagraph (A), (B), or (C) of paragraph (2) unless the individual has given prior written consent for such use.

"(B) Any consent granted by an individual under subparagraph (A) shall remain in effect until revoked and may be revoked in writing at any time.

"(C) This paragraph shall apply to activities described in paragraph (2)(A) only if the communications involved expressly advocate the election or defeat of any clearly identified candidate for elective public office."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts collected more than 30 days after the date of the enactment of this Act.

THOMAS AMENDMENT NO. 4118

(Ordered to lie on the table.)

Mr. THOMAS submitted an amendment intended to be proposed by him to the bill, S. 1745, supra; as follows:

At the end of subtitle D of title XXXI, add the following:

SEC. 3161. REPORT ON DEPARTMENT OF ENERGY LIABILITY AT DEPARTMENT SUPERFUND SITES.

(a) STUDY.—The Secretary of Energy shall, using funds authorized to be appropriated to the Department of Energy by section 3102, carry out a study of the liability of the Department for damages for injury to, destruction of, or loss of natural resources under section 107(a)(4)(C) at each site controlled or operated by the Department that is or is anticipated to become subject to the provisions of that Act.

(b) CONDUCT OF STUDY.—(1) The Secretary shall carry out the study using personnel of the Department or by contract with an appropriate private entity.

(2) In determining the extent of Department liability for purposes of the study, the Secretary shall treat the Department as a private person liable for damages under section 107(f) of that Act (42 U.S.C. 9607(f)) and subject to suit by public trustees of natural resources under such section 107(f) for such damages.

(c) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit a report on the study carried out under subsection (a) to the following committees:

(1) The Committees on Environment and Public Works and Armed Services and Energy and Natural Resources of the Senate.

(2) The Committees on Commerce and National Security and Resources of the House of Representatives.

WARNER AMENDMENT NO. 4119

(Ordered to lie on the table.)

Mr. WARNER submitted an amendment intended to be proposed by him to the bill, S. 1745, supra; as follows:

At the end of subtitle B of title I, add the following:

SEC. 113. PERMANENT AUTHORITY TO CARRY OUT ARMS INITIATIVE.

Section 193(a) of the Armament Retooling and Manufacturing Support Initiative Act of 1992 (subtitle H of title I of Public Law 102-484; 10 U.S.C. 2501 note) is amended by striking out "During fiscal years 1993 through 1996, the Secretary" and inserting in lieu thereof "The Secretary".

McCAIN AMENDMENT NO. 4120

(Ordered to lie on the table.)

Mr. McCAIN submitted an amendment intended to be proposed by him to the bill, S. 1745, supra; as follows:

Strike out section 366 and insert in lieu thereof the following new section:

SEC. 366. DEPARTMENT OF DEFENSE SUPPORT FOR SPORTING EVENTS.

(a) SECURITY AND SAFETY ASSISTANCE.—At the request of a Federal, State, or local government agency responsible for providing law enforcement services, security services, or safety services, the Secretary of Defense may authorize the commander of a military installation or other facility of the Department of Defense or the commander of a specified or unified combatant command to provide assistance for the World Cup Soccer Games, the Goodwill Games, the Olympics, and any other civilian sporting event in support of essential security and safety at such event, but only if the Attorney General certifies that such assistance is necessary to meet essential security and safety needs.

(b) OTHER ASSISTANCE.—The Secretary may authorize a commander referred to in subsection (a) to provide assistance for a sporting event referred to in that subsection in support of other needs relating to such event, but only—

(1) to the extent that such needs cannot reasonably be met by a source other than the Department;

(2) to the extent that the provision of such assistance does not adversely affect the military preparedness of the Armed Forces; and

(3) if the organization requesting such assistance agrees to reimburse the Department for amounts expended by the Department in providing the assistance in accordance with the provisions of section 377 of title 10, United States Code, and other applicable provisions of law.

(c) INAPPLICABILITY TO CERTAIN EVENTS.—Subsections (a) and (b) do not apply to the following sporting events:

(1) Sporting events for which funds have been appropriated before the date of the enactment of this Act.

(2) The Special Olympics.

(3) The Paralympics.

(d) TERMS AND CONDITIONS.—The Secretary may require such terms and conditions in connection with the provision of assistance under this section as the Secretary considers necessary and appropriate to protect the interests of the United States.

(e) REPORT ON ASSISTANCE.—Not later than January 30 of each year following a year in which the Secretary provides assistance under this section, the Secretary shall submit to the congressional defense committees a report on the assistance provided. The report shall set forth—

(1) a description of the assistance provided;

(2) the amount expended by the Department in providing the assistance;

(3) if the assistance was provided under subsection (a), the certification of the Attorney General with respect to the assistance under that subsection; and

(4) if the assistance was provided under subsection (b)—

(A) an explanation why the assistance could not reasonably be met by a source other than the Department; and

(B) the amount the Department was reimbursed under that subsection.

(f) RELATIONSHIP TO OTHER LAWS.—Assistance provided under this section shall be subject to the provisions of sections 375 and 376 of title 10, United States Code.

GLENN AMENDMENTS NOS. 4121–4122

(Ordered to lie on the table.)

Mr. GLENN submitted two amendments intended to be proposed by him to the bill, S. 1745, supra; as follows:

AMENDMENT NO. 4121

At the end of subtitle D of title XXXI add the following:

SEC. 3161. WORKER HEALTH AND SAFETY IMPROVEMENTS AT THE DEFENSE NUCLEAR COMPLEX, MIAMISBURG, OHIO.

(a) WORKER HEALTH AND SAFETY ACTIVITIES.—(1) Of the funds authorized to be appropriated pursuant to section 3102(b), $6,200,000 shall be available to the Secretary of Energy to perform, in accordance with a settlement of *Levell et al.* v. *Monsanto Research Corp. et al.*, Case Number C-3-95-312 in the United States District Court for the Southern District of Ohio, activities to improve worker health and safety at the defense nuclear complex at Miamisburg, Ohio.

(2) Activities under paragraph (1) shall include the following:

(A) Completing the evaluation of pre-1989 internal dose assessments for workers who have received a lifetime dose greater than 20 REM.

(B) Installing state-of-the-art automated personnel contamination monitors at appropriate radiation control points and facility exits.

(C) Purchasing and installing an automated personnel access control system, and integrating the software for the system with a radiation work permit system.

(D) Upgrading the radiological records software.

(E) Immediately implementing a program that will characterize the radiological conditions of the site, buildings, and facilities before decontamination activities commence so that radiological hazards are clearly identified and the results of decontamination validated.

(F) Reviewing and improving the conduct and evaluation of continuous air monitoring practices and implementing a personal air sampling program as a means of preventing unnecessary internal exposure.

(G) Upgrading bioassay analytical procedures in order to ensure that contract laboratories are adequately selected and validated and quality control is assured.

(H) Implementing bioassay and internal dose calculation methods that are specific to the radiological hazards identified at the site.

(3)(A) The Secretary shall complete the activities referred to in paragraph (2)(A) not later than September 30, 1997.

(B) The Secretary shall ensure that the activities referred to in paragraph (2)(F) are completed not later than December 31, 1996.

(b) SAVINGS PROVISION.—Nothing in this section shall be construed as affecting applicable statutory or regulatory requirements relating to worker health and safety.

(c) SUPPLEMENT NOT SUPPLANT.—Nothing in this section shall prohibit the Secretary from obligating and expending additional funds under this title for the activities referred to in subsection (a)(2).

AMENDMENT NO. 4122

At the end of subtitle D of title XXXI add the following:

SEC. 3161. WORKER HEALTH AND SAFETY PROTECTION.

(a) SAFETY COMPLIANCE REVIEW AND ACCOUNTABILITY.—Consistent with authority to seek or impose penalties for violations of regulations relating to nuclear safety under section 223 or 234A, respectively, of the Atomic Energy Act of 1954 (42 U.S.C. 2273, 2282a), the Secretary shall review contractor and subcontractor compliance with the nuclear safety-related regulations referred to in subsection (b) at each Department of Energy defense nuclear facility covered by the regulations.

(b) NUCLEAR SAFETY-RELATED REGULATIONS COVERED.—The regulations with which compliance is to be reviewed under this section are as follows:

(1) The nuclear safety management regulations set forth in part 830 of title 10 of the Code of Federal Regulations (as amended, if amended).

(2) The occupational radiation protection regulations set forth in part 835 of title 10 of the Code of Federal Regulations (as amended, if amended).

(c) REPORTING REQUIREMENTS.—(1) Subject to paragraph (2), the Secretary shall include in the annual report submitted to Congress pursuant to section 170(p) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(p)) a report on contractor and subcontractor compliance with the nuclear safety-related regulations referred to in subsection (b). The report shall include the following matters:

(A) A list of facilities evaluated and a discussion of progress made in meeting the compliance review requirement set forth in subsection (a).

(B) A list of noncompliance events and violations identified in the compliance review.

(C) A list of actions taken under sections 223 and 234A of the Atomic Energy Act of 1954 and the nuclear safety-related regulations.

(D) Improvements in public safety and worker protection that have been required by the Secretary on the basis of the results of the compliance review.

(E) A description of the effectiveness of compliance review.

(2)(A) The first annual report under paragraph (1) shall be included in the annual report that is required by section 170(p) of the Atomic Energy Act of 1954 to be submitted to Congress not later than April 1, 1997.

(B) No report is required under paragraph (1) after all defense nuclear facilities covered by the regulations referred to in subsection (a) have undergone compliance review pursuant to this section.

(d) PERSONNEL.—The Secretary shall ensure that the number of qualified personnel used to carry out the compliance review under this section is sufficient for achieving effective results. Only Federal employees may be used to carry out a compliance review activity under this section.

(e) REGULATIONS.—Effective 18 months after the date of the enactment of this Act, violations of regulations prescribed by the Secretary to protect contractor and subcontractor employees from non-nuclear hazards at Department of Energy defense nuclear facilities shall be punishable under sections 223 and 234A of the Atomic Energy Act of 1954 (42 U.S.C. 2282a and 42 U.S.C. 2273).

GORTON AMENDMENT NO. 4123

(Ordered to lie on the table.)

Mr. GORTON submitted an amendment intended to be proposed by him to the bill, S. 1745, supra; as follows:

At the end of title XXVI of the bill, insert the following:

SEC. 2602. FUNDING FOR CONSTRUCTION AND IMPROVEMENT OF RESERVE CENTERS IN THE STATE OF WASHINGTON.

(a) FUNDING.—Notwithstanding any other provision of law, of the funds appropriated under the heading "MILITARY CONSTRUCTION, NAVAL RESERVE" in the Military Construction Appropriations Act, 1995 (Public Law 103-307; 108 Stat. 1661), that are available for the construction of a Naval Reserve center in Seattle, Washington—

(1) $5,200,000 shall be available for the construction of an Army Reserve Center at Fort Lawton, Washington, of which $700,000 may be used for program and design activities relating to such construction;

(2) $4,200,000 shall be available for the construction of an addition to the Naval Reserve Center in Tacoma, Washington;

(3) $500,000 shall be available for unspecified minor construction at Naval Reserve facilities in the State of Washington; and

(4) $500,000 shall be available for program and design activities with respect to improvements at Naval Reserve facilities in the State of Washington.

(b) MODIFICATION OF LAND CONVEYANCE AUTHORITY.—Paragraph (2) of section 127(d) of the Military Construction Appropriations Act, 1995 (Public Law 103-337; 108 Stat. 1666), is amended to read as follows:

"(2) Before commencing construction of a facility to be the replacement facility for the Naval Reserve Center under paragraph (1), the Secretary shall comply with the requirements of the National Environmental Policy Act (42 U.S.C. 4321 et seq.) with respect to such facility.".

CHAFEE AMENDMENTS NOS. 4124-4125

(Ordered to lie on the table.)

Mr. CHAFEE submitted two amendments intended to be proposed by him to the bill, S. 1745, supra; as follows:

AMENDMENT NO. 4124

In the table in section 2201(a), insert after the item relating to Camp Lejeune Marine Corps Base, North Carolina, the following new item:

Rhode Island	Naval Undersea Warfare Center.	$8,900,000

Strike out the amount set forth as the total amount at the end of the table in section 2201(a) and insert in lieu thereof "$515,952,000".

In section 2205(a), in the matter preceding paragraph (1), strike out "$2,040,093,000" and insert in lieu thereof "$2,048,993,000".

In section 2205(a)(1), strike out "$507,052,000" and insert in lieu thereof "$515,952,000".

AMENDMENT NO. 4125

At the end of title VIII, add the following:

SEC. 810. PILOT PROGRAM FOR TRANSFER OF DEFENSE TECHNOLOGY INFORMATION TO PRIVATE INDUSTRY.

(a) PROGRAM REQUIRED.—The Secretary of Defense shall carry out a pilot program to demonstrate online transfers of information on defense technologies to businesses in the private sector through an interactive data network involving institutions of higher education.

(a) COMPUTERIZED DATA BASE OF DEFENSE TECHNOLOGIES.—(1) Under the pilot program, the Secretary shall enter into an agreement with the head of an institution of higher education that provides for such institution—

(A) to develop and maintain a computerized data base of information on defense technologies;

(B) to make such information available online to—

(i) businesses; and

(ii) other institutions of higher education entering into partnerships with the Secretary under subsection (c).

(2) The online accessibility may be established by means of any of, or any combination of, the following:

(A) Digital teleconferencing.

(B) International Signal Digital Network lines.

(C) Direct modem hookup.

(e) PARTNERSHIP NETWORK.—Under the pilot program, the head of the institution with which the Secretary enters into an agreement under subsection (b) may, with the concurrence of the Secretary, enter into agreements with the heads of other institutions of higher education having strong business education programs to provide for the institutions of higher education entering into such agreements—

(1) to establish interactive computer links with the data base developed and maintained under subsection (b); and

(2) to assist the Secretary in making information on defense technologies available online to the broadest practicable number, types, and sizes of businesses.

(d) DEFENSE TECHNOLOGIES COVERED.—(1) The Secretary shall designate the technologies to be covered by the pilot program from among the existing and experimental technologies that the Secretary determines—

(A) are useful in meeting Department of Defense needs; and

(B) should be made available under the pilot program to facilitate the satisfaction of such needs by private sector sources.

(2) Technologies covered by the program should include technologies useful for defense purposes that can also be used for nondefense purposes (without or without modification).

(e) DEFINITIONS.—In this section:

(1) The term "defense technology" means a technology designated by the Secretary of Defense under subsection (d).

(2) The term "partnership" means an agreement entered into under subsection (c).

(f) TERMINATION OF PILOT PROGRAM.—The pilot program shall terminate one year after the Secretary enters into an agreement under subsection (b).

(g) AUTHORIZATION OF APPROPRIATIONS.—(1) Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 1997 for the pilot program in the amount of $2,300,000.

(2) The amount authorized to be appropriated under paragraph (1) is in addition to the amounts authorized to be appropriated under other provisions of this Act.

GRASSLEY AMENDMENT NO. 4126

(Ordered to lie on the table.)

Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill, S. 1745, supra; as follows:

At the end of section 218(a) add the following: "The report shall include—

"(1) a comparison of—

"(A) the results of the review, with

"(B) the results of the last independent estimate of production costs of the program that was prepared by the Cost Analysis Improvement Group in July 1991; and

"(2) a description of any major changes in programmatic assumptions that have occurred since the estimate referred to in paragraph (1)(B) was made, including any major change in assumptions regarding the program schedule, the quantity of aircraft to be developed and acquired, and the annual rates of production, together with an assessment of the effects of such changes on the program.".

DASCHLE AMENDMENT NO. 4127

(Ordered to lie on the table.)

Mr. DASCHLE submitted an amendment intended to be proposed by him to the bill, S. 1745, supra; as follows:

In section 2601(1), strike out "$79,628,000" and insert in lieu thereof "$84,228,000".

LIEBERMAN (AND OTHERS) AMENDMENT NO. 4128

(Ordered to lie on the table.)

Mr. LIEBERMAN (for himself, Mr. COATS, Mr. ROBB, Mr. MCCAIN, Mr. NUNN, Mr. INHOFE, Mr. KEMPTHORNE, Mr. WARNER, Mrs. HUTCHISON, Mr. SANTORUM, Mr. MURKOWSKI, Mr. FORD, and Mr. BOND) submitted an amendment intended to be proposed by him to the bill, S. 1745, supra; as follows:

At the end of title X, add the following:

Subtitle G—Review of Armed Forces Force Structures

SEC. 1081. SHORT TITLE.

This subtitle may be cited as the "Armed Forces Force Structures Review Act of 1996".

SEC. 1082. FINDINGS.

Congress makes the following findings:

(1) Since the collapse of the Soviet Union in 1991, the United States has conducted two substantial assessments of the force structure of the Armed Forces necessary to meet United States defense requirements.

(2) The assessment by the Bush Administration (known as the "Base Force" assessment) and the assessment by the Clinton Administration (known as the "Bottom-Up Review") were intended to reassess the force structure of the Armed Forces in light of the changing realities of the post-Cold War world.

(3) Both assessments served an important purpose in focusing attention on the need to reevaluate the military posture of the United States, but the pace of global change necessitates a new, comprehensive assessment of the defense strategy of the United States and the force structure of the Armed Forces required to meet the threats to the United States in the 21st century.

(4) The Bottom-Up Review has been criticized on several points, including—

(A) the assumptions underlying the strategy of planning to fight and win two nearly simultaneous major regional conflicts;

(B) the force levels recommended to carry out that strategy; and

(C) the funding proposed for such recommended force levels.

(5) In response to the recommendations of the Commission on Roles and Missions of the Armed Forces, the Secretary of Defense endorsed the concept of conducting a quadrennial review of the defense program at the beginning of each newly elected Presidential administration, and the Secretary intends to complete the first such review in 1997.

(6) The review is to involve a comprehensive examination of defense strategy, the force structure of the active, guard, and reserve components, force modernization plans, infrastructure, and other elements of the defense program and policies in order to determine and express the defense strategy of the United States and to establish a revised defense program through the year 2005.

(7) In order to ensure that the force structure of the Armed Forces is adequate to meet the challenges to the national security interests of the United States in the 21st century, to assist the Secretary of Defense in conducting the review referred to in paragraph (5), and to assess the appropriate force structure of the Armed Forces through the year 2010 and beyond (if practicable), it is important to provide for the conduct of an independent, non-partisan review of the force structure that is more comprehensive than prior assessments of the force structure, extends beyond the quadrennial defense review, and explores innovative and forward-thinking in ways of meeting such challenges.

SEC. 1083. QUADRENNIAL DEFENSE REVIEW.

(a) REQUIREMENT IN 1997.—The Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, shall complete in 1997 a review of the defense program of the United States intended to satisfy the requirements for a Quadrennial Defense Review as identified in the recommendations of the Commission on Roles and Missions of the Armed Forces. The review shall include a comprehensive examination of the defense strategy, force structure, force modernization plans, infrastructure, and other elements of the defense program and policies with a view toward determining and expressing the defense strategy of the United States and establishing a revised defense program through the year 2005.

(b) INVOLVEMENT OF NATIONAL DEFENSE PANEL.—(1) The Secretary shall apprise the National Defense Panel established under section 1084, on an on-going basis, of the work undertaken in the conduct of the review.

(2) Not later than March 14, 1997, the Chairman of the National Defense Panel shall submit to the Secretary the panel's assessment of work undertaken in the conduct of the review as of that date and shall include in the assessment the recommendations of the panel for improvements to the review, including recommendations for additional matters to be covered in the review.

(c) ASSESSMENTS OF REVIEW.—Upon completion of the review, the Chairman of the Joint Chiefs of Staff and the Chairman of the National Defense Panel shall each prepare and submit to the Secretary such chairman's assessment of the review in time for the inclusion of the assessment in its entirety in the report under subsection (d).

(d) REPORT.—Not later than May 15, 1997, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a comprehensive report on the review. The report shall include the following:

(1) The results of the review, including a comprehensive discussion of the defense strategy of the United States and the force structure best suited to implement the strategy.

(2) The threats examined for purposes of the review and the scenarios developed in the examination of such threats.

(3) The assumptions used in the review, including assumptions relating to the cooperation of allies and mission-sharing, levels of acceptable risk, warning times, and intensity and duration of conflict.

(4) The effect on the force structure of preparations for and participation in peace operations and military operations other than war.

(5) The effect on the force structure of the utilization by the Armed Forces of technologies anticipated to be available by the year 2005, including precision guided munitions, stealth, night vision, digitization, and communications, and the changes in doctrine and operational concepts that would result from the utilization of such technologies.

(6) The manpower and sustainment policies required under the defense strategy to support engagement in conflicts lasting more than 120 days.

(7) The anticipated roles and missions of the reserve components in the defense strategy and the strength, capabilities, and equipment necessary to assure that the reserve components can capably discharge such roles and missions.

(8) The appropriate ratio of combat forces to support forces (commonly referred to as the "tooth-to-tail" ratio) under the defense strategy, including, in particular, the appropriate number and size of headquarter units and Defense Agencies for that purpose.

(9) The air-lift and sea-lift capabilities required to support the defense strategy.

(10) The forward presence, pre-positioning, and other anticipatory deployments necessary under the defense strategy for conflict deterrence and adequate military response to anticipated conflicts.

(11) The extent to which resources must be shifted among two or more theaters under the defense strategy in the event of conflict in such theaters.

(12) The advisability of revisions to the Unified Command Plan as a result of the defense strategy.

SEC. 1084. NATIONAL DEFENSE PANEL.

(a) ESTABLISHMENT.—Not later than December 1, 1996, the Secretary of Defense shall establish a non-partisan, independent panel to be known as the National Defense Panel (in this section referred to as the "Panel"). The Panel shall have the duties set forth in this section.

(b) MEMBERSHIP.—The Panel shall be composed of a chairman and eight other individuals appointed by the Secretary, in consultation with the Chairman and ranking member of the Committee on Armed Services of the Senate and the Chairman and ranking member of the Committee on National Security of the House of Representatives, from among individuals in the private sector who are recognized experts in matters relating to the national security of the United States.

(c) DUTIES.—The Panel shall—

(1) conduct and submit to the Secretary the assessment of the review under section 1083 that is required by subsection (b)(2) of that section;

(2) conduct and submit to the Secretary the comprehensive assessment of the review that is required by subsection (c) of that section upon completion of the review; and

(3) conduct the assessment of alternative force structures for the Armed Forces required under subsection (d).

(d) ALTERNATIVE FORCE STRUCTURE ASSESSMENT.—(1) The Panel shall submit to the Secretary an independent assessment of a variety of possible force structures of the Armed Forces through the year 2010 and beyond, including the force structure identified in the report on the review under section 1083(d). The purpose of the assessment is to develop proposals for an "above the line" force structure of the Armed Forces and to provide the Secretary and Congress recommendations regarding the optimal force structure to meet anticipated threats to the national security of the United States through the time covered by the assessment.

(2) In conducting the assessment, the Panel shall examine a variety of potential threats (including near-term threats and long-term threats) to the national security interests of the United States, including the following:

(A) Conventional threats across a spectrum of conflicts.

(B) The proliferation of weapons of mass destruction and the means of delivering such weapons, and the illicit transfer of technology relating to such weapons.

(C) The vulnerability of United States technology to non-traditional threats, including information warfare.

(D) Domestic and international terrorism.

(E) The emergence of a major challenger having military capabilities similar to those of the United States.

(F) Any other significant threat, or combination of threats, identified by the Panel.

(3) For purposes of the assessment, the Panel shall develop a variety of scenarios requiring a military response by the Armed Forces, including the following:

(A) Scenarios developed in light of the threats examined under paragraph (2).

(B) Scenarios developed in light of a continuum of conflicts ranging from a conflict of lesser magnitude than the conflict described in the Bottom-Up Review to a conflict of greater magnitude than the conflict so described.

(4) As part of the assessment, the Panel shall also—

(A) develop recommendations regarding a variety of force structures for the Armed Forces that permit the forward deployment of sufficient land- and sea-based forces to provide an effective deterrent to conflict and to permit a military response by the United States to the scenarios developed under paragraph (3);

(B) to the extent practicable, estimate the funding required by fiscal year, in constant fiscal year 1997 dollars, to organize, equip, and support the forces contemplated under the force structures assessed in the assessment; and

(C) comment on each of the matters also to be included by the Secretary in the report required by section 1083(d).

(e) REPORT.—(1) Not later than December 1, 1997, the Panel shall submit to the Secretary a report setting forth the activities, findings and recommendations of the Panel under subsection (d), including any recommendations for legislation that the Panel considers appropriate.

(2) Not later than December 15, 1997, the Secretary shall, after consultation with the Chairman of the Joint Chiefs of Staff, submit to the committees referred to in subsection (b)(1) a copy of the report under paragraph (1), together with the Secretary's comments on the report.

(f) INFORMATION FROM FEDERAL AGENCIES.—The Panel may secure directly from the Department of Defense and any of its components and from any other Federal department and agency such information as the Panel considers necessary to carry out its duties under this section. The head of the department or agency concerned shall ensure that information requested by the Panel under this subsection is promptly provided.

(g) PERSONNEL MATTERS.—(1) Each member of the Panel shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Panel.

(2) The members of the Panel shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Panel.

(3)(A) The chairman of the Panel may, without regard to the civil service laws and regulations, appoint and terminate an executive director, and a staff of not more than four additional individuals, if the Panel determines that an executive director and staff are necessary in order for the Panel to perform its duties effectively. The employment of an executive director shall be subject to confirmation by the Panel.

(B) The chairman may fix the compensation of the executive director without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(4) Any Federal Government employee may be detailed to the Panel without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege. The Secretary shall ensure that sufficient personnel are detailed to the Panel to enable the Panel to carry out its duties effectively.

(5) To the maximum extent practicable, the members and employees of the Panel shall travel on military aircraft, military ships, military vehicles, or other military conveyances when travel is necessary in the performance of a duty of the Panel, except that no such aircraft, ship, vehicle, or other conveyance may be scheduled primarily for the transportation of any such member or employee when the cost of commercial transportation is less expensive.

(h) ADMINISTRATIVE PROVISIONS.—(1) The Panel may use the United States mails and obtain printing and binding services in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(2) The Secretary shall furnish the Panel any administrative and support services requested by the Panel.

(3) The Panel may accept, use, and dispose of gifts or donations of services or property.

(i) PAYMENT OF PANEL EXPENSES.—The compensation, travel expenses, and per diem allowances of members and employees of the Panel shall be paid out of funds available to the Department of Defense for the payment of compensation, travel allowances, and per diem allowances, respectively, of civilian employees of the Department. The other expenses of the Panel shall be paid out of funds available to the Department for the payment of similar expenses incurred by the Department.

(j) TERMINATION.—The Panel shall terminate 30 days after the date on which the Panel submits its report to the Secretary under subsection (e).

SEC. 1085. POSTPONEMENT OF DEADLINES.

In the event that the election of President of the United States in 1996 results in a change in administrations, each deadline set forth in this subtitle shall be postponed by 3 months.

SEC. 1086. DEFINITIONS.

In this subtitle:

(1) The term "'above the line' force structure of the Armed Forces" means a force structure (including numbers, strengths, and composition and major items of equipment) for the Armed Forces at the following unit levels:

(A) In the case of the Army, the division.

(B) In the case of the Navy, the battle group.

(C) In the case of the Air Force, the wing.

(D) In the case of the Marine Corps, the expeditionary force.

(E) In the case of special operations forces of the Army, Navy, or Air Force, the major operating unit.

(F) In the case of the strategic forces, the ballistic missile submarine fleet, the heavy bomber force, and the intercontinental ballistic missile force.

(2) The term "Commission on Roles and Missions of the Armed Forces" means the Commission on Roles and Missions of the Armed Forces established by subtitle E of title IX of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1738; 10 U.S.C. 111 note).

(3) The term "military operation other than war" means any operation other than war that requires the utilization of the military capabilities of the Armed Forces, including peace operations, humanitarian assistance operations and activities, counterterrorism operations and activities, disaster relief activities, and counter-drug operations and activities.

(4) The term "peace operations" means military operations in support of diplomatic efforts to reach long-term political settlements of conflicts and includes peacekeeping operations and peace enforcement operations.

PRYOR (AND OTHERS) AMENDMENT NO. 4129

(Ordered to lie on the table.)

Mr. PRYOR (for himself, Mr. CHAFEE, Mr. BROWN, Mr. BRYAN, Mr. LEAHY, and Mr. DORGAN) submitted an amendment intended to be proposed by them to the bill, S. 1745, supra; as follows:

At the end of subtitle F of title X add the following:

SEC. 1072. EQUITABLE TREATMENT FOR THE GENERIC DRUG INDUSTRY.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that the generic drug industry should be provided equitable relief in the same manner as other industries are provided with such relief under the patent transitional provisions of section 154(c) of title 35, United States Code, as amended by section 532 of the Uruguay Round Agreements Act of 1994 (Public Law 103-465; 108 Stat. 4983).

(b) APPROVAL OF APPLICATIONS OF GENERIC DRUGS.—For purposes of acceptance and consideration by the Secretary of Health and Human Services of an application under subsections (b), (c), and (j) of section 505, and subsections (b), (c), and (n) of section 512, of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355 (b), (c), and (j), and 360b (b), (c), and (n)), the expiration date of a patent that is the subject of a certification under section 505(b)(2)(A) (ii), or (iv), section 505(j)(2)(A)(vii) (II), (III), or (IV), or section 512(n)(1)(H) (ii), (iii), or (iv) of such Act, respectively, made in an application submitted prior to June 8, 1995, or in an application submitted on or after that date in which the applicant certifies that substantial investment was made prior to June 8, 1995, shall be deemed to be the date on which such patent would have expired under the law in effect on the day preceding December 8, 1994.

(c) MARKETING GENERIC DRUGS.—The remedies of section 271(e)(4) of title 35, United States Code, shall not apply to acts—

(1) that were commenced, or for which a substantial investment was made, prior to June 8, 1995; and

(2) that became infringing by reason of section 154(c)(1) of such title, as amended by section 532 of the Uruguay Round Agreements Act (Public Law 103-465; 108 Stat. 4983).

(d) EQUITABLE REMUNERATION.—For acts described in subsection (c), equitable remuneration of the type described in section

154(c)(3) of title 35, United States Code, as amended by section 532 of the Uruguay Round Agreements Act (Public Law 103-465; 108 Stat. 4983) shall be awarded to a patentee only if there has been—

(1) the commercial manufacture, use, offer to sell, or sale, within the United States of an approved drug that is the subject of an application described in subsection (b); or

(2) the importation by the applicant into the United States of an approved drug or of active ingredient used in an approved drug that is the subject of an application described in subsection (b).

(e) APPLICABILITY.—The provisions of this section shall govern—

(1) the approval or the effective date of approval of applications under section 505(b)(2), 505(j), 507, or 512(n), of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355 (b)(2) and (j), 357, 360b(n)) submitted on or after the date of enactment of this Act; and

(2) the approval or effective date of approval of all pending applications that have not received final approval as of the date of enactment of this Act.

DORGAN AMENDMENT NO. 4130

(Ordered to lie on the table.)

Mr. DORGAN submitted an amendment intended to be proposed by him to the bill, S. 1745, supra; as follows:

At the appropriate place in the bill, add the following new section:

SEC. . SENSE OF THE SENATE ON MILITARY HONORS AT FUNERALS.

(a) FINDINGS.—The Senate finds that—

(1) in an April 24, 1996 incident in Grand Forks, North Dakota, a security specialist at Grand Forks Air Force Base shot his former girlfriend to death and then was killed by Grand Forks police when he turned his weapon on them;

(2) on April 29, at the request of his family, the airman was buried with military honors in the National Cemetery at Biloxi, Mississippi, at a cost to the taxpayer of $5,468;

(3) relevant law (10 USC 1482) appears to give the Service Secretaries discretion to deny honors to a deceased servicemember;

(4) the relevant regulation (Department of Defense Directive 1300.15, September 30, 1985) appears to give no discretion to deny honors: the Directive states that "For a member who dies while on active duty . . . there shall be" honors such as pallbearers, a firing party, and a bugler; and

(5) paying final tribute on behalf of a grateful nation to those who have served it honorably is important to respect the deceased, to show esteem for military service, to comfort the grieving and to display military professionalism, but the use of military honors at the funeral of someone undeserving of them not only wastes taxpayer dollars but also lowers the morale and impugns the high reputation of our nation's military.

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

(1) the Secretary of Defense should promulgate a regulation clarifying that a Service Secretary has the discretion to deny military honors for the burial of a deceased service member if the Secretary determines beyond a reasonable doubt that the service member, had he or she lived, would have been successfully convicted of murder in an American military or civilian court; and

(2) the Service Secretary concerned should make such a determination only within 72 hours of the service member's death, and should communicate that determination to the service member's family as swiftly as possible.

EXON (AND OTHERS) AMENDMENT NO. 4131

(Ordered to lie on the table.)

Mr. EXON (for himself, Mr. KOHL, Mr. BINGAMAN, Mr. DORGAN, and Mr. WELLSTONE) submitted an amendment intended to be proposed by them to the bill, S. 1745, supra; as follows:

After section 3, insert the following:

SEC. 4. GENERAL LIMITATION.

Notwithstanding any other provision of this Act, the total amount authorized to be appropriated for fiscal year 1997 under the provisions to this Act is $263,362,000,000.

EXON AMENDMENT NO. 4132

(Ordered to lie on the table.)

Mr. EXON submitted an amendment intended to be proposed by him to the bill, S. 1745, supra; as follows:

At the end of subtitle E of title III, add the following:

SEC. 368. AUTHORITY OF AIR NATIONAL GUARD TO PROVIDE CERTAIN SERVICES AT LINCOLN MUNICIPAL AIRPORT, LINCOLN, NEBRASKA

(a) AUTHORITY.—Subject to subsection (b), the Air National Guard may provide fire protection services and rescue services relating to aircraft at Lincoln Municipal Airport, Lincoln, Nebraska, on behalf of the Lincoln Municipal Airport Authority, Lincoln, Nebraska.

(b) AGREEMENT.—The Air National Guard may not provide services under subsection (a) until the Air National Guard and the authority enter into an agreement under which the authority reimburses the Air National Guard for the cost of the services provided.

GLENN AMENDMENT NO. 4133

(Ordered to lie on the table.)

Mr. GLENN submitted an amendment intended to be proposed by him to the bill, S. 1745, supra; as follows:

On page 330, strike out lines 9 through 24.

On pages 331 and 332, strike out lines 1 through 24.

On pages 333, 334, 335 and 336, strike out lines 1 through 25.

On page 337, strike out lines 1 through 24.

On pages 338 and 339, strike out lines 1 through 25.

On page 340, strike out lines 1 through 6.

On page 340, line 7, strike out "Sec. 1122." and insert in lieu thereof "Sec. 1121."

DORGAN AMENDMENT NO. 4134

(Ordered to lie on the table.)

Mr. DORGAN submitted an amendment intended to be proposed by him to the bill, S. 1745, supra; as follows:

On page 398, after line 23, add the following:

SEC. 2828. LAND CONVEYANCE, WILLIAM LANGER JEWEL BEARING PLANT, ROLLA, NORTH DAKOTA.

(A) AUTHORITY TO CONVEY.—The Administrator of General Services may convey, without consideration, to the Job Development Authority of the City of Rolla, North Dakota (in this section referred to as the "Authority"), all right, title, and interest of the United States in and to a parcel of real property, with improvements thereon and all associated personal property, consisting of approximately 9.77 acres and comprising the William Langer Jewel Bearing Plant in Rolla, North Dakota.

(b) CONDITION OF CONVEYANCE.—The conveyance authorized under subsection (a) shall be subject to the condition that the Authority—

(1) use the real and personal property and improvements conveyed under that subsection for economic development relating to the jewel bearing plant;

(2) enter into an agreement with an appropriate public or private entity or person to lease such property and improvements to that entity or person for such economic development; or

(3) enter into an agreement with an appropriate public or private entity or person to sell such property and improvements to that entity or person for such economic development.

(c) PREFERENCE FOR DOMESTIC DISPOSAL OF JEWEL BEARINGS.—(1) In offering to enter into agreements pursuant to any provision of law for the disposal of jewel bearings from the National Defense Stockpile, the President shall give a right of first refusal on all such offers to the Authority or to the appropriate public or private entity or person with which the Authority enters into an agreement under subsection (b).

(2) For the purposes of this section, the term "National Defense Stockpile" means the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98(c)).

(d) AVAILABILITY OF FUNDS FOR MAINTENANCE AND CONVEYANCE OF PLANT.—Notwithstanding any other provision of law, funds available in fiscal year 1995 for the maintenance of the William Langer Jewel Bearing Plant in Public Law 103-335 shall be available for the maintenance of that plant in fiscal year 1996, pending conveyance, and for the conveyance of that plant under this section.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property conveyed under this section shall be determined by a survey satisfactory to the Administrator. The cost of the survey shall be borne by the Administrator.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Administrator may require such additional terms and conditions in connection with the conveyance under this section as the Administrator determines appropriate to protect the interests of the United States.

HEFLIN AMENDMENTS NOS. 4135-4140

(Ordered to lie on the table.)

Mr. HEFLIN submitted six amendments intended to be proposed by him to the bill, S. 1745, supra; as follows:

AMENDMENT NO. 4135

At the end of subtitle C of title II, add the following:

SEC. 237. DESIGNATION OF THE ARMY AS LEAD SERVICE IN THE NATIONAL MISSILE DEFENSE JOINT PROGRAM OFFICE FOR INITIAL DEPLOYMENT PHASE OF NATIONAL MISSILE DEFENSE PROGRAM.

The Director of the Ballistic Missile Defense Organization shall designate the Army as the lead service in the National Missile Defense Joint Program Office for the initial deployment phase of the national missile defense program.

AMENDMENT NO. 4136

In section 1102(a)(2), strike out "during fiscal year 1997".

AMENDMENT NO. 4137

At the end of subtitle B of title I, add the following:

SEC. 113. TYPE CLASSIFICATION OF ELECTRO OPTIC AUGMENTATION (EOA) SYSTEM.

(a) REQUIREMENT.—The Secretary of the Army shall type classify the Electro Optic Augmentation (EOA) system.

(b) FUNDING.—Of the amounts authorized to be appropriated for the Army by this division, $100,000 shall be made available to the Armored Systems Modernization Program manager for the type classification required by subsection (a).

AMENDMENT NO. 4138

At the end of subtitle B of title I, add the following:

SEC. 113. BRADLEY TOW 2 TEST PROGRAM SETS.

Notwithstanding any other provision of law, the funds appropriated pursuant to the authorization of appropriations in section 101(3) of the National Defense Authorization Act for Fiscal Year 1996 (110 Stat. 204) and available for the procurement of Armored Gun System Test Program sets shall be made available instead for the procurement of Bradley TOW 2 Test Program sets.

AMENDMENT NO. 4139

In section 330, in the matter preceeding paragraph (1), insert ", the Letterkenny Army Depot," after "Sacramento Air Logistics Center".

AMENDMENT NO. 4140

At the end of subtitle C of title I, add the following:

SEC. 125. PROCUREMENT OF MAIN FEED PUMP TURBINES FOR THE CONSTELLATION (CV-64).

(a) INCREASED AUTHORIZATION.—The amount authorized to be appropriated by section 102(4) is hereby increased by $4,200,000.

(b) AUTHORITY TO PROCURE.—Of the amount authorized to be appropriated by section 102(4), as increased by subsection (a), $4,200,000 shall be available for the procurement of main feed pump turbines for the Constellation (CV-64).

COHEN AMENDMENTS NOS. 4141–4143

(Ordered to lie on the table.)

Mr. COHEN submitted three amendments intended to be proposed by him to the bill, S. 1745, supra; as follows:

AMENDMENT NO. 4141

At the end of subtitle F of title X add the following:

SEC. 1072. INFORMATION TECHNOLOGY MANAGEMENT AMENDMENTS.

(a) REFORMS INDEPENDENT OF PAPERWORK REDUCTION LAW.—Title LI of the Information Technology Management Reform Act of 1996 (Public Law 104–106; 110 Stat. 680) is amended—

(1) by striking out sections 5111 and 5121 (40 U.S.C. 1411 and 1421);

(2) in section 5112(a), by striking out "in fulfilling the responsibilities under section 3504(h) of title 44, United States Code";

(3) in section 5113(a), by striking out "in fulfilling the responsibilities assigned under section 3504(h) of title 44, United States Code";

(4) in section 5122(a), by striking out "In fulfilling the responsibilities assigned under section 3506(h) of title 44, United States Code, the" and inserting in lieu thereof "The"; and

(5) in section 5123(a), by striking out "In fulfilling the responsibilities under section 3506(h) of title 44, United States Code, the" and inserting in lieu thereof "The".

(b) NATIONAL SECURITY SYSTEMS.—Sections 5141 of the Information Technology Management Reform Act (110 Stat. 689) is amended by striking subsections (a) and (b) and inserting "Notwithstanding any other provision of law, systems to which this title applies include national security systems."

(c) RELATIONSHIP TO OTHER LAWS.—Section 5703 of the Information Technology Management Reform Act of 1996 (110 Stat. 703) is amended—

(1) by striking out subsection (b); and

(2) in subsection (a), by striking out "(a) RELATIONSHIP TO TITLE 44, UNITED STATES CODE.—".

AMENDMENT NO. 4142

At the end of subtitle F of title X add the following:

SEC. 1072. INFORMATION TECHNOLOGY MANAGEMENT AMENDMENTS.

(a) REPORTING OF SIGNIFICANT DEVIATIONS FROM COST, PERFORMANCE, AND SCHEDULE GOALS.—Section 5127 of the Information Technology Management Reform Act of 1996 (division E of Public Law 104–106; 110 Stat. 687; 40 U.S.C. 1427) is amended—

(1) by striking out "The head of an executive agency" and inserting in lieu thereof "(a) IN GENERAL.—Except in the case of a national security system program, the head of an executive agency"; and

(2) by adding at the end the following:

"(b) SEPARATE REPORTING FOR NATIONAL SECURITY SYSTEMS.—The head of each executive agency shall submit to Congress an annual report that identifies each major information technology acquisition program for acquisition of a national security system for that agency, and each phase or increment of such a program, that has significantly deviated during the year covered by the report from the cost, performance, or schedule goals established for the program.

"(c) NATIONAL SECURITY SYSTEM DEFINED.—In this section, the term 'national security system' has the meaning given such term in section 5142.".

(b) APPLICABILITY OF MANAGEMENT REFORMS TO NATIONAL SECURITY SYSTEMS.—Section 5141(b) of the Information Technology Management Reform Act of 1996 (110 Stat. 689; 40 U.S.C. 1451(b)) is amended—

(1) in paragraph (1), by striking out "and 5126" and inserting in lieu thereof "5126, and 5127";

(2) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) CAPITAL PLANNING AND INVESTMENT CONTROL.—(A) National security systems shall be subject to sections 5112(c) and 5122 (other than subsection (b)(4) of section 5122).

"(B) To the maximum extent practicable, the heads of executive agencies shall apply the other provisions of section 5112 and section 5122(b)(4) to national security systems."; and

(3) in paragraph (3)—

(A) in subparagraph (A), by inserting "maximum" before "extent practicable"; and

(B) in subparagraph (B) by striking out "section 5113(b)(5) except for subparagraph (B)(iv) of that section" and inserting in lieu thereof "paragraphs (1), (2), and (5) of section 5113(b), except for paragraph (5)(B)(iv)".

(c) RELATIONSHIP TO OTHER LAWS.—Section 5703 of the Information Technology Management Reform Act of 1996 (110 Stat. 703) is amended—

(1) by striking out subsection (b); and

(2) in subsection (a), by striking out "(a) RELATIONSHIP TO TITLE 44, UNITED STATES CODE.—".

AMENDMENT NO. 4143

At the end of division A add the following new title:

TITLE XIII—FEDERAL EMPLOYEE TRAVEL REFORM

SEC. 1301. SHORT TITLE.

This title may be cited as the "Travel Reform and Savings Act of 1996".

Subtitle A—Relocation Benefits

SEC. 1311. MODIFICATION OF ALLOWANCE FOR SEEKING PERMANENT RESIDENCE QUARTERS.

Section 5724a of title 5, United States Code, is amended to read as follows:

"§ 5724a. Relocation expenses of employees transferred or reemployed

"(a) An agency shall pay to or on behalf of an employee who transfers in the interest of the Government, a per diem allowance or the actual subsistence expenses, or a combination thereof, of the immediate family of the employee for en route travel of the immediate family between the employee's old and new official stations.

"(b)(1) An agency may pay to or on behalf of an employee who transfers in the interest of the Government between official stations located within the United States—

"(A) the expenses of transportation, and either a per diem allowance or the actual subsistence expenses, or a combination thereof, of the employee and the employee's spouse for travel to seek permanent residence quarters at a new official station; or

"(B) the expenses of transportation, and an amount for subsistence expenses in lieu of a per diem allowance or the actual subsistence expenses or a combination thereof, authorized in subparagraph (A) of this paragraph.

"(2) Expenses authorized under this subsection may be allowed only for one round trip in connection with each change of station of the employee.".

SEC. 1312. MODIFICATION OF TEMPORARY QUARTERS SUBSISTENCE EXPENSES ALLOWANCE.

Section 5724a of title 5, United States Code, is further amended by adding at the end the following new subsection:

"(c)(1) An agency may pay to or on behalf of an employee who transfers in the interest of the Government—

"(A) actual subsistence expenses of the employee and the employee's immediate family for a period of up to 60 days while occupying temporary quarters when the new official station is located within the United States as defined in subsection (d) of this section; or

"(B) an amount for subsistence expenses instead of the actual subsistence expenses authorized in subparagraph (A) of this paragraph.

"(2) The period authorized in paragraph (1) of this subsection for payment of expenses for residence in temporary quarters may be extended up to an additional 60 days if the head of the agency concerned or the designee of such head of the agency determines that there are compelling reasons for the continued occupancy of temporary quarters.

"(3) The regulations implementing paragraph (1)(A) shall prescribe daily rates and amounts for subsistence expenses per individual.".

SEC. 1313. MODIFICATION OF RESIDENCE TRANSACTION EXPENSES ALLOWANCE.

(a) EXPENSES OF SALE.—Section 5724a of title 5, United States Code, is further amended by adding at the end the following new subsection:

"(d)(1) An agency shall pay to or on behalf of an employee who transfers in the interest of the Government, expenses of the sale of the residence (or the settlement of an unexpired lease) of the employee at the old official station and purchase of a residence at the new official station that are required to be paid by the employee, when the old and new official stations are located within the United States.

"(2) An agency shall pay to or on behalf of an employee who transfers in the interest of the Government from a post of duty located outside the United States to an official station within the United States (other than the official station within the United States from which the employee was transferred when assigned to the foreign tour of duty)—

"(A) expenses required to be paid by the employee of the sale of the residence (or the settlement of an unexpired lease) of the employee at the old official station from which the employee was transferred when the employee was assigned to the post of duty located outside the United States; and

"(B) expenses required to be paid by the employee of the purchase of a residence at the new official station within the United States.

"(3) Reimbursement of expenses under paragraph (2) of this subsection shall not be allowed for any sale (or settlement of an unexpired lease) or purchase transaction that occurs prior to official notification that the employee's return to the United States would be to an official station other than the official station from which the employee was transferred when assigned to the post of duty outside the United States.

"(4) Reimbursement for brokerage fees on the sale of the residence and other expenses under this subsection may not exceed those customarily charged in the locality where the residence is located.

"(5) Reimbursement may not be made under this subsection for losses incurred by the employee on the sale of the residence.

"(6) This subsection applies regardless of whether title to the residence or the unexpired lease is—

"(A) in the name of the employee alone;

"(B) in the joint names of the employee and a member of the employee's immediate family; or

"(C) in the name of a member of the employee's immediate family alone.

"(7)(A) In connection with the sale of the residence at the old official station, reimbursement under this subsection shall not exceed 10 percent of the sale price.

"(B) In connection with the purchase of a residence at the new official station, reimbursement under this subsection shall not exceed 5 percent of the purchase price.

"(8) For purposes of this subsection, the term 'United States' means the several States of the United States, the District of Columbia, the territories and possessions of the United States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979).".

(b) RELOCATION SERVICES.—Section 5724c of title 5, United State Code, is amended to read as follows:

"§ 5724c. Relocation services

"Under regulations prescribed under section 5737, each agency may enter into contracts to provide relocation services to agencies and employees for the purpose of carrying out this subchapter. An agency may pay a fee for such services. Such services include arranging for the purchase of a transferred employee's residence.".

SEC. 1314. AUTHORITY TO PAY FOR PROPERTY MANAGEMENT SERVICES.

Section 5724a of title 5, United States Code, is further amended—

(1) in subsection (d) (as added by section 1313 of this title)—

(A) by redesignating paragraph (8) as paragraph (9); and

(B) by inserting after paragraph (7) the following new paragraph:

"(8) An agency may pay to or on behalf of an employee who transfers in the interest of the Government, expenses of property management services when the agency determines that such transfer is advantageous and cost-effective to the Government, instead of expenses under paragraph (2) or (3) of this subsection, for sale of the employee's residence."; and

(2) by adding at the end the following new subsection:

"(e) An agency may pay to or on behalf of an employee who transfers in the interest of the Government, the expenses of property management services when the employee transfers to a post of duty outside the United States as defined in subsection (d) of this section. Such payment shall terminate upon return of the employee to an official station within the United States as defined in subsection (d) of this section.".

SEC. 1315. AUTHORITY TO TRANSPORT A PRIVATELY OWNED MOTOR VEHICLE WITHIN THE CONTINENTAL UNITED STATES.

(a) IN GENERAL.—Section 5727 of title 5, United States Code, is amended—

(1) by redesignating subsections (c) through (e) as subsections (d) through (f), respectively;

(2) by inserting after subsection (b) the following new subsection:

"(c) Under regulations prescribed under section 5737, the privately owned motor vehicle or vehicles of an employee, including a new appointee or a student trainee for whom travel and transportation expenses are authorized under section 5723, may be transported at Government expense to a new official station of the employee when the agency determines that such transport is advantageous and cost-effective to the Government."; and

(3) in subsection (e) (as so redesignated), by striking "subsection (b) of this section" and by inserting "subsection (b) or (c) of this section".

(b) AVAILABILITY OF APPROPRIATIONS.—(1) Section 5722(a) of title 5, United States Code, is amended—

(A) by striking "and" at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting "; and"; and

(C) by adding at the end the following:

"(3) the expenses of transporting a privately owned motor vehicle to the extent authorized under section 5727(c).".

(2) Section 5723(a) of title 5, United States Code, is amended—

(A) by striking "and" at the end of paragraph (1);

(B) by inserting "and" after the semicolon at the end of paragraph (2); and

(C) by adding at the end the following:

"(3) the expenses of transporting a privately owned motor vehicle to the extent authorized under section 5727(c);".

SEC. 1316. AUTHORITY TO PAY LIMITED RELOCATION ALLOWANCES TO AN EMPLOYEE WHO IS PERFORMING AN EXTENDED ASSIGNMENT.

(a) IN GENERAL.—Subchapter II of chapter 57 of title 5, United States Code, is amended by adding at the end the following new section:

"§ 5736. Relocation expenses of an employee who is performing an extended assignment

"(a) Under regulations prescribed under section 5737, an agency may pay to or on behalf of an employee assigned from the employee's official station to a duty station for a period of no less than 6 months and no greater than 30 months, the following expenses in lieu of payment of expenses authorized under subchapter I of this chapter:

"(1) Travel expenses to and from the assignment location in accordance with section 5724.

"(2) Transportation expenses of the immediate family and household goods and personal effects to and from the assignment location in accordance with section 5724.

"(3) A per diem allowance for the employee's immediate family to and from the assignment location in accordance with section 5724a(a).

"(4) Travel and transportation expenses of the employee and spouse to seek residence quarters at the assignment location in accordance with section 5724a(b).

"(5) Subsistence expenses of the employee and the employee's immediate family while occupying temporary quarters upon commencement and termination of the assignment in accordance with section 5724a(c).

"(6) An amount, in accordance with section 5724a(g), to be used by the employee for miscellaneous expenses.

"(7) The expenses of transporting a privately owned motor vehicle or vehicles to the assignment location in accordance with section 5727.

"(8) An allowance as authorized under section 5724b of this title for Federal, State, and local income taxes incurred on reimbursement of expenses paid under this section or on services provided in kind under this section.

"(9) Expenses of nontemporary storage of household goods and personal effects as defined in section 5726(a). The weight of the household goods and personal effects stored under this subsection, together with the weight of property transported under section 5724(a), may not exceed the total maximum weight which could be transported in accordance with section 5724(a).

"(10) Expenses of property management services.

"(b) An agency shall not make payment under this section to or on behalf of the employee for expenses incurred after termination of the temporary assignment.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 57 of title 5, United States Code, is amended by inserting after the item relating to section 5735 the following new item:

"5736. Relocation expenses of an employee who is performing an extended assignment.".

SEC. 1317. AUTHORITY TO PAY A HOME MARKETING INCENTIVE.

(a) IN GENERAL.—Subchapter IV of chapter 57 of title 5, United States Code, is amended by adding at the end the following new section:

"§ 5756. Home marketing incentive payment

"(a) Under such regulations as the Administrator of General Services may prescribe, an agency may pay to an employee who transfers in the interest of the Government an amount, not to exceed a maximum payment amount established by the Administrator in consultation with the Director of the Office of Management and Budget, to encourage the employee to aggressively market the employee's residence at the old official station when—

"(1) the residence is entered into a program established under a contract in accordance with section 5724c of this chapter, to arrange for the purchase of the residence;

"(2) the employee finds a buyer who completes the purchase of the residence through the program; and

"(3) the sale of the residence to the individual results in a reduced cost to the Government.

"(b) For fiscal years 1997 and 1998, the Administrator shall establish a maximum payment amount of 5 percent of the sales price of the residence.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 57 of title 5, United States Code, is amended by inserting at the end the following:

"5756. Home marketing incentive payment.".

SEC. 1318. CONFORMING AMENDMENTS.

(a) AMENDMENTS TO TITLE 5, UNITED STATES CODE.—(1) Section 5724a of title 5, United States Code, is further amended by adding at the end the following new subsections:

"(g)(1) Subject to paragraph (2), an employee who is reimbursed under subsections (a) through (f) of this section or section 5724(a) of this title is entitled to an amount for miscellaneous expenses—

"(A) not to exceed 2 weeks' basic pay, if such employee has an immediate family; or

"(B) not to exceed 1 week's basic pay, if such employee does not have an immediate family.

"(2) Amounts paid under paragraph (1) may not exceed amounts determined at the maximum rate payable for a position at GS–13 of the General Schedule.

"(h) A former employee separated by reason of reduction in force or transfer of function who within 1 year after the separation is reemployed by a nontemporary appointment at a different geographical location from that where the separation occurred, may be allowed and paid the expenses authorized by sections 5724, 5725, 5726(b), and 5727 of this title, and may receive the benefits authorized by subsections (a) through (g) of this section, in the same manner as though such employee had been transferred in the interest of the Government without a break in service to the location of reemployment from the location where separated.

"(i) Payments for subsistence expenses, including amounts in lieu of per diem or actual subsistence expenses or a combination thereof, authorized under this section shall not exceed the maximum payment allowed under regulations which implement section 5702 of this title.

"(j) Subsections (a), (b), and (c) shall be implemented under regulations issued under section 5737.".

(2) Section 3375 of title 5, United States Code, is amended—

(A) in subsection (a)(3), by striking "section 5724a(a)(1) of this title" and inserting "section 5724a(a) of this title";

(B) in subsection (a)(4), by striking "section 5724a(a)(3) of this title" and inserting "section 5724a(c) of this title"; and

(C) in subsection (a)(5), by striking "section 5724a(b) of this title" and inserting "section 5724a(g) of this title".

(3) Section 5724(e) of title 5, United States Code, is amended by striking "section 5724a(a), (b) of this title" and inserting "section 5724a(a) through (g) of this title".

(b) MISCELLANEOUS.—(1) Section 707 of title 38, United States Code, is amended—

(A) in subsection (a)(6), by striking "Section 5724a(a)(3)" and inserting "Section 5724a(c)"; and

(B) in subsection (a)(7), by striking "Section 5724a(a)(4)" and inserting "section 5724a(d)".

(2) Section 501 of the Public Health Service Act (42 U.S.C. 290aa) is amended—

(A) in subsection (g)(2)(A), by striking "5724a(a)(1)" and inserting "5724a(a)"; and

(B) in subsection (g)(2)(A), by striking "5724a(a)(3)" and inserting "5724a(c)".

(3) Section 925 of the Public Health Service Act (42 U.S.C. 299c–4) is amended—

(A) in subsection (f)(2)(A), by striking "5724a(a)(1)" and inserting "5724a(a)"; and

(B) in subsection (f)(2)(A), by striking "5724a(a)(3)" and inserting "5724a(c)".

Subtitle B—Miscellaneous Provisions

SEC. 1331. REPEAL OF THE LONG-DISTANCE TELEPHONE CALL CERTIFICATION REQUIREMENT.

Section 1348 of title 31, United States Code, is amended—

(1) by striking the last sentence of subsection (a)(2);

(2) by striking subsection (b); and

(3) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

SEC. 1332. TRANSFER OF AUTHORITY TO ISSUE REGULATIONS.

(a) IN GENERAL.—Subchapter II of chapter 57 of title 5, United States Code, is further amended by adding at the end the following new section:

"§ 5737. Regulations

"(a) Except as specifically provided in this subchapter, the Administrator of General Services shall prescribe regulations necessary for the administration of this subchapter.

"(b) The Administrator of General Services shall prescribe regulations necessary for the implementation of section 5724b of this subchapter in consultation with the Secretary of the Treasury.

"(c) The Secretary of Defense shall prescribe regulations necessary for the implementation of section 5735 of this subchapter.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 57 of title 5, United States Code, is further amended by inserting after the item relating to section 5736 the following new item:

"5737. Regulations.".

(c) CONFORMING AMENDMENTS.—(1) Section 5722 of title 5, United States Code, is amended by striking "Under such regulations as the President may prescribe", and inserting "Under regulations prescribed under section 5737 of this title".

(2) Section 5723 of title 5, United States Code, is amended by striking "Under such regulations as the President may prescribe", and inserting "Under regulations prescribed under section 5737 of this title".

(3) Section 5724 of title 5, United States Code, is amended—

(A) in subsections (a) through (c), by striking "Under such regulations as the President may prescribe" each place it appears and inserting "Under regulations prescribed under section 5737 of this title";

(B) in subsections (c) and (e), by striking "under regulations prescribed by the President" and inserting "under regulations prescribed under section 5737 of this title"; and

(C) in subsection (f), by striking "under the regulations of the President" and inserting "under regulations prescribed under section 5737 of this title".

(4) Section 5724b of title 5, United States Code, is amended by striking "Under such regulations as the President may prescribe" and inserting "Under regulations prescribed under section 5737 of this title".

(5) Section 5726 of title 5, United States Code, is amended—

(A) in subsection (a), by striking "as the President may by regulation authorize" and inserting "as authorized under regulations prescribed under section 5737 of this title"; and

(B) in subsections (b) and (c), by striking "Under such regulations as the President may prescribe" each place it appears and inserting "under regulations prescribed under section 5737 of this title".

(6) Section 5727(b) of title 5, United States Code, is amended by striking "Under such regulations as the President may prescribe" and inserting "Under regulations prescribed under section 5737 of this title".

(7) Section 5728 of title 5, United States Code, is amended in subsections (a), (b), and (c)(1), by striking "Under such regulations as the President may prescribe" each place it appears and inserting "Under regulations prescribed under section 5737 of this title".

(8) Section 5729 of title 5, United States Code, is amended in subsections (a) and (b), by striking "Under such regulations as the President may prescribe" each place it appears and inserting "Under regulations prescribed under section 5737 of this title".

(9) Section 5731 of title 5, United States Code, is amended by striking "in accordance with regulations prescribed by the President" and inserting "in accordance with regulations prescribed under section 5737 of this title".

SEC. 1333. REPORT ON ASSESSMENT OF COST SAVINGS.

No later than 1 year after the effective date of the final regulations issued under section 1334(b), the General Accounting Office shall submit a report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives on an assessment of the cost savings to Federal travel administration resulting from statutory and regulatory changes under this Act.

SEC. 1334. EFFECTIVE DATE; ISSUANCE OF REGULATIONS.

(a) EFFECTIVE DATE.—The amendments made by this title shall take effect upon the expiration of the 180-day period beginning on the date of the enactment of this Act.

(b) REGULATIONS.—The Administrator of General Services shall issue final regulations implementing the amendments made by this title by not later than the expiration of the period referred to in subsection (a).

Strike section 1114(b) of the bill.

BROWN AMENDMENTS NOS. 4144–4145

(Ordered to lie on the table.)

Mr. BROWN submitted two amendments intended to be proposed by him to the bill, S. 1745, supra; as follows:

AMENDMENT NO. 4144

At the end of subtitle C of title II add the following:

SEC. 237. ANNUAL REPORT ON THREAT OF ATTACK BY BALLISTIC MISSILES CARRYING NUCLEAR, CHEMICAL, OR BIOLOGICAL WARHEADS.

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

(1) The worldwide proliferation of ballistic missiles threatens United States national interests overseas and challenges United States defense planning.

(2) In the absence of a national missile defense, the United States remains vulnerable to long-range missile threats.

(3) Russia has a ground-based missile defense system deployed around Moscow.

(4) Several countries, including Iraq, Iran, and North Korea may soon be technologically capable of threatening the United States and Russia with ballistic missile attack.

(5) In order to protect all citizens in the 50 States by 2003, it is necessary that all possible actions be taken to enable America to deploy a missile defense system.

(b) REPORT REQUIRED.—(1) Each year, the President shall submit to Congress a report on the threats to the United States of attack by ballistic missiles carrying nuclear, biological, or chemical warheads.

(2) The President shall submit the first report not later than 180 days after the date of the enactment of this Act.

(c) CONTENT OF REPORT.—The report shall contain the following:

(1) A list of all countries that have nuclear, chemical, or biological weapons, the estimated numbers of such weapons that each country has, and the destructive potential of the weapons.

(2) A list of all countries that have ballistic missiles, the estimated number of such missiles that each country has, and an assessment of the ability of those countries to integrate their ballistic missile capabilities with their nuclear, chemical, or biological weapons technologies.

(3) A comparison of the United States civil defense capabilities with the civil defense capabilities of each country that has nuclear, chemical, or biological weapons and ballistic missiles capable of delivering such weapons.

(4) An estimate of the number of American fatalities and injuries that would result, and an estimate of the value of property that would be lost, from an attack on the United States by ballistic missiles carrying nuclear, chemical, or biological weapons if the United States were left undefended by a national missile defense system covering all 50 States.

(5) Assuming the use of any existing theater ballistic missile defense system for defense of the United States, a list of the States that would be left exposed to nuclear ballistic missile attacks and the criteria used to determine which States would be left exposed.

(6) The means by which the United States is preparing to defend itself against the potential threat of ballistic missile attacks by North Korea, Iran, Iraq, and other countries obtaining ballistic missiles capable of delivering nuclear, chemical, and biological weapons in the near future.

(7) For each country that is capable of attacking the United States with ballistic missiles carrying a nuclear, biological, or chemical weapon, a comparison of—

(A) the vulnerability of the United States to such an attack if theater missile defenses were used to defend against the attack; and

(B) the vulnerability of the United States to such an attack if a national missile defense were in place to defend against the attack.

AMENDMENT NO. 4145

At the end of subtitle B of title I, add the following:

SEC. 113. STUDY REGARDING NEUTRALIZATION OF THE CHEMICAL WEAPONS STOCKPILE.

(a) STUDY.—(1) The Secretary of Defense shall conduct a study to determine the cost of incineration of the current chemical munitions stockpile by building incinerators at each existing facility compared to the proposed cost of dismantling those same munitions, neutralizing them at each storage site and transporting the neutralized remains and all munitions parts to a centrally located incinerator within the United States for incineration.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate committees of the Congress a report on the study carried out under subsection (a).

SMITH (AND GREGG) AMENDMENT NO. 4146

(Ordered to lie on the table.)

Mr. SMITH (for himself and Mr. GREGG) submitted an amendment intended to be proposed by them to the bill, S. 1745, supra; as follows:

At the end of subtitle C of title XXVIII, add the following:

SEC. 2828. LAND CONVEYANCE, CRAFTS BROTHERS RESERVE TRAINING CENTER, MANCHESTER, NEW HAMPSHIRE.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to Saint Anselm College, Manchester, New Hampshire, all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 3.5 acres and located on Rockland Avenue in Manchester, New Hampshire, the site of the Crafts Brothers Reserve Training Center.

(b) REQUIREMENT RELATING TO CONVEYANCE.—The Secretary may not make the conveyance authorized by subsection (a) until the Army Reserve units currently housed at the Crafts Brothers Reserve Training Center are relocated to the Joint Service Reserve Center to be constructed at the Manchester Airport, New Hampshire.

(c) REQUIREMENT FOR FEDERAL SCREENING OF PROPERTY.—The Secretary may not carry out the conveyance of property authorized by subsection (a) unless the Secretary determines that no department or agency of the Federal Government will accept the transfer of the property.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

BROWN (AND CAMPBELL) AMENDMENT NO. 4147

(Ordered to lie on the table.)

Mr. BROWN (for himself and Mr. CAMPBELL) submitted an amendment intended to be proposed by them to the bill, S. 1745, supra; as follows:

At the end of subtitle D of title III, add the following:

SEC. 352. SENSE OF SENATE REGARDING CLEAN-UP OF ROCKY MOUNTAIN ARSENAL, COLORADO.

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

(1) It is in the interest of the Department of Defense and the state of Colorado to restore the Rocky Mountain Arsenal to a standard which will allow the community's effective reuse of the property.

(2) In the 20 years since the installation restoration program began, the Army and Shell Oil Company have spent nearly $1 billion to study and control the environmental damage at Rocky Mountain Arsenal. The majority of the cost has been for studying the site and resolving disagreements.

(3) Totaling approximately $400 million, the Arsenal's study phase is the costliest in the history of DOD clean-up programs.

(4) The study phase costs at the Rocky Mountain Arsenal represent at least 16 percent of the Army's total study costs for approximately 1200 installations nationwide.

(5) The timely completion of environmental restoration at Rocky Mountain Arsenal will reduce extraneous costs associated with long-term projects.

(b) SENSE OF THE SENATE.—

It is the sense of the Senate that the Secretary of the Army should complete environmental restoration at the Rocky Mountain Arsenal in an expeditious manner and in conformity with the time schedule and commitments put forth by the Defense Department during negotiations with the state, subject to authorize appropriations and the budget process.

GLENN AMENDMENTS NOS. 4148–4149

(Ordered to lie on the table.)

Mr. GLENN submitted two amendments intended to be proposed by him to the bill, S. 1745, supra; as follows:

AMENDMENT NO. 4148

At the end of subtitle D of title XXXI add the following:

SEC. 3161. WORKER HEALTH AND SAFETY IMPROVEMENTS AT THE DEFENSE NUCLEAR COMPLEX, MIAMISBURG, OHIO.

(a) WORKER HEALTH AND SAFETY ACTIVITIES.—(1) Of the funds authorized to be appropriated pursuant to section 3102(b), $6,200,000 shall be available to the Secretary of Energy to perform, in accordance with a settlement of *Levell et al.* v. *Monsanto Research Corp. et al.*, Case Number C-3-95-312 in the United States District Court for the Southern District of Ohio, activities to improve worker health and safety at the defense nuclear complex at Miamisburg, Ohio.

(2) Activities under paragraph (1) shall include the following:

(A) Completing the evaluation of pre-1989 internal dose assessments for workers who have received a lifetime dose greater than 20 REM.

(B) Installing state-of-the-art automated personnel contamination monitors at appropriate radiation control points and facility exits.

(C) Purchasing and installing an automated personnel access control system, and integrating the software for the system with a radiation work permit system.

(D) Upgrading the radiological records software.

(E) Immediately implementing a program that will characterize the radiological conditions of the site, buildings, and facilities before decontamination activities commence

so that radiological hazards are clearly identified and the results of decontamination validated.

(F) Reviewing and improving the conduct and evaluation of continuous air monitoring practices and implementing a personal air sampling program as a means of preventing unnecessary internal exposure.

(G) Upgrading bioassay analytical procedures in order to ensure that contract laboratories are adequately selected and validated and quality control is assured.

(H) Implementing bioassay and internal dose calculation methods that are specific to the radiological hazards identified at the site.

(3)(A) The Secretary shall complete the activities referred to in paragraph (2)(A) not later than September 30, 1997.

(B) The Secretary shall ensure that the activities referred to in paragraph (2)(F) are completed not later than December 31, 1996.

(b) SAVINGS PROVISION.—Nothing in this section shall be construed as affecting applicable statutory or regulatory requirements relating to worker health and safety.

(c) SUPPLEMENT NOT SUPPLANT.—Nothing in this section shall prohibit the Secretary from obligating and expending additional funds under this title for the activities referred to in subsection (a)(2).

AMENDMENT NO. 4149

At the end of subtitle D of title XXXI add the following:

SEC. 3161. WORKER HEALTH AND SAFETY PROTECTION.

(a) SAFETY COMPLIANCE REVIEW AND ACCOUNTABILITY.—Consistent with authority to seek or impose penalties for violations of regulations relating to nuclear safety under section 223 or 234A, respectively, of the Atomic Energy Act of 1954 (42 U.S.C. 2273, 2282a), the Secretary shall review contractor and subcontractor compliance with the nuclear safety-related regulations referred to in subsection (b) at each Department of Energy defense nuclear facility covered by the regulations.

(b) NUCLEAR SAFETY-RELATED REGULATIONS COVERED.—The regulations with which compliance is to be reviewed under this section are as follows:

(1) The nuclear safety management regulations set forth in part 830 of title 10 of the Code of Federal Regulations (as amended, if amended).

(2) The occupational radiation protection regulations set forth in part 835 of title 10 of the Code of Federal Regulations (as amended, if amended).

(c) REPORTING REQUIREMENTS.—(1) Subject to paragraph (2), the Secretary shall include in the annual report submitted to Congress pursuant to section 170(p) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(p)) a report on contractor and subcontractor compliance with the nuclear safety-related regulations referred to in subsection (b). The report shall include the following matters:

(A) A list of facilities evaluated and discussion of progress made in meeting the compliance review requirement set forth in subsection (a).

(B) A list of noncompliance events and violations identified in the compliance review.

(C) A list of actions taken under sections 223 and 234A of the Atomic Energy Act of 1954 and the nuclear safety-related regulations.

(D) Improvements in public safety and worker protection that have been required by the Secretary on the basis of the results of the compliance review.

(E) A description of the effectiveness of compliance review.

(2)(A) The first annual report under paragraph (1) shall be included in the annual report that is required by section 170(p) of the Atomic Energy Act of 1954 to be submitted to Congress not later than April 1, 1997.

(B) No report is required under paragraph (1) after all defense nuclear facilities covered by the regulations referred to in subsection (a) have undergone compliance review pursuant to this section.

(d) PERSONNEL.—The Secretary shall ensure that the number of qualified personnel used to carry out the compliance review under this section is sufficient for achieving effective results. Only Federal employees may be used to carry out a compliance review activity under this section.

(e) REGULATIONS.—Effective 18 months after the date of the enactment of the Act, violations of regulations prescribed by the Secretary to protect contractor and subcontractor employees from non-nuclear hazards at Department of Energy defense nuclear facilities shall be punishable under section 223 and 234A of the Atomic Energy Act of 1954 (42 U.S.C. 2282a and 42 U.S.C. 2273).

DeWINE (AND GLENN) AMENDMENT NO. 4150

(Ordered to lie on the table.)

Mr. DEWINE (for himself and Mr. GLENN) submitted an amendment intended to be proposed by them to the bill, S. 1745, supra; as follows:

At the end of title XXVIII, add the following:

SEC. 2828. LAND CONVEYANCE, AIR FORCE PLANT NO. 85, COLUMBUS, OHIO.

(a) CONVEYANCE AUTHORIZED.—(1) Notwithstanding any other provision of law, the Secretary of the Air Force may instruct the Administrator of General Services to convey, without consideration, to the Columbus Municipal Airport Authority (in this section referred to as the "Authority") all right, title, and interest of the United States in and to a parcel of real property, together with improvements thereon, at Air Force Plant No. 85, Columbus, Ohio, consisting of approximately 240 acres that contains the land and buildings referred to as the "airport parcel" in the correspondence from the General Services Administration to the Authority dated April 30, 1996, and is located adjacent to the Port Columbus International Airport.

(2) If the Secretary does not have administrative jurisdiction over the parcel on the date of the enactment of this Act, the conveyance shall be made by the Federal official who has administrative jurisdiction over the parcel as of that date.

(b) REQUIREMENT FOR FEDERAL SCREENING.—The Federal official may not carry out the conveyance of property authorized in subsection (a) unless the Federal official determines, in consultation with the Administrator of General Services, that no department or agency of the Federal Government will accept the transfer of the property.

(c) CONDITION OF CONVEYANCE.—The conveyance required under subsection (a) shall be subject to the condition that the Authority use the conveyed property for public airport purposes.

(d) REVERSION.—If the Federal official making the conveyance under subsection (a) determines that any portion of the conveyed property is not being utilized in accordance with subsection (c), all right, title, and interest in and to such portion shall revert to the United States and the United States shall have immediate right of entry thereon.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Federal official making the conveyance. The cost of the survey shall be borne by the Authority.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Federal official making the conveyance of property under subsection (a) may require such additional terms and conditions in connection with the conveyance as much official considered appropriate to protect the interests of the United States.

LEAHY AMENDMENT NO. 4151

(Ordered to lie on the table.)

Mr. LEAHY submitted an amendment intended to be proposed by him to the bill, S. 1745, supra; as follows:

At the end of subtitle A of title II, add the following:

SEC. 204. FUNDS FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION RELATING TO HUMANITARIAN DEMINING TECHNOLOGIES.

Of the amounts authorized to be appropriated by section 201(4), $18,000,000 shall be available for research, development, test, and evaluation activities relating to humanitarian demining technologies (PE0603120D), to be administered by the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict.

ROBB (AND WARNER) AMENDMENTS NOS. 4152–4153

(Ordered to lie on the table.)

Mr. ROBB (for himself and Mr. WARNER) submitted two amendments intended to be proposed by them to the bill, S. 1745, supra; as follows:

AMENDMENT NO. 4152

At the end of subtitle E of title X, add the following:

SEC. 1054. INFORMATION ON PROPOSED FUNDING FOR THE GUARD AND RESERVE COMPONENTS IN FUTURE-YEARS DEFENSE PROGRAMS.

(a) REQUIREMENT.—The Secretary of Defense shall specify in each future-years defense program submitted to Congress after the date of the enactment of this Act the estimated expenditures and proposed appropriations for the procurement of equipment and for military construction for each of the Guard and Reserve components.

(b) DEFINITION.—For purposes of this action, the term "Guard and Reserve components" means the following:

(1) The Army Reserve.

(2) The Army National Guard of the United States.

(3) The Naval Reserve.

(4) The Marine Corps Reserve.

(5) The Air Force Reserve.

(6) The Air National Guard of the United States.

AMENDMENT NO. 4153

Strike out subsection (a) of section 2821 and insert in lieu thereof the following new subsection (a):

(a) REQUIREMENT FOR SECRETARY OF INTERIOR TO TRANSFER CERTAIN SECTION 29 LANDS.—(1) Subject to paragraph (2), the Secretary of the Interior shall transfer to the Secretary of the Army administrative jurisdiction over the following lands located in

section 29 of the National Park System at Arlington National Cemetery, Virginia:

(A) The lands known as the Arlington National Cemetery Interment Zone.

(B) All lands in the Robert E. Lee Memorial Preservation Zone, other than those lands in the Preservation Zone that the Secretary of the Interior determines must be retained because of the historical significance of such lands or for the maintenance of nearby lands or facilities.

(2)(A) The Secretary of the Interior may not make the transfer referred to in paragraph (1)(B) until 60 days after the date on which the Secretary submits to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives—

(i) a summary of the document entitled "Cultural Landscape and Archaeological Study, Section 29, Arlington House, The Robert E. Lee Memorial";

(ii) a summary of the environmental analysis required with respect to the transfer under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(iii) the proposal of the Secretary and the Secretary of the Army setting forth the lands to be transferred and the manner in which the Secretary of the Army will develop such lands after transfer.

(B) The Secretary of the Interior shall submit the information required under subparagraph (A) not later than October 31, 1997.

(3) The transfer of lands under paragraph (1) shall be carried out in accordance with the Interagency Agreement Between the Department of the Interior, the National Park Service, and the Department of the Army, dated February 22, 1995.

(4) The exact acreage and legal descriptions of the lands to be transferred under paragraph (1) shall be determined by surveys satisfactory to the Secretary of the Interior and the Secretary of the Army.

HELMS AMENDMENT NO. 4154

(Ordered to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed by him to the bill, S. 1745, supra; as follows:

In section 1031(a), strike out "The Secretary of Defense" and insert in lieu thereof "Subject to subsection (e), the Secretary of Defense".

At the end of section 1031, add the following:

(e) LIMITATIONS.—(1) The Secretary may not obligate or expend funds to provide support under this section until 15 days after the date on which the Secretary submits to the committees referred to in paragraph (3) the certification described in paragraph (2).

(2) The certification referred to in paragraph (1) is a written certification of the following:

(A) That the provision of support under this section will not adversely affect the military preparedness of the United States Armed Forces.

(B) That the equipment and materiel provided as support will be used only by officials and employees of the Government of Mexico who have undergone a background check by the United States Government.

(C) That the Government of Mexico has certified to the Secretary that—

(i) the equipment and material provided as support will be used only by the officials and employees referred to in the subparagraph (B);

(ii) none of the equipment or materiel will be transferred (by sale, gift, or otherwise) to any person or entity not authorized by the United States to receive the equipment or materiel; and

(iii) the equipment and materiel will be used only for the purposes intended by the United States Government.

(D) That the Government of Mexico has implemented, to the satisfaction of the Secretary, a system that will provide an accounting and inventory of the equipment and materiel provided as support.

(E) That the departments, agencies, and instrumentalities of the Government of Mexico will grant United States Government personnel unrestricted access, on an unannounced basis, to any of the equipment or materiel provided as support, or to any of the records relating to such equipment or materiel.

(F) That the Government of Mexico will provide security with respect to the equipment and materiel provided as support that is equal to the security that the United States Government would provide with respect to such equipment and materiel.

(G) That the Government of Mexico will permit continuous supervision by United States Government personnel of the use by the Government of Mexico of the equipment and materiel provided as support.

(3) The committees referred to in this paragraph are the following:

(A) The Committees on Armed Services, Appropriations, and Foreign Relations of the Senate.

(B) The Committees on National Security, Appropriations, and International Relations of the House of Representatives.

THE SENATE CAMPAIGN FINANCE REFORM ACT OF 1996

HOLLINGS AMENDMENT NO. 4155

(Ordered to lie on the table.)

Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill (S. 1219) to reform the financing of Federal elections, and for other purposes; as follows:

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

SECTION 1. PROPOSED AMENDMENT TO THE CONSTITUTION RELATIVE TO CONTRIBUTIONS AND EXPENDITURES INTENDED TO AFFECT ELECTIONS FOR FEDERAL, STATE, AND LOCAL OFFICE.

The following article is proposed as an amendment to the Constitution, which, when ratified by three-fourths of the legislatures, shall be valid, to all intents and purposes, as part of the Constitution:

"ARTICLE—

"SECTION. 1. Congress shall have power to set reasonable limits on expenditures made in support of or in opposition to the nomination or election of any person to Federal office.

"SECTION. 2. Each State shall have power to set reasonable limits on expenditures made in support of or in opposition to the nomination or election of any person to State office.

"SECTION. 3. Each local government of general jurisdiction shall have power to set reasonable limits on expenditures made in support of or in opposition to the nomination or election of any person to office in that government. No State shall have power to limit the power established by this section.

"SECTION. 4. Congress shall have power to implement and enforce this article by appropriate legislation.".

THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1997

LIEBERMAN (AND OTHERS) AMENDMENT NO. 4156

Mr. LIEBERMAN (for himself, Mr. COATS, Mr. ROBB, Mr. MCCAIN, Mr. NUNN, Mr. INHOFE, Mr. KEMPTHORNE, Mr. WARNER, Mrs. HUTCHISON, Mr. SANTORUM, Mr. MURKOWSKI, Mr. LEVIN, Mr. FORD, Mr. BOND, Mr. THURMOND, Mr. MOYNIHAN, and Mr. HOLLINGS) proposed an amendment to the bill, S. 1745, supra; as follows:

AMENDMENT NO. 4156

At the end of title X, add the following:

Subtitle G—Review of Armed Forces Force Structures

SEC. 1081. SHORT TITLE.

This subtitle may be cited as the "Armed Forces Force Structures Review Act of 1996".

SEC. 1082. FINDINGS.

Congress makes the following findings:

(1) Since the collapse of the Soviet Union in 1991, the United States has conducted two substantial assessments of the force structure of the Armed Forces necessary to meet United States defense requirements.

(2) The assessment by the Bush Administration (known as the "Base Force" assessment) and the assessment by the Clinton Administration (known as the "Bottom-Up Review") were intended to reassess the force structure of the Armed Forces in light of the changing realities of the post-Cold War world.

(3) Both assessments served an important purpose in focusing attention on the need to reevaluate the military posture of the United States, but the pace of global change necessitates a new, comprehensive assessment of the defense strategy of the United States and the force structure of the Armed Forces required to meet the threats to the United States in the 21st century.

(4) The Bottom-Up Review has been criticized on several points, including—

(A) the assumptions underlying the strategy of planning to fight and win two nearly simultaneous major regional conflicts;

(B) the force levels recommended to carry out that strategy; and

(C) the funding proposed for such recommended force levels.

(5) In response to the recommendations of the Commission on Roles and Missions of the Armed Forces, the Secretary of Defense endorsed the concept of conducting a quadrennial review of the defense program at the beginning of each newly elected Presidential administration, and the Secretary intends to complete the first such review in 1997.

(6) The review is to involve a comprehensive examination of defense strategy, the force structure of the active, guard, and reserve components, force modernization plans, infrastructure, and other elements of the defense program and policies in order to determine and express the defense strategy of the United States and to establish a revised defense program through the year 2005.

(7) In order to ensure that the force structure of the Armed Forces is adequate to meet the challenges to the national security interests of the United States in the 21st century, to assist the Secretary of Defense in conducting the review referred to in paragraph (5), and to assess the appropriate force structure of the Armed Forces through the

year 2010 and beyond (if practicable), it is important to provide for the conduct of an independent, non-partisan review of the force structure that is more comprehensive than prior assessments of the force structure, extends beyond the quadrennial defense review, and explores innovative and forward-thinking ways of meeting such challenges.

SEC. 1083. QUADRENNIAL DEFENSE REVIEW.

(a) REQUIREMENT IN 1997.—The Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, shall complete in 1997 a review of the defense program of the United States intended to satisfy the requirements for a Quadrennial Defense Review as identified in the recommendations of the Commission on Roles and Missions of the Armed Forces. The review shall include a comprehensive examination of the defense strategy, force structure, force modernization plans, infrastructure, and other elements of the defense program and policies with a view toward determining and expressing the defense strategy of the United States and establishing a revised defense program through the year 2005.

(b) INVOLVEMENT OF NATIONAL DEFENSE PANEL.—(1) The Secretary shall apprise the National Defense Panel established under section 1084, on an on-going basis, of the work undertaken in the conduct of the review.

(2) Not later than March 14, 1997, the Chairman of the National Defense Panel shall submit to the Secretary the Panel's assessment of work undertaken in the conduct of the review as of that date and shall include in the assessment the recommendations of the Panel for improvements to the review, including recommendations for additional matters to be covered in the review.

(c) ASSESSMENTS OF REVIEW.—Upon completion of the review, the Chairman of the Joint Chiefs of Staff and the Chairman of the National Defense Panel shall each prepare and submit to the Secretary such chairman's assessment of the review in time for the inclusion of the assessment in its entirety in the report under subsection (d).

(d) REPORT.—Not later than May 15, 1997, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a comprehensive report on the review. The report shall include the following:

(1) The results of the review, including a comprehensive discussion of the defense strategy of the United States and the force structure best suited to implement the strategy.

(2) The threats examined for purposes of the review and the scenarios developed in the examination of such threats.

(3) The assumptions used in the review, including assumptions relating to the cooperation of allies and mission-sharing, levels of acceptable risk, warning times, and intensity and duration of conflict.

(4) The effect on the force structure of preparations for and participation in peace operations and military operations other than war.

(5) The effect on the force structure of the utilization by the Armed Forces of technologies anticipated to be available by the year 2005, including precision guided munitions, stealth, night vision, digitization, and communications, and the changes in doctrine and operational concepts that would result from the utilization of such technologies.

(6) The manpower and sustainment policies required under the defense strategy to support engagement in conflicts lasting more than 120 days.

(7) The anticipated roles and missions of the reserve components in the defense strategy and the strength, capabilities, and equipment necessary to assure that the reserve components can capably discharge such roles and missions.

(8) The appropriate ratio of combat forces to support forces (commonly referred to as the "tooth-to-tail" ratio) under the defense strategy, including, in particular, the appropriate number and size of headquarter units and Defense Agencies for that purpose.

(9) The air-lift and sea-lift capabilities required to support the defense strategy.

(10) The forward presence, pre-positioning, and other anticipatory deployments necessary under the defense strategy for conflict deterrence and adequate military response to anticipated conflicts.

(11) The extent to which resources must be shifted among two or more theaters under the defense strategy in the event of conflict in such theaters.

(12) The advisability of revisions to the Unified Command Plan as a result of the defense strategy.

SEC. 1084. NATIONAL DEFENSE PANEL.

(a) ESTABLISHMENT.—Not later than December 1, 1996, the Secretary of Defense shall establish a non-partisan, independent panel to be known as the National Defense Panel (in this section referred to as the "Panel"). The Panel shall have the duties set forth in this section.

(b) MEMBERSHIP.—The Panel shall be composed of a chairman and eight other individuals appointed by the Secretary, in consultation with the Chairman and ranking member of the Committee on Armed Services of the Senate and the Chairman and ranking member of the Committee on National Security of the House of Representatives, from among individuals in the private sector who are recognized experts in matters relating to the national security of the United States.

(c) DUTIES.—The Panel shall—

(1) conduct and submit to the Secretary the assessment of the review under section 1083 that is required by subsection (b)(2) of that section;

(2) conduct and submit to the Secretary the comprehensive assessment of the review that is required by subsection (c) of that section upon completion of the review; and

(3) conduct the assessment of alternative force structures for the Armed Forces required under subsection (d).

(d) ALTERNATIVE FORCE STRUCTURE ASSESSMENT.—(1) The Panel shall submit to the Secretary an independent assessment of a variety of possible force structures of the Armed Forces through the year 2010 and beyond, including the force structure identified in the report on the review under section 1083(d). The purpose of the assessment is to develop proposals for an "above the line" force structure of the Armed Forces and to provide the Secretary and Congress recommendations regarding the optimal force structure to meet anticipated threats to the national security of the United States through the time covered by the assessment.

(2) In conducting the assessment, the Panel shall examine a variety of potential threats (including near-term threats and long-term threats) to the national security interests of the United States, including the following:

(A) Conventional threats across a spectrum of conflicts.

(B) The proliferation of weapons of mass destruction and the means of delivering such weapons, and the illicit transfer of technology relating to such weapons.

(C) The vulnerability of United States technology to non-traditional threats, including information warfare.

(D) Domestic and international terrorism.

(E) The emergence of a major challenger having military capabilities similar to those of the United States.

(F) Any other significant threat, or combination of threats, identified by the Panel.

(3) For purposes of the assessment, the Panel shall develop a variety of scenarios requiring a military response by the Armed Forces, including the following:

(A) Scenarios developed in light of the threats examined under paragraph (2).

(B) Scenarios developed in light of a continuum of conflicts ranging from a conflict of lesser magnitude than the conflict described in the Bottom-Up Review to a conflict of greater magnitude than the conflict so described.

(4) As part of the assessment, the Panel shall also—

(A) develop recommendations regarding a variety of force structures for the Armed Forces that permit the forward deployment of sufficient land- and sea-based forces to provide an effective deterrent to conflict and to permit a military response by the United States to the scenarios developed under paragraph (3);

(B) to the extent practicable, estimate the funding required by fiscal year, in constant fiscal year 1997 dollars, to organize, equip, and support the forces contemplated under the force structures assessed in the assessment; and

(C) comment on each of the matters also to be included by the Secretary in the report required by section 1083(d).

(e) REPORT.—(1) Not later than December 1, 1997, the Panel shall submit to the Secretary a report setting forth the activities, findings and recommendations of the Panel under subsection (d), including any recommendations for legislation that the Panel considers appropriate.

(2) Not later than December 15, 1997, the Secretary shall, after consultation with the Chairman of the Joint Chiefs of Staff, submit to the committees referred to in subsection (b)(1) a copy of the report under paragraph (1), together with the Secretary's comments on the report.

(f) INFORMATION FROM FEDERAL AGENCIES.—The Panel may secure directly from the Department of Defense and any of its components and from any other Federal department and agency such information as the Panel considers necessary to carry out its duties under this section. The head of the department or agency concerned shall ensure that information requested by the Panel under this subsection is promptly provided.

(g) PERSONNEL MATTERS.—(1) Each member of the Panel shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Panel.

(2) The members of the Panel shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Panel.

(3)(A) The chairman of the Panel may, without regard to the civil service laws and regulations, appoint and terminate an executive director, and a staff of not more than

four additional individuals, if the Panel determines that an executive director and staff are necessary in order for the Panel to perform its duties effectively. The employment of an executive director shall be subject to confirmation by the Panel.

(B) The chairman may fix the compensation of the executive director without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(4) Any Federal Government employee may be detailed to the Panel without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege. The Secretary shall ensure that sufficient personnel are detailed to the Panel to enable the Panel to carry out its duties effectively.

(5) To the maximum extent practicable, the members and employees of the Panel shall travel on military aircraft, military ships, military vehicles, or other military conveyances when travel is necessary in the performance of a duty of the Panel, except that no such aircraft, ship, vehicle, or other conveyance may be scheduled primarily for the transportation of any such member or employee when the cost of commercial transportation is less expensive.

(h) ADMINISTRATIVE PROVISIONS.—(1) The Panel may use the United States mails and obtain printing and binding services in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(2) The Secretary shall furnish the Panel any administrative and support services requested by the Panel.

(3) The Panel may accept, use, and dispose of gifts or donations of services or property.

(i) PAYMENT OF PANEL EXPENSES.—The compensation, travel expenses, and per diem allowances of members and employees of the Panel shall be paid out of funds available to the Department of Defense for the payment of compensation, travel allowances, and per diem allowances, respectively, of civilian employees of the Department. The other expenses of the Panel shall be paid out of funds available to the Department for the payment of similar expenses incurred by the Department.

(j) TERMINATION.—The Panel shall terminate 30 days after the date on which the Panel submits its report to the Secretary under subsection (e).

SEC. 1085. POSTPONEMENT OF DEADLINES.

In the event that the election of President of the United States in 1996 results in a change in administrations, each deadline set forth in this subtitle shall be postponed by 3 months.

SEC. 1086. DEFINITIONS.

In this subtitle:

(1) The term "'above the line' force structure of the Armed Forces" means a force structure (including numbers, strengths, and composition and major items of equipment) for the Armed Forces at the following unit levels:

(A) In the case of the Army, the division.

(B) In the case of the Navy, the battle group.

(C) In the case of the Air Force, the wing.

(D) In the case of the Marine Corps, the expeditionary force.

(E) In the case of special operations forces of the Army, Navy, or Air Force, the major operating unit.

(F) In the case of the strategic forces, the ballistic missile submarine fleet, the heavy bomber force, and the intercontinental ballistic missile force.

(2) The term "Commission on Roles and Missions of the Armed Forces" means the Commission on Roles and Missions of the Armed Forces established by subtitle E of title IX of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1738; 10 U.S.C. 111 note).

(3) The term "military operation other than war" means any operation other than war that requires the utilization of the military capabilities of the Armed Forces, including peace operations, humanitarian assistance operations and activities, counterterrorism operations and activities, disaster relief activities, and counter-drug operations and activities.

(4) The term "peace operations" means military operations in support of diplomatic efforts to reach long-term political settlements of conflicts and includes peacekeeping operations and peace enforcement operations.

LIEBERMAN AMENDMENT NO. 4157

(Ordered to lie on the table.)

Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill, S. 1745, supra; as follows:

At the end of subtitle C of title II add the following:

SEC. 237. CORPS SAM/MEADS PROGRAM.

(a) FUNDING.—Of the amount authorized to be appropriated under section 201(4)—

(1) $56,200,000 is available for the Corps surface-to-air missile (SAM)/Medium Extended Air Defense System (MEADS) program (PE63869C); and

(2) $515,711,000 is available for Other Theater Missile Defense programs, projects, and activities (PE63872C).

(b) INTERNATIONAL COOPERATION.—The Secretary of Defense may carry out the program referred to in subsection (a) in accordance with the memorandum of understanding entered into on May 25, 1996 by the governments of the United States, Germany, and Italy regarding international cooperation on such program (including any amendments to the memorandum of understanding).

(c) LIMITATIONS.—Not more than $15,000,000 of the amount available for the Corps SAM/MEADS program under subsection (a) may be obligated until the Secretary of Defense submits to the congressional defense committees the following:

(1) An initial program estimate for the Corps SAM/MEADS program, including a tentative schedule of major milestones and an estimate of the total program cost through initial operational capability.

(2) A report on the options associated with the use of existing systems, technologies, and program management mechanisms to satisfy the requirement for the Corps surface-to-air missile, including an assessment of cost and schedule implications in relation to the program estimate submitted under paragraph (1).

(3) A certification that there will be no increase in overall United States funding commitment to the demonstration and validation phase of the Corps SAM/MEADS program as a result of the withdrawal of France from participation in the program.

JOHNSTON AMENDMENTS NOS. 4158–4163

(Ordered to lie on the table.)

Mr. JOHNSTON submitted six amendments intended to be proposed by him to the bill, S. 1745, supra; as follows:

AMENDMENT NO. 4158

On page 413, line 25, strike "$2,000,000" and insert "$5,000,000".

AMENDMENT NO. 4159

On page 410, before line 14, add the following:

"(c) STUDY ON PERMANENT AUTHORIZATION FOR GENERAL PLANT PROJECTS.—Not later than February 1, 1997, the Secretary of Energy shall report to the appropriate congressional committees on the need for, and desirability of, a permanent authorization formula for defense and civilian general plant projects in the Department of energy that includes periodic adjustments for inflation, including any legislative recommendations to enact such formula into permanent law. The report of the Secretary shall describe actions that would be taken by the Department to provide for cost control of general plant projects, taking into account the size and nature of such projects."

AMENDMENT NO. 4160

On page 410, line 10, strike "$2,000,000" and insert "$5,000,000".

AMENDMENT NO. 4161

On page 410, line 5, strike "$2,000,000" and insert "$5,000,000".

AMENDMENT NO. 4162

On page 408, after line 17, add the following new section:

"SEC. . INTERNATIONAL NUCLEAR SAFETY.

"In addition to the funds authorized to be appropriated for international nuclear safety under section 3103(12), $51,000,000 shall be available for such purposes from the amounts authorized to be appropriated for other programs under sections 3101 and 3103."

AMENDMENT NO. 4163

On page 408, line 10, strike "15,200,000" and insert "66,200,000".

BUMPERS (AND PRYOR) AMENDMENT NO. 4164

(Ordered to lie on the table.)

Mr. BUMPERS (for himself and Mr. PRYOR) submitted an amendment intended to be proposed by them to the bill, S. 1745, supra; as follows:

At the end of subtitle C of title XXVIII, add the following:

SEC. 2828. LAND CONVEYANCE, PINE BLUFF ARSENAL, ARKANSAS.

(A) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the Economic Development Alliance of Jefferson County, Arkansas (in this section referred to as the "Alliance"), all right, title, and interest of the United States in and to a parcel of real property, together with any improvements thereon, consisting of approximately 1,500 acres and comprising a portion of the Pine Bluff Arsenal, Arkansas.

(b) REQUIREMENT RELATING TO CONVEYANCE.—The Secretary may not carry out the conveyance of property authorized under subsection (a) until the completion by the Secretary of any environmental restoration and remediation that is required with the respect to the property under applicable law.

(c) CONDITIONS OF CONVEYANCE.—The conveyance authorized under subsection (a) shall be subject to the following conditions:

(1) That the Alliance agree not to carry out any activities on the property to be conveyed that interfere with the construction, operation, and decommissioning of the chemical demilitarization facility to be constructed at Pine Bluff Arsenal.

(2) That the property be used during the 25-year period beginning on the date of the conveyance only as the site of the facility known as the "Bioplex", and for activities related thereto.

(d) COSTS OF CONVEYANCE.—The Alliance shall be responsible for any costs of the Army associated with the conveyance of property under this section, including administrative costs, the costs of an environmental baseline survey with respect to the property, and the cost of any protection services required by the Secretary in order to secure operations of the chemical demilitarization facility from activities on the property after the conveyance.

(e) REVERSIONARY INTERESTS.—If the Secretary determines at any time during the 25-year period referred to in subsection (c)(2) that the property conveyed under this section is not being used in accordance with that subsection, all right, title, and interest in and to the property shall revert to the United States and the United States shall have immediate right of entry thereon.

(f) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property conveyed under this section shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Alliance.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

KENNEDY AMENDMENTS NOS. 4165–4167

(Ordered to lie on the table.)

Mr. KENNEDY submitted three amendments intended to be proposed by him to the bill, S. 1745, supra; as follows:

AMENDMENT NO. 4165

At the end of subtitle F of title X, add the following:

SEC. 1072. SENSE OF THE SENATE ON DEPARTMENT OF DEFENSE SHARING OF EXPERIENCES WITH MILITARY CHILD CARE.

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

(1) The Department of Defense should be congratulated on the successful implementation of the Military Child Care Act 1989 (title XV of Public Law 101–189; 10 U.S.C. 113 note).

(2) The actions taken by the Department as a result of that Act have dramatically improved the availability, affordability, quality, and consistency of the child care services provided to members of the Armed Forces.

(3) Child care is important to the readiness of members of the Armed Forces because single parents and couples in military service must have access to affordable child care of good quality if they are to perform their jobs and respond effectively to long work hours or deployment.

(4) Child care is important to the retention of members of the Armed Forces in military service because the dissatisfaction of the families of such members with military life is a primary reason for the departure of such members from military service.

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

(1) the civilian and military child care communities, Federal, State, and local agencies, and businesses and communities involved in the provision of child care services could benefit from the development of partnerships to foster an exchange of ideas, information, and materials relating to their experiences with the the provision of such services and to encourage closer relationships between military installations and the communities that support them;

(2) such partnerships would be beneficial to all families by helping providers of child care services exchange ideas about innovative ways to address barriers to the effective provision of such services; and

(3) there are many ways that these partnerships can be developed, including—

(A) cooperation between the directors and curriculum specialists of military child development centers and civilian child development centers in assisting such centers in the accreditation process;

(B) use of family support staff to conduct parent and family workshops for new parents and parents with young children in family housing on military installations and in communities in the vicinity of such installations;

(C) internships in Department of Defense child care programs for civilian child care providers to broaden the base of good-quality child care services in communities in the vicinity of military installations; and

(D) attendance by civilian child care providers at Department child-care training classes on a space-available basis.

(c) REPORT.—Not later than June 30, 1997, the Secretary of Defense shall submit to Congress a report on the status of any initiatives undertaken this section, including recommendations for additional ways to improve the child care programs of the Department of Defense and to improve such programs so as to benefit civilian child care providers in communities in the vicinity of military installations.

AMENDMENT NO. 4166

At the end of subtitle F of title X, add the following

SEC. 1072. SENSE OF THE SENATE ON DEPARTMENT OF DEFENSE SHARING OF EXPERIENCES UNDER MILITARY YOUTH PROGRAMS.

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

(1) Programs of the Department of Defense for youth who are dependents of members of the Armed Forces have not received the same level of attention and resources as have child care programs of the Department since the passage of the Military Child Care Act of 1989 (title XV of Public Law 101–189; 10 U.S.C. 113 note).

(2) Older children deserve as much attention to their developmental needs as do younger children.

(3) The Department has started to direct more attention to programs for youths who are dependents of members of the Armed Forces by funding the implementation of 20 model community programs to address the needs of such youths.

(4) The lessons learned from such programs could apply to civilian youth programs as well.

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

(1) the Department of Defense, Federal, State, and local agencies, and businesses and communities involved in conducting youth programs could benefit from the development of partnerships to foster an exchange of ideas, information, and materials relating to such programs and to encourage closer relationships between military installations and the communities that support them;

(2) such partnerships could benefit all families by helping the providers of services for youths exchange ideas about innovative ways to address barriers to the effective provision of such services; and

(3) there are many ways that such partnerships could be developed, including—

(A) cooperation between the Department and Federal and State educational agencies in exploring the use of public school facilities for child care programs and youth programs that are mutually beneficial to the Department and civilian communities and complement programs of the Department carried out at its facilities; and

(B) improving youth programs that enable adolescents to relate to new peer groups when families of members of the Armed Forces are relocated.

(c) REPORT.—Not later than June 30, 1997, the Secretary of Defense shall submit to Congress a report on the status of any initiatives undertaken this section, including recommendations for additional ways to improve the youth programs of the Department of Defense and to improve such programs so as to benefit communities in the vicinity of military installations.

AMENDMENT NO. 4167

In section 301(5), strike out "$9,863,942,000" and insert in lieu thereof "$9,867,442,000".

GORTON AMENDMENT NO. 4168

(Ordered to lie on the table.)

Mr. GORTON submitted an amendment intended to be proposed by him to the bill, S. 1745, supra; as follows:

At the end of title XXXI, add the following:

Subtitle E—Environmental Restoration at Defense Nuclear Facilities

SEC. 3171. SHORT TITLE.

This subtitle may be cited as the "Defense Nuclear Facility Environmental Restoration Pilot Program Act of 1996".

SEC. 3172. APPLICABILITY.

(a) IN GENERAL.—The provisions of this subtitle shall apply to the following defense nuclear facilities:

(1) Hanford.

(2) Any other defense nuclear facility if—

(A) the chief executive officer of the State in which the facility is located submits to the Secretary a request that the facility be covered by the provisions of this subtitle; and

(B) the Secretary approves the request.

(b) LIMITATION.—The Secretary may not approve a request under subsection (a)(2) until 60 days after the date on which the Secretary notifies the congressional defense committees of the Secretary's receipt of the request.

SEC. 3173. DESIGNATION OF COVERED FACILITIES AS ENVIRONMENTAL CLEANUP DEMONSTRATION AREAS.

(a) DESIGNATION.—Each defense nuclear facility covered by this subtitle under section 3172(a) is hereby designated as an environmental cleanup demonstration area. The purpose of the designation is to establish each such facility as a demonstration area at

which to utilize and evaluate new technologies to be used in environmental restoration and remediation at other defense nuclear facilities.

(b) SENSE OF CONGRESS.—It is the sense of Congress that Federal and State regulatory agencies, members of the surrounding communities, and other affected parties with respect to each defense nuclear facility covered by this subtitle should continue to—

(1) develop expedited and streamlined processes and systems for cleaning up such facility;

(2) eliminate unnecessary administrative complexity and unnecessary duplication of regulation with respect to the clean up of such facility;

(3) proceed expeditiously and cost-effectively with environmental restoration and remediation activities at such facility;

(4) consider future land use in selecting environmental clean up remedies at such facility; and

(5) identify and recommend to Congress changes in law needed to expedite the clean up of such facility.

SEC. 3174. SITE MANAGERS.

(a) APPOINTMENT.—(1)(A) The Secretary shall appoint a site manager for Hanford not later than 90 days after the date of the enactment of this Act.

(B) The Secretary shall develop a list of the criteria to be used in appointing a site manager for Hanford. The Secretary may consult with affected and knowledgeable parties in developing the list.

(2) The Secretary shall appoint the site manager for any other defense nuclear facility covered by this subtitle not later than 90 days after the date of the approval of the request with respect to the facility under section 3172(a)(2).

(3) An individual appointed as a site manager under this subsection shall, if not an employee of the Department at the time of the appointment, be an employee of the Department while serving as a site manager under this subtitle.

(b) DUTIES.—(1) Subject to paragraphs (2) and (3), in addition to other authorities provided for in this subtitle, the site manager for a defense nuclear facility shall have full authority to oversee and direct operations at the facility, including the authority to—

(A) enter into and modify contractual agreements to enhance environmental restoration and waste management at the facility;

(B) request that the Department headquarters submit to Congress a reprogramming package shifting among accounts funds available for the facility in order to facilitate the most efficient and timely environmental restoration and waste management at the facility, and, in the event that the Department headquarters does not act upon the request within 30 days of the date of the request, submit such request to the appropriate committees of Congress for review;

(C) negotiate amendments to environmental agreements applicable to the facility for the Department; and

(D) manage environmental management and programmatic personnel of the Department at the facility.

(2) A site manager shall negotiate amendments under paragraph (1)(C) with the concurrence of the Secretary.

(3) A site manager may not undertake or provide for any action under paragraph (1) that would result in an expenditure of funds for environmental restoration or waste management at the defense nuclear facility concerned in excess of the amount authorized to be expended for environmental restoration or waste management at the facility without the approval of such action by the Secretary.

(c) INFORMATION ON PROGRESS.—The Secretary shall regularly inform Congress of the progress made by site managers under this subtitle in achieving expedited environmental restoration and waste management at the defense nuclear facilities covered by this subtitle.

SEC. 3175. DEPARTMENT OF ENERGY ORDERS.

Effective 60 days after the appointment of a site manager for a defense nuclear facility under section 3174(a), an order relating to the execution of environmental restoration, waste management, technology development, or other site operation activities at the facility may be imposed at the facility if the Secretary makes a finding that the order—

(1) is essential to the protection of human health or the environment or to the conduct of critical administrative functions; and

(2) will not interfere with bringing the facility into compliance with environmental laws, including the terms of any environmental agreement.

SEC. 3176. DEMONSTRATIONS OF TECHNOLOGY FOR REMEDIATION OF DEFENSE NUCLEAR WASTE.

(a) IN GENERAL.—The site manager for a defense nuclear facility under this subtitle shall promote the demonstration, verification, certification, and implementation of innovative environmental technologies for the remediation of defense nuclear waste at the facility.

(b) DEMONSTRATION PROGRAM.—To carry out subsection (a), each site manager shall establish a program at the defense nuclear facility concerned for testing environmental technologies for the remediation of defense nuclear waste at the facility. In establishing such a program, the site manager may—

(1) establish a simplified, standardized, and timely process for the testing and verification of environmental technologies;

(2) solicit and accept applications to test environmental technology suitable for environmental restoration and waste management activities at the facility, including prevention, control, characterization, treatment, and remediation of contamination;

(3) consult and cooperate with the heads of existing programs at the facility for the certification and verification of environmental technologies at the facility; and

(4) pay the costs of the demonstration of such technologies.

(c) FOLLOW-ON CONTRACTS.—(1) If the Secretary and a person demonstrating a technology under the program enter into a contract for remediation of nuclear waste at a defense nuclear facility covered by this subtitle, or at any other Department facility, as a follow-on to the demonstration of the technology, the Secretary shall ensure that the contract provides for the Secretary to recoup from the contractor the costs incurred by the Secretary pursuant to subsection (b)(4) for the demonstration.

(2) No contract between the Department and a contractor for the demonstration of technology under subsection (b) may provide for reimbursement of the costs of the contractor on a cost plus fee basis.

(d) SAFE HARBORS.—In the case of an environmental technology demonstrated, verified, certified, and implemented at a defense nuclear facility under a program established under subsection (b), the site manager of another defense nuclear facility may request the Secretary to waive or limit contractual or Department regulatory requirements that would otherwise apply in implementing the same environmental technology at such other facility.

SEC. 3177. REPORTS TO CONGRESS.

Not later than 120 days after the date of the appointment of a site manager under section 3174(a), the site manager shall submit to Congress and the Secretary a report describing the expectations of the site manager with respect to environmental restoration and waste management at the defense nuclear facility concerned by reason of the exercise of the authorities provided in this subtitle. The report shall describe the manner in which the exercise of such authorities is expected to improve environmental restoration and waste management at the facility and identify saving that are expected to accrue to the Department as a result of the exercise of such authorities.

SEC. 3178. TERMINATION.

The authorities provided for in this subtitle shall expire five years after the date of the enactment of this Act.

SEC. 3179. DEFINITIONS.

In this subtitle:

(1) The term "Department" means the Department of Energy.

(2) The term "defense nuclear facility" has the meaning given the term "Department of Energy defense nuclear facility" in section 318 of the Atomic Energy Act of 1954 (42 U.S.C. 2286g).

(3) The term "Hanford" means the defense nuclear facility located in southeastern Washington State known as the Hanford Reservation, Washington.

(4) The term "Secretary" means the Secretary of Energy.

KYL (AND BINGAMAN) AMENDMENT NO. 4169

(Ordered to lie on the table.)

Mr. KYL (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by them to the bill, S. 1745, supra; as follows:

At the end of subtitle D of title X, add the following:

SEC. 1043. PROHIBITION ON COLLECTION AND RELEASE OF DETAILED SATELLITE IMAGERY RELATING TO ISRAEL AND OTHER COUNTRIES AND AREAS.

(a) COLLECTION AND DISSEMINATION.—No department or agency of the Federal Government may license the collection or dissemination by any non-Federal entity of satellite imagery with respect to Israel, or to any other country or geographic area designated by the President for this purpose, unless such imagery is no more detailed or precise than satellite imagery of the country or geographic area concerned that is routinely available from commercial sources.

(b) DECLASSIFICATION AND RELEASE.—No department or agency of the Federal Government may declassify or otherwise release satellite imagery with respect to Israel, or to any other country or geographic area designated by the President for this purpose, unless such imagery is no more detailed or precise than satellite imagery of the country or geographic area concerned that is routinely available from commercial sources.

KYL AMENDMENTS NOS. 4170–4175

(Ordered to lie on the table.)

Mr. KYL submitted six amendments intended to be proposed by him to the bill, S. 1745, supra; as follows:

AMENDMENT NO. 4170

At the end of subtitle C of title II, add the following:

SEC. 237. REQUIREMENT THAT MULTILATERALIZATION OF THE ABM TREATY BE DONE ONLY THROUGH TREATY-MAKING POWER.

Any addition of a new signatory party to the ABM Treaty (in addition to the United States and the Russian Federation) constitutes an amendment to the treaty that can only be agreed to by the United States through the treaty-making power of the United States. No funds appropriated or otherwise available for any fiscal year may be obligated or expended for the purpose of implementing or making binding upon the United States the participation of any additional nation as a party to the ABM Treaty unless that nation is made a party to the treaty by an amendment to the Treaty that is made in the same manner as the manner by which a treaty is made.

AMENDMENT NO. 4171

Strike out section 231 and insert in lieu thereof the following new section:

SEC. 231. POLICY ON COMPLIANCE WITH THE ABM TREATY.

(a) POLICY CONCERNING SYSTEMS SUBJECT TO ABM TREATY.—Congress finds that, unless and until a missile defense system, system upgrade, or system component is flight tested in an ABM-qualifying flight test (as defined in subsection (c)), such system, system upgrade, or system component—

(1) has not, for purposes of the ABM Treaty, been tested in an ABM mode nor been given capabilities to counter strategic ballistic missiles; and

(2) therefore is not subject to any application, limitation, or obligation under the ABM Treaty.

(b) PROHIBITIONS.—(1) Funds appropriated to the Department of Defense may not be obligated or expended for the purpose of—

(A) prescribing, enforcing, or implementing any Executive order, regulation, or policy that would apply the ABM Treaty (or any limitation or obligation under such Treaty) to research, development, testing, or deployment of a theater missile defense system, a theater missile defense system upgrade, or a theater missile defense system component; or

(B) taking any other action to provide for the ABM Treaty (or any limitation or obligation under such Treaty) to be applied to research, development, testing, or deployment of a theater missile defense system, a theater missile defense system upgrade, or a theater missile defense system component.

(2) This subsection applies with respect to each missile defense system, missile defense system upgrade, or missile defense system component that is capable of countering modern theater ballistic missiles.

(3) This subsection shall cease to apply with respect to a missile defense system, missile defense system upgrade, or missile defense system component when that system, system upgrade, or system component has been flight tested in an ABM-qualifying flight test.

(c) AMB-QUALIFYING FLIGHT TEST DEFINED.—For purposes of this section, an AMB-qualifying flight test is a flight test against a ballistic missile which, in that flight test, exceeds—

(1) a range of 3,500 kilometers; or

(2) a velocity of 5 kilometers per second.

AMENDMENT NO. 4172

At the end of subtitle C of title II, add the following:

SEC. 237. DEPLOYMENT OF THEATER MISSILE DEFENSE SYSTEMS UNDER THE ABM TREATY.

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

(1) The threat posed to the national security of the United States, the Armed Forces, and our friends and allies by the proliferation of ballistic missiles is significant and growing both quantitatively and qualitatively.

(2) The deployment of theater missile defense systems will deny potential adversaries the option of threatening or attacking United States forces, coalition partners of the United States, or allies of the United States with ballistic missiles armed with weapons of mass destruction as a way of offsetting the operational and technical advantages of the United States Armed Forces and the armed forces of our coalition partners and allies.

(3) Although technology control regimes and other forms of international arms control agreements can contribute to nonproliferation, such measures are inadequate for dealing with missile proliferation and should not be viewed as alternatives to missile defense systems and other active and passive measures.

(4) The Department of Defense is currently considering for deployment as theater missile defense interceptors certain systems determined to comply with the ABM Treaty, including PAC3, THAAD, Navy Lower Tier, and Navy Upper Tier (also known as Navy Wide Area Defense).

(5) In the case of the ABM Treaty, as with all other arms control treaties to which the United States is signatory, each signatory bears the responsibility of ensuring that its actions comply with the treaty, and the manner of such compliance need not be a subject of negotiation between the signatories.

(b) SENSE OF SENATE.—It is the sense of the Senate that the theater missile defense systems currently considered for deployment by the Department of Defense comply with the ABM Treaty.

(c) DEPLOYMENT OF SYSTEMS.—The Secretary of Defense may proceed with the development, testing, and deployment of the theater missile defense systems currently considered for deployment by the Department of Defense.

AMENDMENT NO. 4173

At the end of subtitle D of title X add the following:

SEC. 1044. SENSE OF THE SENATE CONCERNING EXPORT CONTROLS.

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

(1) Export controls are a part of a comprehensive response to national security threats. United States exports should be restricted where those threats exist to national security, nonproliferation, and foreign policy interests of the United States.

(2) The export of certain commodities and technology may adversely affect the national security and foreign policy of the United States by making a significant contribution to the military potential of individual countries or by disseminating the capability to design, develop, test, produce, stockpile, or use weapons of mass destruction, missile delivery systems, and other significant military capabilities. Therefore, the administration of export controls should emphasize the control of these exports.

(3) The acquisition of sensitive commodities and technologies by those countries and end users whose actions or policies run counter to United States national security of foreign policy interests may enhance the military capabilities of those countries, particularly their ability to design, develop, test, produce, stockpile, use, and deliver nuclear, chemical, and biological weapons, missile delivery systems, and other significant military capabilities. This enhancement threatens the security of the United States and its allies. The availability to countries and end users of items that contribute to military capabilities or the proliferation of weapons of mass destruction is a fundamental concern of the United States and should be eliminated through deterrence, negotiations, and other appropriate means whenever possible.

(4) The national security of the United States depends not only on wise foreign policies and a strong defense, but also a vibrant national economy. To be truly effective, export controls should be applied uniformly by all suppliers.

(5) On November 5, 1995, President William J. Clinton extended Executive Order No. 12938 regarding "Weapons of Mass Destruction", and "declared a national emergency with respect to the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States posed by the proliferation of nuclear, biological, and chemical weapons and the means of delivering such weapons".

(6) A successor regime to COCOM (the Coordinating Commission on Multilateral Controls) has not been established. Currently, each nation is determining independently which dual-use military items, if any, will be controlled for export.

(7) The United States should play a leading role in promoting transparency and responsibility with regard to the transfers of sensitive dual-use goods and technologies.

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

(1) establishing an international export control regime, empowered to control exports of dual-use technology, is critically important and should become a top priority for the United States; and

(2) the United States should strongly encourage its allies and friends to—

(A) adopt a commodity control list which governs the same or similar items as are controlled by the United States Commodity Control list;

(B) strengthen enforcement activities; and

(C) explore the use of unilateral export controls where the possibility exists that an export could contribute to proliferation.

AMENDMENT NO. 4174

At the end of title XXXIII, add the following:

SEC. 3303. ADDITIONAL DISPOSAL AUTHORITY.

(a) ADDITIONAL MATERIALS AUTHORIZED FOR DISPOSAL.—In addition to the quantities of materials authorized for disposal under subsection (a) of section 3302 as specified in the table in subsection (b) of that section, the President may dispose of the materials specified in the table in subsection (b) of this section in accordance with that section.

(b) TABLE.—The table in this subsection is as follows:

Additional Authorized Stockpile Disposal

Material for disposal	Quantity
Titanium Sponge	10,000 short tons.

AMENDMENT NO. 4175

On page 108, between lines 5 and 6, insert the following:

SEC. 368. PROHIBITION OF SALE OR RENTAL OF SEXUALLY EXPLICIT MATERIAL.

(a) IN GENERAL.—(1) Chapter 147 of title 10, United States Code, is amended by adding at the end the following:

"§ 2490b. Sale or rental of sexually explicit material prohibited

"(a) PROHIBITION OF SALE OR RENTAL.—The Secretary of Defense may not permit the sale or rental of sexually explicit written or videotaped material on property under the jurisdiction of the Department of Defense.

"(b) PROHIBITION OF OFFICIALLY PROVIDED SEXUALLY EXPLICIT MATERIAL.—A member of the Armed Forces or a civilian officer or employee of the Department of Defense acting in an official capacity for sale remuneration or rental may not provide sexually explicit material to another person.

"(c) REGULATIONS.—The Secretary of Defense shall prescribe regulations to implement this section.

"(d) DEFINITIONS.—In this section:

"(1) The term 'sexually explicit material' means an audio recording, a film or video recording, or a periodical with visual depictions, produced in any medium, the dominant theme of which depicts or describes nudity, including sexual or excretory activities or organs, in a lascivious way.

"(2) The term 'property under the jurisdiction of the Department of Defense' includes commissaries, all facilities operated by the Army and Air Force Exchange Service, the Navy Exchange Service Command, the Navy Resale and Services Support Office, Marine Corps exchanges, and ship stores.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2490b. Sale or rental of sexually explicit material prohibited.".

(b) EFFECTIVE DATE.—Subsection (a) of section 2490b of title 10, United States Code, as added by subsection (a) of this section, shall take effect 90 days after the date of enactment of this Act.

BOXER AMENDMENT NO. 4176

(Ordered to lie on the table.)

Mrs. BOXER submitted an amendment intended to be proposed by her to the bill, S. 1745, supra; as follows:

At the end of subtitle E of title III, add the following:

SEC. 368. REIMBURSEMENT UNDER AGREEMENT FOR INSTRUCTION OF CIVILIAN STUDENTS AT FOREIGH LANGUAGE INSTITUTE OF THE DEFENSE LANGUAGE INSTITUTE.

Section 559(a)(1) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 108 Stat. 2776; 10 U.S.C. 4411 note) is amended by striking out "on a cost-reimbursable, space-available basis" and inserting in lieu thereof "on a space-available basis and for such reimbursement (whether in whole or in part) as the Secretary considers appropriate".

HARKIN (AND KERRY) AMENDMENT NO. 4177

(Ordered to lie on the table.)

Mr. HARKIN (for himself and Mr. KERRY) submitted an amendment intended to be proposed by them to the bill, S. 1745, supra; as follows:

AMENDMENT NO. 4177

At the end of subtitle D of title X, add the following:

SEC. 1044. DEFENSE BURDENSHARING.

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

(1) Although the Cold War has ended, the United States continues to spend billions of dollars to promote regional security and to make preparations for regional contingencies.

(2) United States defense expenditures primarily promote United States national security interests; however, they also significantly contribute to the defense of our allies.

(3) In 1993, the gross domestic product of the United States equaled $6,300,000,000,000, while the gross domestic product of other NATO member countries totaled $7,200,000,000,000.

(4) Over the course of 1993, the United States spent 4.7 percent of its gross domestic product on defense, while other NATO members collectively spent 2.5 percent of their gross domestic product on defense.

(5) In addition to military spending, foreign assistance plays a vital role in the establishment and maintenance of stability in other nations and in implementing the United States national security strategy.

(6) This assistance has often prevented the outbreak of conflicts which otherwise would have required costly military interventions by the United States and our allies.

(7) From 1990-1993, the United States spent $59,000,000,000 in foreign assistance, a sum which represents an amount greater than any other nation in the world.

(8) In 1995, the United States spent over $10,000,000,000 to promote European security, while European NATO nations only contributed $2,000,000,000 toward this effort.

(9) With a smaller gross domestic product and a larger defense budget than its European NATO allies, the United States shoulders an unfair share of the burden of the common defense.

(10) Because of this unfair burden, the Congress previously voted to require United States allies to bear a greater share of the costs incurred for keeping United States military forces permanently assigned in their countries.

(11) As a result of this action, for example, Japan now pays over 75 percent of the nonpersonnel costs incurred by United States military forces permanently assigned there, while our European allies pay for less than 25 percent of these same costs. Japan signed a new Special Measures Agreement this year which will increase Japan's contribution toward the cost of stationing United States troops in Japan by approximately $30,000,000 a year over the next five years.

(12) These increased contributions help to rectify the imbalance in the burden shouldered by the United States for the common defense.

(13) The relative share of the burden of the common defense still falls too heavily on the United States, and our allies should dedicate more of their own resources to defending themselves.

(b) EFFORTS TO INCREASE ALLIED BURDENSHARING.—The President shall seek to have each nation that has cooperative military relations with the United States (including security agreements, basing arrangements, or mutual participation in multinational military organizations or operations) take one or more of the following actions:

(1) For any nation in which United States military personnel are assigned to permanent duty ashore, increase its financial contributions to the payment of the nonpersonnel costs incurred by the United States Government for stationing United States military personnel in that nation, with a goal of achieving the following percentages of such costs:

(A) By September 30, 1997, 37.5 percent.

(B) By September 30, 1998, 50 percent.

(C) By September 30, 1999, 62.5 percent.

(D) By September 30, 2000, 75 percent.

An increase in financial contributions by any nation under this paragraph may include the elimination of taxes, fees, or other charges levied on United States military personnel, equipment, or facilities stationed in that nation.

(2) Increase its annual budgetary outlays for national defense as a percentage of its gross domestic product by 10 percent or at least to a level commensurate to that of the United States by September 30, 1997.

(3) Increase its annual budgetary outlays for foreign assistance (to promote democratization, economic stabilization, transparency arrangements, defense economic conversion, respect for the rule of law, and internationally recognized human rights) by 10 percent or at least to a level commensurate to that of the United States by September 30, 1997.

(4) Increase the amount of military assets (including personnel, equipment, logistics, support and other resources) that it contributes, or would be prepared to contribute, to multinational military activities worldwide, including United Nations or regional peace operations.

(c) AUTHORITIES TO ENCOURAGE ACTIONS BY UNITED STATES ALLIES.—In seeking the actions described in subsection (b) with respect to any nation, or in response to a failure by any nation to undertake one or more of such actions, the President may take any of the following measures:

(1) Reduce the end strength level of members of the Armed Forces assigned to permanent duty ashore in that nation.

(2) Impose on that nation taxes, fees, or other charges similar to those that such nation imposes on United States forces stationed in that nation.

(3) Reduce (through rescission, impoundment, or other appropriate procedures as authorized by law) the amount the United States contributes to the NATO Civil Budget, Military Budget, or Security Investment Program.

(4) Suspend, modify, or terminate any bilateral security agreement the United States has with that nation.

(5) Reduce (through rescission, impoundment or other appropriate procedures as authorized by law) any United States bilateral assistance appropriated for that nation.

(6) Take any other action the President determines to be appropriate as authorized by law.

(d) REPORT ON PROGRESS IN INCREASING ALLIED BURDENSHARING.—Not later than March 1, 1997, the Secretary of Defense shall submit to Congress a report on—

(1) steps taken by other nations to complete the actions described in subsection (b);

(2) all measures taken by the President, including those authorized in subsection (c), to achieve the actions described in subsection (b); and

(3) the budgetary savings to the United States that are expected to accrue as a result of the steps described under paragraph (1).

(e) REPORT ON NATIONAL SECURITY BASES FOR FORWARD DEPLOYMENT AND BURDENSHARING RELATIONSHIPS.—(1) In order to ensure the best allocation of budgetary resources, the President shall undertake a review of the status of elements of the United States Armed Forces that are permanently stationed outside the United States. The review shall include an assessment of the following:

(A) The alliance requirements that are to be found in agreements between the United States and other countries.

(B) The national security interests that support permanently stationing elements of the United States Armed Forces outside the United States.

(C) The stationing costs associated with the forward deployment of elements of the United States Armed Forces.

(D) The alternatives available to forward deployment (such as material prepositioning, enhanced airlift and sealift, or joint training operations) to meet such alliance requirements or national security interests, with such alternatives identified and described in detail.

(E) The costs and force structure configurations associated with such alternatives to forward deployment.

(F) The financial contributions that allies of the United States make to common defense efforts (to promote democratization, economic stabilization, transparency arrangements, defense economic conversion, respect for the rule of law, and internationally recognized human rights).

(G) The contributions that allies of the United States make to meeting the stationing costs associated with the forward deployment of elements of the United States Armed Forces.

(H) The annual expenditures of the United States and its allies on national defense, and the relative percentages of each nation's gross domestic product constituted by those expenditures.

(2) The President shall submit to Congress a report on the review under paragraph (1). The report shall be submitted not later than March 1, 1997, in classified and unclassified form.

HARKIN AMENDMENT NO. 4178

(Ordered to lie on the table.)

Mr. HARKIN submitted an amendment intended to be proposed by him to the bill, S. 1745, supra; as follows:

At the end of subtitle B of title III, add the following:

SEC. 315. PROHIBITION ON USE OF FUNDS TO PAY CONTRACTOR COSTS OF CERTAIN RESTRUCTURING.

None of the funds authorized to be appropriated for the Department of Defense by this Act may be obligated or expended to pay a contractor under a contract with the Department for any costs incurred by the contractor when it is made known to the Federal official having authority to obligate or expend such funds that such costs are restructuring costs associated with a business combination that were incurred on or after August 15, 1994.

NUNN AMENDMENTS NOS. 4179–4180

(Ordered to lie on the table.)

Mr. NUNN submitted two amendments intended to be proposed by him to the bill, S. 1745, supra; as follows:

AMENDMENT NO. 4179

At the end of subtitle D of title X, add the following:

SEC. 1044. REPORT ON NATO ENLARGEMENT.

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

(1) Since World War II the United States has spent trillions of dollars to enable our European allies to recover from the devastation of the war and, since 1949, to enhance the stability and security of the Euro-Atlantic area through the North Atlantic Treaty Organization (NATO).

(2) NATO has been the most successful collective security organization in history.

(3) The Preamble to the Washington Treaty (North Atlantic Treaty) provides that:

"The Parties to this Treaty reaffirm their faith in the purposes and principles of the Charter of the United Nations and their desire to live in peace with all peoples and all governments. They are determined to safeguard the freedom, common heritage and civilization of their peoples, founded on the principles of democracy, individual liberty and the rule of law. They seek to promote stability and well-being in the North Atlantic Area. They are resolved to unite their efforts for collective defense and for the preservation of peace and security.".

(4) Article 5 of the North Atlantic Treaty provides for NATO member nations to treat an attack on one as an attack on all.

(5) NATO has enlarged its membership three times since its establishment in 1949.

(6) At its ministerial meeting on December 1, 1994, NATO decided to enlarge the Alliance as part of an evolutionary process, taking into account political and security developments in the whole of Europe. It was also decided at that time that enlargement would be decided on a case-by-case basis and that new members would be full members of the Alliance, enjoying the rights and assuming all obligations of membership.

(7) The September 1995 NATO study on enlarging the Alliance concluded that the "coverage provided by Article 5, including its nuclear component, will apply to new members", but that there "is no a priori requirement for the stationing of nuclear weapons on the territory of new members.".

(8) At its ministerial meeting on June 3, 1996, NATO made decisions in three key areas as follows:

(A) To create more deployable headquarters and more mobile forces to mount traditional missions of collective defense as well as to mount non-Article 5 operations.

(B) To preserve the transatlantic link.

(C) To develop a European Security and Defense Identity within the Alliance, including utilization of the approved Combined Joint Task Forces (CJTF) concept, to facilitate the use of separable but not separate military capabilities in operations led by the WEU.

(9) Enlargement of the Alliance has profound implications for all of its member nations, for the nations chosen for admission to the Alliance in the first tranche, for the nations not included in the first tranche, and for the relationship between the members of the Alliance and Russia.

(10) The Congressional Budget Office has studied five illustrative options to defend the so-called Visegrad nations (Poland, the Czech Republic, Slovakia, and Hungary) to determine the cost of such defense.

(11) The results of the Congressional Budget Office study, issued in March 1996, included conclusions that the cost of defending the Visegrad nations over the 15-year period from 1996 through 2010 would range from $61,000,000,000 to $125,000,000,000; and that of those totals the cost to the new members would range from $42,000,000,000 to $51,000,000,000, and the cost to NATO would range from $19,000,000,000 to $73,000,000,000, of which the United States would expect to pay between $5,000,000,000 and $19,000,000,000.

(12) The Congressional Budget Office study did not determine the cost of enlarging the Alliance to include Slovenia, Romania, Ukraine, the Baltic nations, or other nations that are participating in NATO's Partnership for Peace program.

(13) Enlarging the Alliance could be considered as changing the circumstances that constitute the basis for the Treaty on Conventional Forces in Europe.

(14) The discussion of NATO enlargement within the United States, in general, and the United States Congress, in particular, has not been as comprehensive, detailed, and informed as it should be, given the implications for the United States of enlargement decisions.

(b) REPORT.—Not later than the date on which the President submits the budget for fiscal year 1998 to Congress under section 1105 of title 31, United States Code, the President shall transmit a report on NATO enlargement to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on National Security and the Committee on International Relations of the House of Representatives. The report shall contain a comprehensive discussion of the following:

(1) The costs, for prospective new NATO members, NATO, and the United States, that are associated with the illustrative options used by the Congressional Budget Office in the March 1996 study referred to in subsection (a)(10) as well as any other illustrative options that the President considers appropriate and relevant.

(2) The manner in which prospective new NATO members would be defended against attack, including any changes required in NATO's nuclear posture.

(3) Whether NATO enlargement can proceed prior to France's reintegration into NATO's command structure and Germany's participation in NATO-conducted crisis management and combat operations.

(4) Whether NATO enlargement can proceed prior to reorganization of NATO's military command structure and the maturation of policies to perform non-Article 5 operations.

(5) Whether an enlarged NATO will be able to function on a consensus basis.

(6) The extent to which prospective new NATO members have achieved interoperability of their military equipment, air defense systems, and command, control, and communications systems and conformity of military doctrine with those of NATO.

(7) The extent to which prospective new NATO members have established democratic institutions, free market economies, civilian control of their armed forces, including parliamentary oversight of military affairs and appointment of civilians to senior defense positions, and the rule of law.

(8) The extent to which prospective new NATO members are committed to protecting the rights of all their citizens, including national minorities, and respecting the territorial integrity of their neighbors.

(9) The extent to which prospective new NATO members are in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area.

(10) The bilateral assistance, including cost, provided by the United States to prospective new NATO members since the institution of the Partnership for Peace program.

(11) The impact on the political, economic, and security well-being of prospective new NATO members, with a particular emphasis on Ukraine, if they are not selected for inclusion in the first tranche of NATO enlargement.

(12) The relationship of prospective new NATO members to the European Union, with

special emphasis on the accession of such nations to membership in the European Union and on the extent to which the European Union has opened its markets to prospective new NATO members.

(13) The impact of NATO enlargement on the CFE Treaty.

(14) The relationship of Russia with NATO, including Russia's participation in the Partnership for Peace program and NATO's strategic dialogue with Russia.

(15) The anticipated impact of NATO enlargement on Russian foreign and defense policies, including in particular the implementation of START I, the ratification of START II, and the emphasis placed in defense planning on nuclear weapons.

(c) CLASSIFICATION OF REPORT.—The report shall be submitted in unclassified form, but may contain a classified annex.

(d) TREATIES DEFINED.—In this section:

(1) The terms "CFE Treaty" and "Treaty on Conventional Armed Forces in Europe" mean the treaty signed in Paris on November 19, 1990, by 22 members of the North Atlantic Treaty Organization and the former Warsaw Pact to establish limitations on conventional armed forces in Europe, and all annexes and memoranda pertaining thereto.

(2) The term "START I Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms, signed at Moscow on July 31, 1991.

(3) The term "START II Treaty" means the Treaty Between the United States of America and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms, signed at Moscow on January 3, 1993, including the following protocols and memorandum of understanding, all such documents being integral parts of and collectively referred to as the "START II Treaty" (contained in Treaty Document 103–1):

(A) The Protocol on Procedures Governing Elimination of Heavy ICBMs and on Procedures Governing Conversion of Silo Launchers of Heavy ICBMs Relating to the Treaty Between the United States of America and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms (also known as the "Elimination and Conversion Protocol").

(B) The Protocol on Exhibitions and Inspections of Heavy Bombers Relating to the Treaty Between the United States and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms (also known as the "Exhibitions and Inspections Protocol").

(C) The Memorandum of Understanding on Warhead Attribution and Heavy Bomber Data Relating to the Treaty Between the United States of America and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms (also known as the "Memorandum on Attribution").

AMENDMENT NO. 4180

At the end of division A, add the following:

TITLE XIII—NATIONAL MISSILE DEFENSE

SEC. 1301. SHORT TITLE.

This title may be cited as the "National Missile Defense Act of 1996".

SEC. 1302. FINDINGS.

(a) MISSILE DEFENSES AND ARMS CONTROL AGREEMENTS.—With respect to missile defenses and arms control agreements, Congress makes the following findings:

(1) Short-range theater ballistic missiles threaten United States Armed Forces engaged abroad. Therefore, the expeditious deployment of theater missile defenses to intercept ballistic missiles threatening the Armed Forces abroad is the highest priority among all ballistic missile defense programs.

(2) The United States is developing defensive systems to protect the United States against the emerging threat of limited strategic ballistic missile attacks. Ground-based defensive systems are attainable, are permitted by the ABM Treaty, are available sooner and are more affordable than spaced-based interceptors or space-based lasers, and can protect all of the United States from limited ballistic missile attack.

(3) Deterring limited ballistic missile attacks upon our national territory requires not only national missile defenses but arms control agreements and nonproliferation measures that can lower the threat and curb the spread of ballistic missile technology.

(4) The massive retaliatory capability of the United States deterred the Soviet Union, and any other nation, from launching an attack by intercontinental ballistic missiles throughout the Cold War. The Nuclear Posture Review conducted by the Department of Defense affirms the fundamental effectiveness of deterrence of large-scale nuclear attacks now and into the future. While the threat of intentional attack upon the United States has receded, the risk of an accidental or unauthorized attack by Russia or China remains, albeit remotely.

(5) United States arms control agreements (notably the START I Treaty and the START II Treaty, once implemented) will significantly reduce the threat to the United States from large-scale nuclear attack. The START I Treaty, when fully implemented, will reduce deployed strategic warheads by over 40 percent below 1990 levels. By the end of 1996, only Russia, among the states of the former Soviet Union, will deploy nuclear weapons. The START II Treaty, once implemented, will reduce strategic warheads deployed in Russia by 66 percent below their levels before the Start I Treaty.

(6) As strategic offensive weapons are reduced, the efficacy and affordability of defensive systems increases, strengthening the long-term prospects for deterrence based upon effective defenses in addition to deterrence based upon the threat of retaliation.

(7) Countries hostile to the United States (such as Iraq, Iran, North Korea, and Libya) have manifested an interest in developing both nuclear weapons and ballistic missiles capable of reaching the United States. In the absence of outside assistance, newly emerging threats from these countries may take as long as 15 years or more to mature, according to recent intelligence estimates. These countries could accelerate the development of long-range missiles if they receive external support.

(8) The Nuclear Non-Proliferation Treaty, the Missile Technology Control Regime, the Biological and Chemical Weapons Conventions, and continuing United States efforts to enforce export controls may prevent or delay external assistance needed by those countries to develop intercontinental ballistic missiles and weapons of mass destruction. Cooperation among our allies and the Russian Federation to limit exports of the relevant hardware and knowledge can help.

(9) The ABM Treaty has added to strategic stability by restraining the requirement on both sides for strategic weapons. At the summit in May 1995, the President of the United States and the President of Russia each reaffirmed his country's commitment to the ABM Treaty.

(10) Abrogating the ABM Treaty to deploy a noncompliant national missile defense system will not add to strategic stability if it impedes implementation of the START I or START II Treaties. Without the reductions to strategic weapons required by both treaties, the consequences and risks of unauthorized or accidental launches will increase.

(11) If the nuclear arsenal of the United States must be maintained at START I levels, significant unbudgeted costs will be incurred, encroaching on funds for ballistic missile defenses and all other defense requirements.

(12) Should the combination of arms control, nonproliferation efforts, and deterrence fail, the United States must be able to defend itself against limited ballistic missile attack.

(13) National missile defense systems consistent with the ABM Treaty are capable of defending against limited ballistic missile attack. Should a national missile defense system require modification of the ABM Treaty, the treaty establishes the means for the parties to amend the treaty, which the parties have used in the past.

(14) While a single-site national missile defense system can defend all of the United States against limited ballistic missile attacks, the addition of a second site would substantially improve the effectiveness of a limited national missile defense system.

(15) Adding a second national missile defense site to the initial national missile defense system at the former Safeguard anti-ballistic missile defense site at Grand Forks, North Dakota, results in only a slight degradation of two-site effectiveness when compared to two optimally-sited national missile defense deployment locations.

(b) WEAPONS OF MASS DESTRUCTION OTHER THAN MISSILE-DELIVERED NUCLEAR WEAPONS.—With respect to threatened employment of weapons of mass destruction other than nuclear weapons delivered by long-range ballistic missiles against the United States, Congress makes the following findings:

(1) In addition to the threat of nuclear weapons delivered by long-range ballistic missiles, the United States faces other threatened uses of weapons of mass destruction, including chemical, biological, and radiological weapons, and other delivery means, including commercial or private aircraft, cruise missiles, international shipping containers delivered by land or sea, and domestic manufacture and delivery by private entities.

(2) Chemical weapons have already threatened United States citizens. The terrorist bomb used against the World Trade Center in New York City contained materials intended to generate lethal chemicals in addition to the explosive effect, but the materials failed to generate a toxic mixture.

(3) The explosive device used against the Murrah Federal Building in Oklahoma City was constructed of commonly available materials in the United States and delivered by rental truck.

(4) The Aum Shinrikyo sect in Japan manufactured lethal sarin gas and released it in Tokyo subways, causing numerous fatalities and thousands of casualties.

(5) Chechen rebels threatened to spread lethal radiation throughout Moscow and revealed to the media the location of a small radioactive source hidden in a Moscow park.

(6) Federal, State, and local governments are all poorly prepared to deal with threatened or actual use of chemical, biological, or radiological weapons against United States cities.

(7) Therefore, it is necessary for priorities to be established for dealing with the full spectrum of threatened use of weapons of mass destruction against the United States based on assessments of the likelihood of the occurrence of each particular threat, and for funding to be allocated in accordance with those priorities.

(c) DEVELOPMENT OF COMPLEX SYSTEMS.—With respect to the development of complex systems, Congress makes the following findings:

(1) The United States developed and deployed an antiballistic missile system known as Safeguard. The system was deactivated only months after achieving initial operating capability because of high cost and concern about limited effectiveness.

(2) Since 1983, the United States has expended more than $35,000,000,000 on the development of missile defenses, and most of that has been expended for the development of national missile defenses.

(3) There exists today no operational hardware that could be deployed to provide a national missile defense capability against strategic ballistic missiles. Therefore, there exist no test data from which to assess the performance and cost of a deployed national missile defense system.

(4) Congress has traditionally insisted that major weapon systems be rigorously tested prior to full-rate production so that system performance is demonstrated and system cost estimates are better refined.

(5) Therefore, consistent with that tradition, it is appropriate that any national missile defense system developed for deployment be rigorously tested prior to a deployment decision in order to demonstrate successful performance and refine system costs.

SEC. 1303. NATIONAL MISSILE DEFENSE POLICY.

(a) RESEARCH AND DEVELOPMENT PROGRAM.—(1) The Secretary of Defense shall conduct a research and development program to develop an antiballistic missile system described in subsection (b) that could achieve initial operational capability by the end of 2003.

(2) A decision whether to deploy the antiballistic missile system shall be made by Congress during 2000 in accordance with this section.

(3) The Secretary shall ensure that the development and deployment of an antiballistic missile system under this section fully complies with the ABM Treaty and with all other treaty obligations.

(b) SYSTEM DESIGN.—The antiballistic missile system developed under subsection (a) shall—

(1) be designed to protect the United States against limited ballistic missile threats, including accidental or unauthorized launches or attacks by Third World countries;

(2) be developed for deployment at a single site; and

(3) include as the system components—

(A) fixed, ground-based, antiballistic missile battle management radars at the site;

(B) up to 100 ground-based interceptor missiles;

(C) as necessary, space-based adjuncts, including the Space Surveillance and Missile Tracking System, that are not prohibited by the ABM Treaty; and

(D) as necessary, Large Phased Array Radars (upgraded from other radars or newly constructed) that are located on the periphery of the United States, face outward, and are not prohibited by the ABM Treaty.

(c) DEPLOYMENT DECISION FACTORS.—The factors to be considered by Congress for a decision to deploy the antiballistic missile system are as follows:

(1) The projected threat of ballistic missile attack against the United States in 2000 and following years.

(2) The projected cost and effectiveness of the system, determined on the basis of the technology available in 2000 and the performance of the system as demonstrated in testing.

(3) The projected cost and effectiveness of the system if, at the time of the decision to deploy, development for deployment were to be continued for—

(A) one additional year,

(B) two additional years, and

(C) three additional years,

taking into consideration the projected availability of any synergistic systems that are under development in 2000.

(4) Arms control factors.

(5) The preparedness of the United States to defend the United States against the full range of threats of attack by weapons of mass destruction, and the relative priorities for funding of defenses against such threats.

(d) DEPLOYMENT RECOMMENDATION.—Not later than March 31, 2000, the President shall submit to Congress a report containing the President's recommendation regarding whether to deploy the antiballistic missile system developed under this section. In addition, the report shall include the following:

(1) A description of the system that could be deployed.

(2) A discussion of the basis for the President's recommendation in terms of the factors set forth in subsection (c).

(e) CONGRESSIONAL DECISION ON DEPLOYMENT.—(1) The report of the President under subsection (d) shall be referred to the Committee on Armed Services of the Senate upon receipt in the Senate and to the Committee on National Security of the House of Representatives upon receipt in that House.

(2) A joint resolution described in paragraph (1) of subsection (f) that is introduced within the 30-day period beginning on the date on which Congress receives the President's report shall be considered under the expedited procedures set forth in that subsection.

(f) EXPEDITED PROCEDURE.—(1) For the purposes of subsection (e)(2), "joint resolution" means only a joint resolution the matter after the resolving clause of which is as follows:

"Congress authorizes the Secretary of Defense to begin the deployment at the former Safeguard antiballistic missile site, Grand Forks, North Dakota, of an antiballistic missile system that—

"(1) is designed to protect the United States against limited ballistic missile threats, including accidental or unauthorized launches or attacks by Third World countries;

"(2) is developed for deployment at a single site; and

"(3) includes as the system components—

"(A) fixed, ground-based, antiballistic missile battle management radars at the site;

"(B) up to 100 ground-based interceptor missiles;

"(C) as necessary, space-based adjuncts, including the Space Surveillance and Missile Tracking System, that are not prohibited by the ABM Treaty; and

"(D) as necessary, Large Phased Array Radars (upgraded from other radars or newly constructed) that are located on the periphery of the United States, face outward, and are not prohibited by the ABM Treaty.".

(2) A resolution described in paragraph (1) introduced in the House of Representatives shall be referred to the Committee on National Security of the House of Representatives. A resolution described in paragraph (1) introduced in the Senate shall be referred to the Committee on Armed Services of the Senate. Such a resolution may not be reported before the eighth day after its introduction.

(3) If the committee to which is referred a resolution described in paragraph (1) has not reported such resolution (or an identical resolution) at the end of 30 days after its introduction or at the end of the first day after there has been reported to the House involved a joint resolution described in paragraph (1), whichever is earlier, such committee shall be deemed to be discharged from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved.

(4) When the committee to which a resolution is referred has reported, or has been deemed to be discharged (under paragraph (3)) from further consideration of, a resolution described in paragraph (1), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of the resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

(5) If, before the passage by one House of a resolution of that House described in paragraph (1), that House receives from the other House a resolution described in paragraph (1), then the following procedures shall apply:

(A) The resolution of the other House shall not be referred to a committee.

(B) With respect to a resolution described in paragraph (1) of the House receiving the resolution—

(i) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(ii) the vote on final passage shall be on the resolution of the other House.

(6) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in paragraph (1), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

SEC. 1304. RELATIONSHIP OF ABM SYSTEM DEPLOYMENT AND ARMS CONTROL.

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

(1) Deployment of an antiballistic missile system in accordance with section 1303 is fully consistent with the rights of the parties to the ABM Treaty.

(2) Deployment of an antiballistic missile system in accordance with section 1303 would not threaten the deterrent capability of the

Russian nuclear missile forces at force levels agreed to under the START I Treaty, at force levels permitted under the START II Treaty, or even at force levels below the agreed or permitted force levels.

(b) DISCUSSIONS WITH RUSSIA.—Congress urges the President to pursue discussions with Russia regarding—

(1) potential opportunities for cooperation on research and development of ballistic missile defense capabilities, including, for example—

(A) research and development of missile warning and tracking capabilities;

(B) research and development of intelligence and warning indications regarding Third World activities on ballistic missiles and weapons of mass destruction; and

(C) joint research and development of more effective theater missile defenses;

(2) amendments to the ABM Treaty, as necessary, that would permit development and deployment of more effective limited defenses of the two countries against long-range ballistic missile attacks; and

(3) establishment of conditions conducive to more effective national missile defense, such as rescinding the 1974 Protocol to the ABM Treaty and making conforming changes to the ABM Treaty in order to permit in each country a second ballistic missile defense site, optimally located, and up to 100 additional interceptor missiles at such site.

(c) ALTERNATIVE ACTION UNDER ABM TREATY.—If the President determines that, due to increasing threats of ballistic missile attack on the United States, it is necessary to expand the antiballistic missile system provided for under section 1303 beyond limits provided under the ABM Treaty and that discussions between the United States and Russia regarding cooperative liberalization of those limits is unsuccessful, the President shall consult with Congress on whether to exercise the right under Article XV of the ABM Treaty for a party to withdraw from the treaty.

SEC. 1305. DEVELOPMENT OF FOLLOW-ON NATIONAL MISSILE DEFENSE TECHNOLOGIES.

The Secretary of Defense, through the Ballistic Missile Defense Organization, shall maintain a robust program of research and development of national missile defense technologies while developing for deployment the antiballistic missile system provided for under section 1303. These research and development activities shall be conducted in full compliance with the ABM Treaty.

SEC. 1306. POLICY REGARDING REDUCTION OF THE THREAT TO THE UNITED STATES FROM WEAPONS OF MASS DESTRUCTION.

(a) MEASURES TO ADDRESS THREATS FROM WEAPONS OF MASS DESTRUCTION.—In order to defend against weapons of mass destruction by preventing the spread of fissile materials and other components of weapons of mass destruction, the President shall—

(1) enhance efforts, both unilaterally and in cooperation with other nations, to prevent terrorist organizations from obtaining and using weapons of mass destruction;

(2) expedite United States efforts to assist the Governments of Russia, Ukraine, Belarus, and Kazakhstan, as appropriate, in improving the safety, security, and accountability of fissile materials and nuclear warheads;

(3) undertake additional steps to prevent weapons of mass destruction and their components from being smuggled into the United States, through the use of improved security devices at United States ports of entry, increased numbers of Border Patrol agents, increased monitoring of international borders, and other appropriate measures;

(4) seek the widest possible international adherence to the Missile Technology Control Regime and pursue to the fullest other export control measures intended to deter and counter the spread of weapons of mass destruction and their components; and

(5) enhance conventional weapons systems to ensure that the United States possesses effective deterrent and counterforce capabilities against weapons of mass destruction and their delivery systems.

(b) MEASURES TO ADDRESS THREATS FROM ICBMS.—In order to reduce the threat to the United States from weapons of mass destruction delivered by intercontinental ballistic missiles, including accidental or unauthorized launches, the President shall—

(1) urge the Government and Parliament of Russia to ratify the START II Treaty as soon as possible, permitting its expeditious entry into force;

(2) pursue with the Government of Russia, after START II entry-into-force, a symmetrical program of early deactivation of strategic forces to be eliminated under START II; and

(3) work jointly with countries possessing intercontinental ballistic missiles to improve command and control technology (such as permissive actions links and other safety devices) and operations to the maximum extent practicable.

(c) PLAN TO REDUCE THREATS OF WEAPONS OF MASS DESTRUCTION.—The Secretary shall develop a comprehensive plan for reducing the threat to the United States of weapons of mass destruction. The Secretary shall develop the plan jointly with the Secretary of State, the Secretary of Energy, the Secretary of the Treasury, the Attorney General, and the Director of Central Intelligence. The plan shall implement the requirements of subsections (a) and (b).

SEC. 1307. JOINT PRESIDENTIAL-CONGRESSIONAL REVIEW AFTER DEPLOYMENT OF INITIAL ABM SYSTEM.

(a) REVIEW REQUIRED.—After the first national missile defense system deployed after the date of the enactment of this Act attains initial operational capability, the President and Congress shall jointly review the matters described in subsection (b) in order to determine priorities for future research and development, and possible deployment, of national missile defense technologies and for continued cooperation with Russia on arms control.

(b) MATTERS TO BE REVIEWED.—The review shall cover the following matters:

(1) The status of cooperation and discussions between the United States and Russia on matters described in section 1304(b) and on other matters of common interest for the national security of both countries.

(2) The projected threat of ballistic missile attack on the United States.

(3) Other projected threats of attacks on the United States with weapons of mass destruction.

(4) United States preparedness to respond to or defend against such threats.

(5) The status of research and development on national missile defense technologies referred to in section 1305.

SEC. 1308. REPORTING REQUIREMENT.

(a) REQUIREMENT.—Not later than March 15, 1997, the Secretary of Defense shall submit to Congress a report on the following plans:

(1) The Secretary's plan for the carrying out the national missile defense program in accordance with the requirements of this Act.

(2) The plan for reducing the threat to the United States of weapons of mass destruction prepared pursuant to section 1306(c).

(b) PLAN FOR NATIONAL MISSILE DEFENSE.—With respect to the Secretary's plan for the national missile defense program, the report shall include the following matters:

(1) The antiballistic missile system architecture, including—

(A) a detailed description of the system architecture selected for development; and

(B) a justification of the architecture selected and reasons for the rejection of the other candidate architectures.

(2) The Secretary's estimate of the amount of appropriations required for research, development, test, and evaluation, and for procurement, for each of fiscal years 1997 through 2003 in order to achieve an initial operational capability of the antiballistic missile system in 2003.

(3) A description of promising technologies to be pursued in accordance with the requirements of section 1305.

(4) A determination of the point, if any, at which any activity that is required to be carried out under this title would conflict with the terms of the ABM Treaty, together with a description of any such activity, the legal basis for the Secretary's determination, and an estimate of the time at which such point would be reached in order to meet an initial operating capability in the year 2003.

SEC. 1309. TREATIES DEFINED.

In this title:

(1) The term "ABM Treaty" means the Treaty between the United States and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, signed at Moscow on May 26, 1972, and includes Protocols to that Treaty signed at Moscow on July 3, 1974, and all Agreed Statements and amendments to such Treaty in effect.

(2) The term "START I Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms, signed at Moscow on July 31, 1991, including related annexes on agreed statements and definitions, protocols, and memorandum of understanding.

(3) The term "START II Treaty" means the Treaty Between the United States of America and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms, signed at Moscow on January 3, 1993, including the following protocols and memorandum of understanding, all such documents being integral parts of and collectively referred to as the "START II Treaty" (contained in Treaty Document 103–1):

(A) The Protocol on Procedures Governing Elimination of Heavy ICBMs and on Procedures Governing Conversion of Silo Launchers of Heavy ICBMs Relating to the Treaty Between the United States of America and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms (also known as the "Elimination and Conversion Protocol").

(B) The Protocol on Exhibitions and Inspections of Heavy Bombers Relating to the Treaty Between the United States and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms (also known as the "Exhibitions and Inspections Protocol").

(C) The Memorandum of Understanding on Warhead Attribution and Heavy Bomber Data Relating to the Treaty Between the United States of America and the Russian

Federation on Further Reduction and Limitation of Strategic Offensive Arms (also known as the "Memorandum on Attribution").

(4) The term "Missile Technology Control Regime" has the meaning given such term in section 11B(c) of the Export Administration Act of 1979 (50 U.S.C. App. 2410b(c)).

NUNN (AND OTHERS) AMENDMENT NO. 4181

(Ordered to lie on the table.)

Mr. NUNN (for himself, Mr. LUGAR, and Mr. DOMENICI) submitted an amendment intended to be proposed by them to the bill, S. 1745, supra; as follows:

At the end of division A, add the following new title:

TITLE XIII—DEFENSE AGAINST WEAPONS OF MASS DESTRUCTION

SEC. 1301. SHORT TITLE.

This title may be cited as the "Defense Against Weapons of Mass Destruction Act of 1996".

SEC. 1302. FINDINGS.

Congress makes the following findings:

(1) Weapons of mass destruction and related materials and technologies are increasingly available from worldwide sources. Technical information relating to such weapons is readily available on the Internet, and raw materials for chemical, biological, and radiological weapons are widely available for legitimate commercial purposes.

(2) The former Soviet Union produced and maintained a vast array of nuclear, biological, and chemical weapons of mass destruction.

(3) Many of the states of the former Soviet Union retain the facilities, materials, and technologies capable of producing additional quantities of weapons of mass destruction.

(4) The disintegration of the former Soviet Union was accompanied by disruptions of command and control systems, deficiencies in accountability for weapons, weapons-related materials and technologies, economic hardships, and significant gaps in border control among the states of the former Soviet Union. The problems of organized crime and corruption in the states of the former Soviet Union increase the potential for proliferation of nuclear, radiological, biological, and chemical weapons and related materials.

(5) The conditions described in paragraph (4) have substantially increased the ability of potentially hostile nations, terrorist groups, and individuals to acquire weapons of mass destruction and related materials and technologies from within the states of the former Soviet Union and from unemployed scientists who worked on those programs.

(6) As a result of such conditions, the capability of potentially hostile nations and terrorist groups to acquire nuclear, radiological, biological, and chemical weapons is greater than any time in history.

(7) The President has identified North Korea, Iraq, Iran, and Libya as hostile states which already possess some weapons of mass destruction and are developing others.

(8) The acquisition or the development and use of weapons of mass destruction is well within the capability of many extremist and terrorist movements, acting independently or as proxies for foreign states.

(9) Foreign states can transfer weapons to or otherwise aid extremist and terrorist movements indirectly and with plausible deniability.

(10) Terrorist groups have already conducted chemical attacks against civilian targets in the United States and Japan, and a radiological attack in Russia.

(11) The potential for the national security of the United States to be threatened by nuclear, radiological, chemical, or biological terrorism must be taken as seriously as the risk of an attack by long-range ballistic missiles carrying nuclear weapons.

(12) There is a significant and growing threat of attack by weapons of mass destruction on targets that are not military targets in the usual sense of the term.

(13) Concomitantly, the threat posed to the citizens of the United States by nuclear, radiological, biological, and chemical weapons delivered by unconventional means is significant and growing.

(14) Mass terror may result from terrorist incidents involving nuclear, radiological, biological, or chemical materials, even if such materials are not configured as military weapons.

(15) Facilities required for production of radiological, biological, and chemical weapons are much smaller and harder to detect than nuclear weapons facilities, and biological, and chemical weapons can be deployed by alternative delivery means that are much harder to detect than long-range ballistic missiles.

(16) Such delivery systems have no assignment of responsibility, unlike ballistic missiles, for which a launch location would be unambiguously known.

(17) Covert or unconventional means of delivery of nuclear, radiological, biological, and chemical weapons, which might be preferable to foreign states and nonstate organizations, include cargo ships, passenger aircraft, commercial and private vehicles and vessels, and commercial cargo shipments routed through multiple destinations.

(18) Traditional arms control efforts assume large state efforts with detectable manufacturing programs and weapons production programs, but are ineffective in monitoring and controlling smaller, though potentially more dangerous, unconventional proliferation efforts.

(19) Conventional counterproliferation efforts would do little to detect or prevent the rapid development of a capability to suddenly manufacture several hundred chemical or biological weapons with nothing but commercial supplies and equipment.

(20) The United States lacks adequate planning and countermeasures to address the threat of nuclear, radiological, biological, and chemical terrorism.

(21) The Department of Energy has established a Nuclear Emergency Response Team which is available in case of nuclear or radiological emergencies, but no comparable units exist to deal with emergencies involving biological, or chemical weapons or related materials.

(22) State and local emergency response personnel are not adequately prepared or trained for incidents involving nuclear, radiological, biological, or chemical materials.

(23) Exercises of the Federal, State, and local response to nuclear, radiological, biological, or chemical terrorism have revealed serious deficiencies in preparedness and severe problems of coordination.

(24) The development of, and allocation of responsibilities for, effective countermeasures to nuclear, radiological, biological, or chemical terrorism in the United States requires well-coordinated participation of many Federal agencies, and careful planning by the Federal Government and State and local governments.

(25) Training and exercises can significantly improve the preparedness of State and local emergency response personnel for emergencies involving nuclear, radiological, biological, or chemical weapons or related materials.

(26) Sharing of the expertise and capabilities of the Department of Defense, which traditionally has provided assistance to Federal, State, and local officials in neutralizing, dismantling, and disposing of explosive ordnance, as well as radiological, biological, and chemical materials, can be a vital contribution to the development and deployment of countermeasures against nuclear, biological, and chemical weapons of mass destruction.

(27) The United States lacks effective policy coordination regarding the threat posed by the proliferation of weapons of mass destruction.

SEC. 1303. DEFINITIONS.

In this title:

(1) The term "weapon of mass destruction" means any weapon or device that is intended, or has the capability, to cause death or serious bodily injury to a significant number of people through the release, dissemination, or impact of—

(A) toxic or poisonous chemicals or their precursors;

(B) a disease organism; or

(C) radiation or radioactivity.

(2) The term "independent states of the former Soviet Union" has the meaning given the term in section 3 of the FREEDOM Support Act (22 U.S.C. 5801).

(3) The term "highly enriched uranium" means uranium enriched to 20 percent or more in the isotope U-235.

Subtitle A—Domestic Preparedness

SEC. 1311. EMERGENCY RESPONSE ASSISTANCE PROGRAM.

(a) PROGRAM REQUIRED.—(1) The Secretary of Defense shall carry out a program to provide civilian personnel of Federal, State, and local agencies with training and expert advice regarding emergency responses to a use or threatened use of a weapon of mass destruction or related materials.

(2) The President may designate the head of an agency other than the Department of Defense to assume the responsibility for carrying out the program on or after October 1, 1999, and relieve the Secretary of Defense of that responsibility upon the assumption of the responsibility by the designated official.

(3) Hereafter in this section, the official responsible for carrying out the program is referred to as the "lead official".

(b) COORDINATION.—In carrying out the program, the lead official shall coordinate with each of the following officials who is not serving as the lead official:

(1) The Director of the Federal Emergency Management Agency.

(2) The Secretary of Energy.

(3) The Secretary of Defense.

(4) The heads of any other Federal, State, and local government agencies that have an expertise or responsibilities relevant to emergency responses described in subsection (a)(1).

(c) ELIGIBLE PARTICIPANTS.—The civilian personnel eligible to receive assistance under the program are civilian personnel of Federal, State, and local agencies who have emergency preparedness responsibilities.

(d) INVOLVEMENT OF OTHER FEDERAL AGENCIES.—(1) The lead official may use personnel and capabilities of Federal agencies outside the agency of the lead official to provide training and expert advice under the program.

(2)(A) Personnel used under paragraph (1) shall be personnel who have special skills relevant to the particular assistance that the personnel are to provide.

(B) Capabilities used under paragraph (1) shall be capabilities that are especially relevant to the particular assistance for which the capabilities are used.

(e) AVAILABLE ASSISTANCE.—Assistance available under this program shall include the following:

(1) Training in the use, operation, and maintenance of equipment for—

(A) detecting a chemical or biological agent or nuclear radiation;

(B) monitoring the presence of such an agent or radiation;

(C) protecting emergency personnel and the public; and

(D) decontamination.

(2) Establishment of a designated telephonic link (commonly referred to as a "hot line") to a designated source of relevant data and expert advice for the use of State or local officials responding to emergencies involving a weapon of mass destruction or related materials.

(3) Use of the National Guard and other reserve components for purposes authorized under this section that are specified by the lead official (with the concurrence of the Secretary of Defense if the Secretary is not the lead official).

(4) Loan of appropriate equipment.

(f) LIMITATIONS ON DEPARTMENT OF DEFENSE ASSISTANCE TO LAW ENFORCEMENT AGENCIES.—Assistance provided by the Department of Defense to law enforcement agencies under this section shall be provided under the authority of, and subject to the restrictions provided in, chapter 18 of title 10, United States Code.

(g) ADMINISTRATION OF DEPARTMENT OF DEFENSE ASSISTANCE.—The Secretary of Defense shall designate an official within the Department of Defense to serve as the executive agent of the Secretary for the coordination of the provision of Department of Defense assistance under this section.

(h) FUNDING.—(1) Of the total amount authorized to be appropriated under section 301, $35,000,000 is available for the program required under this section.

(2) Of the amount available for the program pursuant to paragraph (1), $10,500,000 is available for use by the Secretary of Defense to assist the Surgeon General of the United States in the establishment of metropolitan emergency medical response teams (commonly referred to as "Metropolitan Medical Strike Force Teams") to provide medical services that are necessary or potentially necessary by reason of a use or threatened use of a weapon of mass destruction.

(3) The amount available for the program under paragraph (1) is in addition to any other amounts authorized to be appropriated for the program under section 301.

SEC. 1312. NUCLEAR, CHEMICAL, AND BIOLOGICAL EMERGENCY RESPONSE.

(a) DEPARTMENT OF DEFENSE.—The Secretary of Defense shall designate an official within the Department of Defense as the executive agent for—

(1) the coordination of Department of Defense assistance to Federal, State, and local officials in responding to threats involving biological or chemical weapons or related materials or technologies, including assistance in identifying, neutralizing, dismantling, and disposing of biological and chemical weapons and related materials and technologies; and

(2) the coordination of Department of Defense assistance to the Department of Energy in carrying out that department's responsibilities under subsection (b).

(b) DEPARTMENT OF ENERGY.—The Secretary of Energy shall designate an official within the Department of Energy as the executive agent for—

(1) the coordination of Department of Energy assistance to Federal, State, and local officials in responding to threats involving nuclear weapons or related materials or technologies, including assistance in identifying, neutralizing, dismantling, and disposing of nuclear weapons and related materials and technologies; and

(2) the coordination of Department of Energy assistance to the Department of Defense in carrying out that department's responsibilities under subsection (a).

(c) FUNDING.—(1)(A) Of the total amount authorized to be appropriated under section 301, $15,000,000 is available for providing assistance described in subsection (a).

(B) The amount available under subparagraph (A) for providing assistance described in subsection (a) is in addition to any other amounts authorized to be appropriated under section 301 for that purpose.

(2)(A) Of the total amount authorized to be appropriated under title XXXI, $15,000,000 is available for providing assistance described in subsection (b).

(B) The amount available under subparagraph (A) for providing assistance is in addition to any other amounts authorized to be appropriated under title XXXI for that purpose.

SEC. 1313. MILITARY ASSISTANCE TO CIVILIAN LAW ENFORCEMENT OFFICIALS IN EMERGENCY SITUATIONS INVOLVING BIOLOGICAL OR CHEMICAL WEAPONS.

(a) ASSISTANCE AUTHORIZED.—(1) The chapter 18 of title 10, United States Code, is amended by adding at the end the following:

"§ 382. Emergency situations involving chemical or biological weapons of mass destruction

"(a) IN GENERAL.—The Secretary of Defense, upon the request of the Attorney General, may provide assistance in support of Department of Justice activities relating to the enforcement of section 175 or 2332c of title 18 during an emergency situation involving a biological or chemical weapon of mass destruction. Department of Defense resources, including personnel of the Department of Defense, may be used to provide such assistance if—

"(1) the Secretary of Defense and the Attorney General jointly determine that an emergency situation exists; and

"(2) the Secretary of Defense determines that the provision of such assistance will not adversely affect the military preparedness of the United States.

"(b) EMERGENCY SITUATIONS COVERED.—As used in this section, the term 'emergency situation involving a biological or chemical weapon of mass destruction' means a circumstance involving a biological or chemical weapon of mass destruction—

"(1) that poses a serious threat to the interests of the United States; and

"(2) in which—

"(A) civilian expertise and capabilities are not readily available to provide the required assistance to counter the threat immediately posed by the weapon involved;

"(B) special capabilities and expertise of the Department of Defense are necessary and critical to counter the threat posed by the weapon involved; and

"(C) enforcement of section 175 or 2332c of title 18 would be seriously impaired if the Department of Defense assistance were not provided.

"(c) FORMS OF ASSISTANCE.—The assistance referred to in subsection (a) includes the operation of equipment (including equipment made available under section 372 of this title) to monitor, contain, disable, or dispose of the weapon involved or elements of the weapon.

"(d) REGULATIONS.—(1) The Secretary of Defense and the Attorney General shall jointly issue regulations concerning the types of assistance that may be provided under this section. Such regulations shall also describe the actions that Department of Defense personnel may take in circumstances incident to the provision of assistance under this section.

"(2)(A) Except as provided in subparagraph (B), the regulations may not authorize the following actions:

"(i) Arrest.

"(ii) Any direct participation in conducting a search for or seizure of evidence related to a violation of section 175 or 2332c of title 18.

"(iii) Any direct participation in the collection of intelligence for law enforcement purposes.

"(B) The regulations may authorize an action described in subparagraph (A) to be taken under the following conditions:

"(i) The action is considered necessary for the immediate protection of human life, and civilian law enforcement officials are not capable of taking the action.

"(ii) The action is otherwise authorized under subsection (c) or under otherwise applicable law.

"(e) REIMBURSEMENTS.—The Secretary of Defense shall require reimbursement as a condition for providing assistance under this section to the extent required under section 377 of this title.

"(f) DELEGATIONS OF AUTHORITY.—(1) Except to the extent otherwise provided by the Secretary of Defense, the Deputy Secretary of Defense may exercise the authority of the Secretary of Defense under this section. The Secretary of Defense may delegate the Secretary's authority under this section only to an Under Secretary of Defense or an Assistant Secretary of Defense and only if the Under Secretary or Assistant Secretary to whom delegated has been designated by the Secretary to act for, and to exercise the general powers of, the Secretary.

"(2) Except to the extent otherwise provided by the Attorney General, the Deputy Attorney General may exercise the authority of the Attorney General under this section. The Attorney General may delegate that authority only to the Associate Attorney General or an Assistant Attorney General and only if the Associate Attorney General or Assistant Attorney General to whom delegated has been designated by the Attorney General to act for, and to exercise the general powers of, the Attorney General.

"(g) RELATIONSHIP TO OTHER AUTHORITY.—Nothing in this section shall be construed to restrict any executive branch authority regarding use of members of the armed forces or equipment of the Department of Defense that was in effect before the date of the enactment of the National Defense Authorization Act for Fiscal Year 1997.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following:

"382. Emergency situations involving chemical or biological weapons of mass destruction.".

(b) CONFORMING AMENDMENT TO CONDITION FOR PROVIDING EQUIPMENT AND FACILITIES.—

Section 372(b)(1) of title 10, United States Code, is amended by adding at the end the following: "The requirement for a determination that an item is not reasonably available from another source does not apply to assistance provided under section 382 of this title pursuant to a request of the Attorney General for the assistance.".

(c) CONFORMING AMENDMENTS RELATING TO AUTHORITY TO REQUEST ASSISTANCE.—(1)(A) Chapter 10 of title 18, United States Code, is amended by inserting after section 175 the following:

"§ 175a. Requests for military assistance to enforce prohibition in certain emergencies

"The Attorney General may request the Secretary of Defense to provide assistance under section 382 of title 10 in support of Department of Justice activities relating to the enforcement of section 175 of this title in an emergency situation involving a biological weapon of mass destruction. The authority to make such a request may be exercised by another official of the Department of Justice in accordance with section 382(f)(2) of title 10.".

(B) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 175 the following:

"175a. Requests for military assistance to enforce prohibition in certain emergencies.".

(2)(A) The chapter 133B of title 18, United States Code, that relates to terrorism is amended by inserting after section 2332c the following:

"§ 2332d. Requests for military assistance to enforce prohibition in certain emergencies

"The Attorney General may request the Secretary of Defense to provide assistance under section 382 of title 10 in support of Department of Justice activities relating to the enforcement of section 2332c of this title during an emergency situation involving a chemical weapon of mass destruction. The authority to make such a request may be exercised by another official of the Department of Justice in accordance with section 382(f)(2) of title 10.".

(B) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2332c the following:

"2332d. Requests for military assistance to enforce prohibition in certain emergencies.".

(d) CIVILIAN EXPERTISE.—The President shall take reasonable measures to reduce the reliance of civilian law enforcement officials on Department of Defense resources to counter the threat posed by the use or potential use of biological and chemical weapons of mass destruction within the United States. The measures shall include—

(1) actions to increase civilian law enforcement expertise to counter such a threat; and

(2) actions to improve coordination between civilian law enforcement officials and other civilian sources of expertise, within and outside the Federal Government, to counter such a threat.

(e) REPORTS.—The President shall submit to Congress the following reports:

(1) Not later than 90 days after the date of the enactment of this Act, a report describing the respective policy functions and operational roles of Federal agencies in countering the threat posed by the use or potential use of biological and chemical weapons of mass destruction within the United States.

(2) Not later than one year after such date, a report describing—

(A) the actions planned to be taken to carry out subsection (d); and

(B) the costs of such actions.

(3) Not later than three years after such date, a report updating the information provided in the reports submitted pursuant to paragraphs (1) and (2), including the measures taken pursuant to subsection (d).

SEC. 1314. TESTING OF PREPAREDNESS FOR EMERGENCIES INVOLVING NUCLEAR, RADIOLOGICAL, CHEMICAL, AND BIOLOGICAL WEAPONS.

(a) EMERGENCIES INVOLVING CHEMICAL OR BIOLOGICAL WEAPONS.—(1) The Secretary of Defense shall develop and carry out a program for testing and improving the responses of Federal, State, and local agencies to emergencies involving biological weapons and related materials and emergencies involving chemical weapons and related materials.

(2) The program shall include exercises to be carried out during each of five successive fiscal years beginning with fiscal year 1997.

(3) In developing and carrying out the program, the Secretary shall coordinate with the Director of the Federal Bureau of Investigation, the Director of the Federal Emergency Management Agency, the Secretary of Energy, and the heads of any other Federal, State, and local government agencies that have an expertise or responsibilities relevant to emergencies described in paragraph (1).

(b) EMERGENCIES INVOLVING NUCLEAR AND RADIOLOGICAL WEAPONS.—(1) The Secretary of Energy shall develop and carry out a program for testing and improving the responses of Federal, State, and local agencies to emergencies involving nuclear and radiological weapons and related materials.

(2) The program shall include exercises to be carried out during each of five successive fiscal years beginning with fiscal year 1997.

(3) In developing and carrying out the program, the Secretary shall coordinate with the Director of the Federal Bureau of Investigation, the Director of the Federal Emergency Management Agency, the Secretary of Defense, and the heads of any other Federal, State, and local government agencies that have an expertise or responsibilities relevant to emergencies described in paragraph (1).

(c) ANNUAL REVISIONS OF PROGRAMS.—The official responsible for carrying out a program developed under subsection (a) or (b) shall revise the program not later than June 1 in each fiscal year covered by the program. The revisions shall include adjustments that the official determines necessary or appropriate on the basis of the lessons learned from the exercise or exercises carried out under the program in the fiscal year, including lessons learned regarding coordination problems and equipment deficiencies.

(d) OPTION TO TRANSFER RESPONSIBILITY.—(1) The President may designate the head of an agency outside the Department of Defense to assume the responsibility for carrying out the program developed under subsection (a) beginning on or after October 1, 1999, and relieve the Secretary of Defense of that responsibility upon the assumption of the responsibility by the designated official.

(2) The President may designate the head of an agency outside the Department of Energy to assume the responsibility for carrying out the program developed under subsection (b) beginning on or after October 1, 1999, and relieve the Secretary of Energy of that responsibility upon the assumption of the responsibility by the designated official.

(e) FUNDING.—(1) Of the total amount authorized to be appropriated under section 301, $15,000,000 is available for the development and execution of the programs required by this section, including the participation of State and local agencies in exercises carried out under the programs.

(2) The amount available under paragraph (1) for the development and execution of programs referred to in that paragraph is in addition to any other amounts authorized to be appropriated under section 301 for such purposes.

Subtitle B—Interdiction of Weapons of Mass Destruction and Related Materials

SEC. 1321. UNITED STATES BORDER SECURITY.

(a) PROCUREMENT OF DETECTION EQUIPMENT.—(1) Of the amount authorized to be appropriated by section 301, $15,000,000 is available for the procurement of—

(A) equipment capable of detecting the movement of weapons of mass destruction and related materials into the United States;

(B) equipment capable of interdicting the movement of weapons of mass destruction and related materials into the United States; and

(C) materials and technologies related to use of equipment described in subparagraph (A) or (B).

(2) The amount available under paragraph (1) for the procurement of items referred to in that paragraph is in addition to any other amounts authorized to be appropriated under section 301 for such purpose.

(b) AVAILABILITY OF EQUIPMENT TO COMMISSIONER OF CUSTOMS.—To the extent authorized under chapter 18 of title 10, United States Code, the Secretary of Defense may make equipment of the Department of Defense described in subsection (a), and related materials and technologies, available to the Commissioner of Customs for use in detecting and interdicting the movement of weapons of mass destruction into the United States.

SEC. 1322. NONPROLIFERATION AND COUNTERPROLIFERATION RESEARCH AND DEVELOPMENT.

(a) BIOLOGICAL AND CHEMICAL WEAPONS.—The Secretary of Defense shall be the lead official of the Federal Government for coordinating the research and development activities of the Federal Government on technical means for detecting the presence of, the illegal transportation of, the illegal production of, and the illegal use of materials and technologies that may be used to make a biological or chemical weapon and materials (including precursors) and technologies that are suitable for use in making such a weapon.

(b) NUCLEAR AND RADIOLOGICAL WEAPONS.—The Secretary of Energy shall be the lead official of the Federal Government for coordinating the research and development activities of the Federal Government on technical means for detecting the presence of, the illegal transportation of, the illegal production of, and the illegal use of materials and technologies that may be used to make a nuclear or radiological weapon and materials and technologies that are suitable for use in making a nuclear or radiological weapon.

(c) CONSULTATION REQUIREMENT.—In carrying out research and development activities under subsection (a) or (b), the Secretary of Defense or the Secretary of Energy, respectively, shall consult with each other and the following officials:

(1) The Director of Central Intelligence.

(2) The Director of the Federal Bureau of Investigation.

(3) The Commissioner of Customs.

(d) FUNDING.—(1)(A) There is authorized to be appropriated for fiscal year 1997 $10,000,000 for research and development coordinated by the Secretary of Defense under subsection (a).

(B) The amount authorized to be appropriated for research and development under subparagraph (A) is in addition any other amounts that are authorized to be appropriated under this Act for such research and development, including funds authorized to be appropriated for research and development relating to nonproliferation of weapons of mass destruction.

(2)(A) Of the total amount authorized to be appropriated under title XXXI, $19,000,000 is available for research and development coordinated by the Secretary of Energy under subsection (b).

(B) The amount available under subparagraph (B) is in addition to any other amount authorized to be appropriated under title XXXI for such research and development.

SEC. 1323. INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT.

Section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702) is amended—

(1) in subsection (a)(1)(B), by striking out "importation or exportation of," and inserting in lieu thereof "importation, exportation, or attempted importation or exportation of,"; and

(2) in subsection (b)(3), by striking out "importation from any country, or the exportation" and inserting in lieu thereof "importation or attempted importation from any country, or the exportation or attempted exportation".

SEC. 1324. CRIMINAL PENALTIES.

It is the sense of Congress that—

(1) the sentencing guidelines prescribed by the United States Sentencing Commission for the offenses of importation, attempted importation, exportation, and attempted exportation of nuclear, biological, and chemical weapons materials constitute inadequate punishment for such offenses; and

(2) Congress urges the United States Sentencing Commission to revise the relevant sentencing guidelines to provide for increased penalties for offenses relating to importation, attempted importation, exportation, and attempted exportation of nuclear, biological, or chemical weapons or related materials or technologies under—

(A) section 11 of the Export Administration Act of 1979 (50 U.S.C. App. 2410);

(B) sections 38 and 40 the Arms Export Control Act (22 U.S.C. 2778 and 2780);

(C) the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.); and

(D) section 309(c) of the Nuclear Non-Proliferation Act of 1978 (22 U.S.C. 2156a(c).

SEC. 1325. INTERNATIONAL BORDER SECURITY.

(a) SECRETARY OF DEFENSE RESPONSIBILITY.—The Secretary of Defense, in consultation and cooperation with the Commissioner of Customs, shall carry out programs for assisting customs officials and border guard officials in the independent states of the former Soviet Union, the Baltic states, and other countries of Eastern Europe in preventing unauthorized transfer and transportation of nuclear, biological, and chemical weapons and related materials. Training, expert advice, maintenance of equipment, loan of equipment, and audits may be provided under or in connection with the programs.

(b) FUNDING.—(1) Of the total amount authorized to be appropriated by section 301, $15,000,000 is available for carrying out the programs referred to in subsection (a).

(2) The amount available under paragraph (1) for programs referred to in that paragraph is in addition to any other amounts authorized to be appropriated under section 301 for such programs.

Subtitle C—Control and Disposition of Weapons of Mass Destruction and Related Materials Threatening the United States

SEC. 1331. PROTECTION AND CONTROL OF MATERIALS CONSTITUTING A THREAT TO THE UNITED STATES.

(a) DEPARTMENT OF ENERGY PROGRAM.—Subject to subsection (c)(1), the Secretary of Energy may, under materials protection, control, and accounting assistance of the Department of Energy, provide assistance for securing from theft or other unauthorized disposition nuclear materials that are not so secured and are located at any site within the former Soviet Union where effective controls for securing such materials are not in place.

(b) DEPARTMENT OF DEFENSE PROGRAM.—Subject to subsection (c)(2), the Secretary of Defense may provide materials protection, control, and accounting assistance under the Cooperative Threat Reduction Programs of the Department of Defense for securing from theft or other unauthorized disposition, or for destroying, nuclear, radiological, biological, or chemical weapons (or related materials) that are not so secure and are located at any site within the former Soviet Union where effective controls for securing such weapons are not in place.

(c) FUNDING.—(1)(A) Of the total amount authorized to be appropriated under title XXXI, $15,000,000 is available for materials protection, control, and accounting assistance of the Department of Energy for providing assistance under subsection (a).

(B) The amount available under subparagraph (A) is in addition to any other funds that are authorized to be appropriated under title XXXI for materials protection, control, and accounting assistance of the Department of Energy.

(2)(A) Of the total amount authorized to be appropriated under section 301, $10,000,000 is available for the Cooperative Threat Reduction Programs of the Department of Defense for providing materials protection, control, and accounting assistance under subsection (b).

(B) The amount available under subparagraph (A) is in addition to any other funds that are authorized to be appropriated by section 301 for materials protection, control, and accounting assistance of the Department of Defense.

SEC. 1332. VERIFICATION OF DISMANTLEMENT AND CONVERSION OF WEAPONS AND MATERIALS.

(a) FUNDING FOR COOPERATIVE ACTIVITIES FOR DEVELOPMENT OF TECHNOLOGIES.—Of the total amount authorized to be appropriated under title XXXI, $10,000,000 is available for continuing and expediting cooperative activities with the Government of Russia to develop and deploy—

(1) technologies for improving verification of nuclear warhead dismantlement;

(2) technologies for converting plutonium from weapons into forms that—

(A) are better suited for long-term storage than are the forms from which converted;

(B) facilitate verification; and

(C) are suitable for nonweapons use; and

(3) technologies that promote openness in Russian production, storage, use, and final and interim disposition of weapon-usable fissible material, including at tritium/isotope production reactors, uranium enrichment plants, chemical separation plants, and fabrication facilities associated with naval and civil research reactors.

(b) WEAPONS-USABLE FISSILE MATERIALS TO BE COVERED BY COOPERATIVE THREAT REDUCTION PROGRAMS ON ELIMINATION OR TRANSPORTATION OF NUCLEAR WEAPONS.—Section 1201(b)(1) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 469; 22 U.S.C. 5955 note) is amended by inserting ", fissile material suitable for use in nuclear weapons," after "other weapons".

SEC. 1333. ELIMINATION OF PLUTONIUM PRODUCTION.

(a) REPLACEMENT PROGRAM.—The Secretary of Defense, in consultation with the Secretary of Energy, shall develop a cooperative program with the Government of Russia to eliminate the production of weapons grade plutonium by modifying or replacing the reactor cores at Tomsk–7 and Krasnoyarsk–26 with reactor cores that are less suitable for the production of weapons-grade plutonium.

(b) PROGRAM REQUIREMENTS.—(1) The program shall be designed to achieve completion of the modifications or replacements of the reactor cores within three years after the modification or replacement activities under the program are begun.

(2) The plan for the program shall—

(A) specify—

(i) successive steps for the modification or replacement of the reactor cores; and

(ii) clearly defined milestones to be achieved; and

(B) include estimates of the costs of the program.

(c) SUBMISSION OF PROGRAM PLAN TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress—

(1) a plan for the program under subsection (a);

(2) an estimate of the United States funding that is necessary for carrying out the activities under the program for each fiscal year covered by the program; and

(3) a comparison of the benefits of the program with the benefits of other nonproliferation programs.

(d) FUNDING FOR INITIAL PHASE.—(1) Of the total amount authorized to be appropriated by section 301 other than for Cooperative Threat Reduction programs, $16,000,000 is available for the initial phase of the program under subsection (a).

(2) The amount available for the initial phase of the reactor modification or replacement program under paragraph (1) is in addition to amounts authorized to be appropriated for Cooperative Threat Reduction programs under section 301(20).

SEC. 1334. INDUSTRIAL PARTNERSHIP PROGRAMS TO DEMILITARIZE WEAPONS OF MASS DESTRUCTION PRODUCTION FACILITIES.

(a) DEPARTMENT OF ENERGY PROGRAM.—The Secretary of Energy shall expand the Industrial Partnership Program of the Department of Energy to include coverage of all of the independent states of the former Soviet Union.

(b) DEPARTMENT OF DEFENSE PROGRAM.—The Secretary of Defense shall establish a program to support the dismantlement or conversion of the biological and chemical weapons facilities in the independent states of the former Soviet Union to uses for nondefense purposes. The Secretary may carry out such program in conjunction with, or separately from, the organization designated as the Defense Enterprise Fund (formerly designated as the "Demilitarization Enterprise Fund" under section 1204 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 22 U.S.C. 5953)).

(c) FUNDING FOR DEPARTMENT OF DEFENSE PROGRAM.—(1)(A) Of the total amount authorized to be appropriated under section

301, $15,000,000 is available for the program under subsection (b).

(B) The amount available under subparagraph (A) for the industrial partnership program of the Department of Defense established pursuant to subsection (b) is in addition to the amount authorized to be appropriated for Cooperative Threat Reduction programs under section 301.

(2) It is the sense of Congress that the Secretary of Defense should transfer to the Defense Enterprise Fund, $20,000,000 out of the funds appropriated for Cooperative Threat Reduction programs for fiscal years before fiscal year 1997 that remain available for obligation.

SEC. 1335. LAB-TO-LAB PROGRAM TO IMPROVE THE SAFETY AND SECURITY OF NUCLEAR MATERIALS.

(a) PROGRAM EXPANSION AUTHORIZED.—The Secretary of Energy is authorized to expand the Lab-to-Lab program of the Department of Energy to improve the safety and security of nuclear materials in the independent states of the former Soviet Union where the Lab-to-Lab program is not being carried out on the date of the enactment of this Act.

(b) FUNDING.—(1) Of the total amount authorized to be appropriated under title XXXI, $20,000,000 is available for expanding the Lab-to-Lab program as authorized under subsection (a).

(2) The amount available under paragraph (1) is in addition to any other amount otherwise available for the Lab-to-Lab program.

SEC. 1336. COOPERATIVE ACTIVITIES ON SECURITY OF HIGHLY ENRICHED URANIUM USED FOR PROPULSION OF RUSSIAN SHIPS.

(a) RESPONSIBLE UNITED STATES OFFICIAL.—The Secretary of Energy shall be responsible for carrying out United States cooperative activities with the Government of the Russian Federation on improving the security of highly enriched uranium that is used for propulsion of Russian military and civilian ships.

(b) PLAN REQUIRED.—(1) The Secretary shall develop and periodically update a plan for the cooperative activities referred to in subsection (a).

(2) The Secretary shall coordinate the development and updating of the plan with the Secretary of Defense. The Secretary of Defense shall involve the Joint Chiefs of Staff in the coordination.

(c) FUNDING.—(1) Of the total amount authorized to be appropriated by title XXXI, $6,000,000 is available for materials protection, control, and accounting program of the Department of Energy for the cooperative activities referred to in subsection (a).

(2) The amount available for the Department of Energy for materials protection, control, and accounting program under paragraph (1) is in addition to other amounts authorized to be appropriated by title XXXI for such program.

SEC. 1337. MILITARY-TO-MILITARY RELATIONS.

(a) FUNDING.—Of the total amount authorized to be appropriated under section 301, $2,000,000 is available for expanding military-to-military programs of the United States that focus on countering the threats of proliferation of weapons of mass destruction so as to include the security forces of independent states of the former Soviet Union, particularly states in the Caucasus region and Central Asia.

(b) RELATIONSHIP TO OTHER FUNDING AUTHORITY.—The amount available for expanding military-to-military programs under subsection (a) is in addition to the amount authorized to be appropriated for Cooperative Threat Reduction programs under section 301.

SEC. 1338. TRANSFER AUTHORITY.

(a) SECRETARY OF DEFENSE.—(1) To the extent provided in appropriations Acts, the Secretary of Defense may transfer amounts appropriated pursuant to this subtitle for the Department of Defense for programs and authorities under this subtitle to appropriations available for programs authorized under subtitle A.

(2) Amounts so transferred shall be merged with the appropriations to which transferred and shall be available for the programs for which the amounts are transferred.

(3) The transfer authority under paragraph (1) is in addition to any other transfer authority provided by this Act.

(b) SECRETARY OF ENERGY.—(1) To the extent provided in appropriations Acts, the Secretary of Energy may transfer amounts appropriated pursuant to this subtitle for the Department of Energy for programs and authorities under this subtitle to appropriations available for programs authorized under subtitle A.

(2) Amounts so transferred shall be merged with the appropriations to which transferred and shall be available for the programs for which the amounts are transferred.

(3) The transfer authority under paragraph (1) is in addition to any other transfer authority provided by this Act.

Subtitle D—Coordination of Policy and Countermeasures Against Proliferation of Weapons of Mass Destruction

SEC. 1341. NATIONAL COORDINATOR ON NONPROLIFERATION.

(a) DESIGNATION OF POSITION.—The President shall designate an individual to serve in the Executive Office of the President as the National Coordinator for Nonproliferation Matters.

(b) DUTIES.—The Coordinator shall have the following responsibilities:

(1) To be the principal adviser to the President on nonproliferation of weapons of mass destruction, including issues related to terrorism, arms control, and international organized crime.

(2) To chair the Committee on Nonproliferation established under section 1342.

(3) To take such actions as are necessary to ensure that there is appropriate emphasis in, cooperation on, and coordination of, nonproliferation research efforts of the United States, including activities of Federal agencies as well as activities of contractors funded by the Federal Government.

(c) RELATIONSHIP TO CERTAIN SENIOR DIRECTORS OF NATIONAL SECURITY COUNCIL.—(1) The senior directors of the National Security Council report to the Coordinator regarding the following matters:

(A) Nonproliferation of weapons of mass destruction and related issues.

(B) Management of crises involving use or threatened use of weapons of mass destruction, and on management of the consequences of the use or threatened use of such a weapon.

(C) Terrorism, arms control, and organized crime issues that relate to the threat of proliferation of weapons of mass destruction.

(2) Nothing in paragraph (1) shall be construed to affect the reporting relationship between a senior director and the Assistant to the President for National Security Affairs or any other supervisor regarding matters other than matters described in paragraph (1).

(d) ALLOCATION OF FUNDS.—Of the total amount authorized to be appropriated under section 201, [$2,000,000] is available for carrying out research referred to in subsection (b)(3). Such amount is in addition to any other amounts authorized to be appropriated under section 201 for such purpose.

SEC. 1342. NATIONAL SECURITY COUNCIL COMMITTEE ON NONPROLIFERATION.

(a) ESTABLISHMENT.—The Committee on Nonproliferation (in this section referred to as the "Committee") is established as a committee of the National Security Council.

(b) MEMBERSHIP.—(1) The Committee shall be composed of the following:

(A) The Secretary of State.

(B) The Secretary of Defense.

(C) The Director of Central Intelligence.

(D) The Attorney General.

(E) The Secretary of Energy.

(F) The Administrator of the Federal Emergency Management Agency.

(G) The Secretary of the Treasury.

(H) The Secretary of Commerce.

(I) Such other members as the President may designate.

(2) The National Coordinator for Nonproliferation Matters shall chair the Committee on Nonproliferation.

(c) RESPONSIBILITIES.—The Committee has the following responsibilities:

(1) To review and coordinate Federal programs, policies, and directives relating to the proliferation of weapons of mass destruction and related materials and technologies, including matters relating to terrorism and international organized crime.

(2) To make recommendations to the President regarding the following:

(A) Integrated national policies for countering the threats posed by weapons of mass destruction.

(B) Options for integrating Federal agency budgets for countering such threats.

(C) Means to ensure that the Federal, State, and local governments have adequate capabilities to manage crises involving nuclear, radiological, biological, or chemical weapons or related materials or technologies, and to manage the consequences of a use of such a weapon or related materials or technologies, and that use of those capabilities is coordinated.

(D) Means to ensure appropriate cooperation on, and coordination of, the following:

(i) Preventing the smuggling of weapons of mass destruction and related materials and technologies.

(ii) Promoting domestic and international law enforcement efforts against proliferation-related efforts.

(iii) Countering the involvement of organized crime groups in proliferation-related activities.

(iv) Safeguarding weapons of mass destruction materials and related technologies.

(v) Improving coordination and cooperation among intelligence activities, law enforcement, and the Departments of Defense, State, Commerce, and Energy in support of nonproliferation and counterproliferation efforts.

(vi) Ensuring the continuation of effective export controls over materials and technologies that can contribute to the acquisition of weapons of mass destruction.

(vii) Reducing proliferation of weapons of mass destruction and related materials and technologies.

SEC. 1343. COMPREHENSIVE PREPAREDNESS PROGRAM.

(a) PROGRAM REQUIRED.—The President, acting through the Committee on Nonproliferation established under section 1342, shall develop a comprehensive program for carrying out this title.

(b) CONTENT OF PROGRAM.—The program set forth in the report shall include specific plans as follows:

(1) Plans for countering proliferation of weapons of mass destruction and related materials and technologies.

(2) Plans for training and equipping Federal, State, and local officials for managing a crisis involving a use or threatened use of a weapon of mass destruction, including the consequences of the use of such a weapon.

(3) Plans for providing for regular sharing of information among intelligence, law enforcement, and customs agencies.

(4) Plans for training and equipping law enforcement units, customs services, and border security personnel to counter the smuggling of weapons of mass destruction and related materials and technologies.

(5) Plans for establishing appropriate centers for analyzing seized nuclear, radiological, biological, and chemical weapons, and related materials and technologies.

(6) Plans for establishing in the United States appropriate legal controls and authorities relating to the exporting of nuclear, radiological, biological, and chemical weapons, and related materials and technologies.

(7) Plans for encouraging and assisting governments of foreign countries to implement and enforce laws that set forth appropriate penalties for offenses regarding the smuggling of weapons of mass destruction and related materials and technologies.

(8) Plans for building the confidence of the United States and Russia in each other's controls over United States and Russian nuclear weapons and fissile materials, including plans for verifying the dismantlement of nuclear weapons.

(9) Plans for reducing United States and Russian stockpiles of excess plutonium, reflecting—

(A) consideration of the desirability and feasibility of a United States-Russian agreement governing fissile material disposition and the specific technologies and approaches to be used for disposition of excess plutonium; and

(B) an assessment of the options for United States cooperation with Russia in the disposition of Russian plutonium.

(10) Plans for studying the merits and costs of establishing a global network of means for detecting and responding to terroristic or other criminal use of biological agents against people or other forms of life in the United States or any foreign country.

(c) REPORT.—(1) At the same time that the President submits the budget for fiscal year 1998 to Congress pursuant to section 1105(a) of title 31, United States Code, the President shall submit to Congress a report that sets forth the comprehensive program developed under subsection (a).

(2) The report shall include the following:

(A) The specific plans for the program that are required under subsection (b).

(B) Estimates of the funds necessary for carrying out such plans in fiscal year 1998.

(3) The report shall be in an unclassified form. If there is a classified version of the report, the President shall submit the classified version at the same time.

SEC. 1344. TERMINATION.

After September 30, 1999, the President—

(1) is not required to maintain a National Coordinator for Nonproliferation Matters under section 1341; and

(2) may terminate the Committee on Nonproliferation established under section 1342.

Subtitle E—Miscellaneous

SEC. 1351. CONTRACTING POLICY.

It is the sense of Congress that the Secretary of Defense, the Secretary of Energy, the Secretary of the Treasury, and the Secretary of State—

(1) in the administration of funds available to such officials in accordance with this title, should (to the extent possible under law) contract directly with suppliers in independent states of the former Soviet Union to facilitate the purchase of goods and services necessary to carry out effectively the programs and authorities provided or referred to in subtitle C; and

(2) to do so should seek means, consistent with law, to utilize innovative contracting approaches to avoid delay and increase the effectiveness of such programs and of the exercise of such authorities.

SEC. 1352. TRANSFERS OF ALLOCATIONS AMONG COOPERATIVE THREAT REDUCTION PROGRAMS.

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

(1) The various Cooperative Threat Reduction programs are being carried out at different rates in the various countries covered by such programs.

(2) It is necessary to authorize transfers of funding allocations among the various programs in order to maximize the effectiveness of United States efforts under such programs.

(b) TRANSFERS AUTHORIZED.—Funds appropriated for the purposes set forth in subsection (a) of section 1202 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 409) may be used for any such purpose without regard to the allocation set forth in that section and without regard to subsection (b) of such section.

SEC. 1353. ADDITIONAL CERTIFICATIONS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Cooperative Threat Reduction programs and other United States programs that are derived from programs established under the Former Soviet Union Demilitarization Act of 1992 (title XIV of Public Law 102–484; 22 U.S.C. 2901 et seq.) should be expanded by offering assistance under those programs to other independent states of the former Soviet Union in addition to Russia, Ukraine, Kazakstan, and Belarus; and

(2) the President should offer assistance to additional independent states of the former Soviet Union in each case in which the participation of such states would benefit national security interests of the United States by improving border controls and safeguards over materials and technology associated with weapons of mass destruction.

(b) EXTENSION OF COVERAGE.—Assistance under programs referred to in subsection (a) may, notwithstanding any other provision of law, be extended to include an independent state of the former Soviet Union if the President certifies to Congress that it is in the national interests of the United States to extend the assistance to that state.

SEC. 1354. PURCHASE OF LOW-ENRICHED URANIUM DERIVED FROM RUSSIAN HIGHLY ENRICHED URANIUM.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the allies of the United States and other nations should participate in efforts to ensure that stockpiles of weapons-grade nuclear material are reduced.

(b) ACTIONS BY THE SECRETARY OF STATE.—Congress urges the Secretary of State to encourage, in consultation with the Secretary of Energy, other countries to purchase low-enriched uranium that is derived from highly enriched uranium extracted from Russian nuclear weapons.

SEC. 1355. PURCHASE, PACKAGING, AND TRANSPORTATION OF FISSILE MATERIALS AT RISK OF THEFT.

It is the sense of Congress that—

(1) the Secretary of Defense, the Secretary of Energy, the Secretary of the Treasury, and the Secretary of State should purchase, package, and transport to secure locations weapons-grade nuclear materials from a stockpile of such materials if such officials determine that—

(A) there is a significant risk of theft of such materials; and

(B) there is no reasonable and economically feasible alternative for securing such materials; and

(2) if it is necessary to do so in order to secure the materials, the materials should be imported into the United States, subject to the laws and regulations that are applicable to the importation of such materials into the United States.

SEC. 1356. REDUCTION IN AUTHORIZATIONS OF APPROPRIATIONS.

(a) NAVY RDT&E.—(1) The total amount authorized to be appropriated under section 201(2) is reduced by $150,000,000.

(2) The reduction in paragraph (1) shall be applied to reduce by $150,000,000 the amount authorized to be appropriated under section 201(2) for the Distributed Surveillance System.

(b) DEPARTMENT OF ENERGY.—(1) Notwithstanding any of the provisions of title XXXI, the total amount authorized to be appropriated for the Department of Energy for fiscal year 1997 under that title is reduced by $85,000,000.

(2) The reduction under paragraph (1) is not directed at any particular authorization of appropriations under title XXXI for any particular program, project, or activity.

GRASSLEY AMENDMENT NO. 4182

(Ordered to lie on the table.)

Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill, S. 1745, supra; as follows:

At the end of division A, insert the following new title:

TITLE XIII—WTO REVIEW COMMISSION

SEC. 1301. SHORT TITLE.

This title may be cited as the "WTO Dispute Settlement Review Commission Act".

SEC. 1302. CONGRESSIONAL FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) The United States joined the WTO as an original member with the goal of creating an improved global trading system and providing expanded economic opportunities for United States firms and workers, while preserving United States sovereignty.

(2) The American people must receive assurances that United States sovereignty will be protected, and United States interests will be advanced, within the global trading system which the WTO will oversee.

(3) The WTO's dispute settlement rules are meant to enhance the likelihood that governments will observe their WTO obligations, and thus help ensure that the United States will reap the full benefits of its participation in the WTO.

(4) United States support for the WTO depends on obtaining mutual trade benefits through the openness of foreign markets and

the maintenance of effective United States and WTO remedies against unfair or otherwise harmful trade practices.

(5) Congress passed the Uruguay Round Agreements Act based on its understanding that effective trade remedies would not be eroded. These remedies are essential to continue the process of opening foreign markets to imports of goods and services and to prevent harm to American industry and agriculture.

(6) In particular, WTO dispute settlement panels and the Appellate Body should—

(A) operate with fairness and in an impartial manner;

(B) not add to the obligations, or diminish the rights, of WTO members under the Uruguay Round Agreements; and

(C) observe the terms of reference and any applicable WTO standard of review.

(b) PURPOSE.—It is the purpose of this title to provide for the establishment of the WTO Dispute Settlement Review Commission to achieve the objectives described in subsection (a)(6).

SEC. 1303. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the WTO Dispute Settlement Review Commission (hereafter in this title referred to as the "Commission").

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 5 members all of whom shall be judges of the Federal judicial circuits and shall be appointed by the President, after consultation with the Majority Leader and Minority Leader of the House of Representatives, the Majority Leader and Minority Leader of the Senate, the chairman and ranking member of the Committee on Ways and Means of the House of Representatives, and the chairman and ranking member of the Committee on Finance of the Senate.

(2) DATE.—The appointments of the initial members of the Commission shall be made no later than 90 days after the date of the enactment of this Act.

(c) PERIOD OF APPOINTMENT; VACANCIES.—

(1) IN GENERAL.—Members of the Commission shall each be appointed for a term of 5 years, except of the members first appointed, 3 members shall be appointed for terms of 3 years and the remaining 2 members shall be appointed for terms of 2 years.

(2) VACANCIES.—

(A) IN GENERAL.—Any vacancy on the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment and shall be subject to the same conditions as the original appointment.

(B) UNEXPIRED TERM.—An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

(d) INITIAL MEETING.—No later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) MEETINGS.—The Commission shall meet at the call of the Chairperson.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) AFFIRMATIVE DETERMINATIONS.—An affirmative vote by a majority of the members of the Commission shall be required for any affirmative determination by the Commission under section 1304.

(h) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall select a Chairperson and Vice Chairperson from among its members.

SEC. 1304. DUTIES OF THE COMMISSION.

(a) REVIEW OF WTO DISPUTE SETTLEMENT REPORTS.—

(1) IN GENERAL.—The Commission shall review—

(A) all adverse reports of dispute settlement panels and the Appellate Body which are—

(i) adopted by the Dispute Settlement Body, and

(ii) the result of a proceeding initiated against the United States by a WTO member; and

(B) upon the request of the Trade Representative, any adverse report of a dispute settlement panel or the Appellate Body—

(i) which is adopted by the Dispute Settlement Body, and

(ii) in which the United States is a complaining party.

(2) SCOPE OF REVIEW.—With respect to any report the Commission reviews under paragraph (1), the Commission shall determine in connection with each adverse finding whether the panel or the Appellate Body, as the case may be—

(A) demonstrably exceeded its authority or its terms of reference;

(B) added to the obligations, or diminished the rights, of the United States under the Uruguay Round Agreement which is the subject of the report;

(C) acted arbitrarily or capriciously, engaged in misconduct, or demonstrably departed from the procedures specified for panels and the Appellate Body in the applicable Uruguay Round Agreement; and

(D) deviated from the applicable standard of review, including in antidumping cases, the standard of review set forth in Article 17.6 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994.

(3) AFFIRMATIVE DETERMINATION.—The Commission shall make an affirmative determination under this paragraph with respect to the action of a panel or the Appellate Body, if the Commission determines that—

(A) any of the matters described in subparagraph (A), (B), (C), or (D) of paragraph (2) has occurred; and

(B) the action of the panel or the Appellate Body materially affected the outcome of the report of the panel or Appellate Body.

(b) DETERMINATION; REPORT.—

(1) DETERMINATION.—No later than 120 days after the date on which a report of a panel or the Appellate Body described in subsection (a)(1) is adopted by the Dispute Settlement Body, the Commission shall make a written determination with respect to the matters described in paragraphs (2) and (3) of subsection (a).

(2) REPORTS.—The Commission shall promptly report the determinations described in paragraph (1) to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Trade Representative.

SEC. 1305. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold a public hearing to solicit views concerning a report of a dispute settlement panel or the Appellate Body described in section 1304(a)(1), if the Commission considers such hearing to be necessary to carry out the purpose of this title. The Commission shall provide reasonable notice of a hearing held pursuant to this subsection.

(b) INFORMATION FROM INTERESTED PARTIES AND FEDERAL AGENCIES.—

(1) NOTICE OF PANEL OR APPELLATE BODY REPORT.—The Trade Representative shall advise the Commission no later than 5 business days after the date the Dispute Settlement Body adopts a report of a panel or the Appellate Body that is to be reviewed by the Commission under section 1304(a)(1).

(2) SUBMISSIONS AND REQUESTS FOR INFORMATION.—

(A) IN GENERAL.—The Commission shall promptly publish in the Federal Register notice of the advice received from the Trade Representative, along with notice of an opportunity for interested parties to submit written comments to the Commission. The Commission shall make comments submitted pursuant to the preceding sentence available to the public.

(B) INFORMATION FROM FEDERAL AGENCIES AND DEPARTMENTS.—The Commission may also secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this title. Upon the request of the Chairperson of the Commission, the head of such department or agency shall furnish the information requested to the Commission.

(3) ACCESS TO PANEL AND APPELLATE BODY DOCUMENTS.—

(A) IN GENERAL.—The Trade Representative shall make available to the Commission all submissions and relevant documents relating to a report of a panel or the Appellate Body described in section 1304(a)(1), including any information contained in such submissions identified by the provider of the information as proprietary information or information designated as confidential by a foreign government.

(B) PUBLIC ACCESS.—Any document which the Trade Representative submits to the Commission shall be available to the public, except information which is identified as proprietary or confidential.

(c) ASSISTANCE FROM FEDERAL AGENCIES; CONFIDENTIALITY.—

(1) ADMINISTRATIVE ASSISTANCE.—Any agency or department of the United States that is designated by the President shall provide administrative services, funds, facilities, staff, or other support services to the Commission to assist the Commission with the performance of the Commission's functions.

(2) CONFIDENTIALITY.—The Commission shall protect from disclosure any document or information submitted to it by a department or agency of the United States which the agency or department requests be kept confidential. The Commission shall not be considered to be an agency for purposes of section 552 of title 5, United States Code.

SEC. 1306. REVIEW OF DISPUTE SETTLEMENT PROCEDURES AND PARTICIPATION IN THE WTO.

(a) AFFIRMATIVE REPORT BY COMMISSION.—

(1) IN GENERAL.—If a joint resolution described in subsection (b)(1) is enacted into law pursuant to the provisions of subsection (c), the President should undertake negotiations to amend or modify the rules and procedures of the Uruguay Round Agreement to which such joint resolution relates.

(2) 3 AFFIRMATIVE REPORTS BY COMMISSION.—If a joint resolution described in subsection (b)(2) is enacted into law pursuant to the provisions of subsection (c), the approval of the Congress, provided for under section 101(a) of the Uruguay Round Agreements Act, of the WTO Agreement shall cease to be effective in accordance with the provisions of the joint resolution.

(b) JOINT RESOLUTIONS DESCRIBED.—

(1) IN GENERAL.—For purposes of subsection (a)(1), a joint resolution is described in this paragraph if it is a joint resolution of the 2 Houses of Congress and the matter after the resolving clause of such joint resolution is as follows: "That the Congress calls upon the President to undertake negotiations to

amend or modify the matter relating to _____ that is the subject of the affirmative report submitted to the Congress by the WTO Dispute Settlement Review Commission on ____", the first blank space being filled with the specific provisions of the Uruguay Round Agreement with respect to which the President is to undertake negotiations and the second blank space being filled with the date that the affirmative report, which was made under section 1304(b) and which has given rise to the joint resolution, was submitted to the Congress by the Commission pursuant to section 1304(b).

(2) WITHDRAWAL RESOLUTION.—For purposes of subsection (a)(2), a joint resolution is described in this paragraph if it is a joint resolution of the 2 Houses of Congress and the matter after the resolving clause of such joint resolution is as follows: "That, in light of the 3 affirmative reports submitted to the Congress by the WTO Dispute Settlement Review Commission during the preceding 5-year period, and the failure to remedy the problems identified in the reports through negotiations, it is no longer in the overall national interest of the United States to be a member of the WTO, and accordingly the Congress withdraws its approval, provided under section 101(a) of the Uruguay Round Agreements Act, of the WTO Agreement as defined in section 2(9) of that Act.".

(c) PROCEDURAL PROVISIONS.—

(1) IN GENERAL.—The requirements of this subsection are met if the joint resolution is enacted in accordance with this subsection, and—

(A) in the case of a joint resolution described in subsection (b)(1), the Congress adopts and transmits the joint resolution to the President before the end of the 90-day period (excluding any day described in section 154(b) of the Trade Act of 1974) beginning on the date on which the Congress receives an affirmative report from the Commission pursuant to section 1304(b)(2); or

(B) in the case of a joint resolution described in subsection (b)(2), the Commission has submitted 3 affirmative reports pursuant to section 1304(b)(2) during a 5-year period, and the Congress adopts and transmits the joint resolution to the President before the end of the 90-day period (excluding any day described in section 154(b) of the Trade Act of 1974) beginning on the date on which the Congress receives the third such affirmative report.

(2) PRESIDENTIAL VETO.—In any case in which the President vetoes the joint resolution, the requirements of this subsection are met if each House of Congress votes to override that veto on or before the later of the last day of the 90-day period referred to in subparagraph (A) or (B) of paragraph (1), whichever is applicable, or the last day of the 15-day period (excluding any day described in section 154(b) of the Trade Act of 1974) beginning on the date on which the Congress receives the veto message from the President.

(3) INTRODUCTION.—

(A) TIME.—A joint resolution to which this section applies may be introduced at any time on or after the date on which the Commission transmits to the Congress an affirmative report pursuant to section 1304(b)(2), and before the end of the 90-day period referred to in subparagraph (A) or (B) of paragraph (1), as the case may be.

(B) ANY MEMBER MAY INTRODUCE.—A joint resolution described in subsection (b) may be introduced in either House of the Congress by any Member of such House.

(4) EXPEDITED PROCEDURES.—

(A) GENERAL RULE.—Subject to the provisions of this subsection, the provisions of subsections (b), (d), (e), and (f) of section 152 of the Trade Act of 1974 (19 U.S.C. 2192 (b), (d), (e), and (f)) apply to joint resolutions described in subsection (b) to the same extent as such provisions apply to resolutions under such section.

(B) REPORT OR DISCHARGE OF COMMITTEE.—If the committee of either House to which a joint resolution has been referred has not reported it by the close of the 45th day after its introduction (excluding any day described in section 154(b) of the Trade Act of 1974), such committee shall be automatically discharged from further consideration of the joint resolution and it shall be placed on the appropriate calendar.

(C) FINANCE AND WAYS AND MEANS COMMITTEES.—It is not in order for—

(i) the Senate to consider any joint resolution unless it has been reported by the Committee on Finance or the committee has been discharged under subparagraph (B); or

(ii) the House of Representatives to consider any joint resolution unless it has been reported by the Committee on Ways and Means or the committee has been discharged under subparagraph (B).

(D) SPECIAL RULE FOR HOUSE.—A motion in the House of Representatives to proceed to the consideration of a joint resolution may only be made on the second legislative day after the calendar day on which the Member making the motion announces to the House his or her intention to do so.

(5) CONSIDERATION OF SECOND RESOLUTION NOT IN ORDER.—It shall not be in order in either the House of Representatives or the Senate to consider a joint resolution (other than a joint resolution received from the other House), if that House has previously adopted a joint resolution under this section relating to the same matter.

(d) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—This section is enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such is deemed a part of the rules of each House, respectively, and such procedures supersede other rules only to the extent that they are inconsistent with such other rules; and

(2) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the procedures of that House) at any time, in the same manner, and to the same extent as any other rule of that House.

SEC. 1307. DEFINITIONS.

For purposes of this title:

(1) ADVERSE FINDING.—The term "adverse finding" means—

(A) in a panel or Appellate Body proceeding initiated against the United States, a finding by the panel or the Appellate Body that any law or regulation of, or application thereof by, the United States is inconsistent with the obligations of the United States under a Uruguay Round Agreement (or nullifies or impairs benefits accruing to a WTO member under such an Agreement); or

(B) in a panel or Appellate Body proceeding in which the United States is a complaining party, any finding by the panel or the Appellate Body that a measure of the party complained against is not inconsistent with that party's obligations under a Uruguay Round Agreement (or does not nullify or impair benefits accruing to the United States under such an Agreement).

(2) AFFIRMATIVE REPORT.—The term "affirmative report" means a report described in section 1304(b)(2) which contains affirmative determinations made by the Commission under paragraph (3) of section 1304(a).

(3) APPELLATE BODY.—The term "Appellate Body" means the Appellate Body established by the Dispute Settlement Body pursuant to Article 17.1 of the Dispute Settlement Understanding.

(4) DISPUTE SETTLEMENT BODY.—The term "Dispute Settlement Body" means the Dispute Settlement Body established pursuant to the Dispute Settlement Understanding.

(5) DISPUTE SETTLEMENT PANEL; PANEL.—The terms "dispute settlement panel" and "panel" mean a panel established pursuant to Article 6 of the Dispute Settlement Understanding.

(6) DISPUTE SETTLEMENT UNDERSTANDING.—The term "Dispute Settlement Understanding" means the Understanding on Rules and Procedures Governing the Settlement of Disputes referred to in section 101(d)(16) of the Uruguay Round Agreements Act.

(7) TERMS OF REFERENCE.—The term "terms of reference" has the meaning given such term in the Dispute Settlement Understanding.

(8) TRADE REPRESENTATIVE.—The term "Trade Representative" means the United States Trade Representative.

(9) URUGUAY ROUND AGREEMENT.—The term "Uruguay Round Agreement" means any of the Agreements described in section 101(d) of the Uruguay Round Agreements Act.

(10) WORLD TRADE ORGANIZATION; WTO.—The terms "World Trade Organization" and "WTO" mean the organization established pursuant to the WTO Agreement.

(11) WTO AGREEMENT.—The term "WTO Agreement" means the Agreement Establishing the World Trade Organization entered into on April 15, 1994.

REID AMENDMENT NO. 4183

(Ordered to lie on the table.)

Mr. REID submitted an amendment intended to be proposed by him to the bill, S. 1745, supra; as follows:

At the end of subtitle C of title XXXI, add the following:

SEC. 3138. PAYMENT OF COSTS OF OPERATION AND MAINTENANCE OF INFRASTRUCTURE AT NEVADA TEST SITE.

Notwithstanding any other provision of law and effective as of September 30, 1997, the costs associated with operating and maintaining the infrastructure at the Nevada Test Site, Nevada, with respect to any activities carried out at the site by the Department of Defense shall be paid for by the Department of Energy from funds authorized to be appropriated to the Department of Energy for stockpile stewardship.

FEINSTEIN AMENDMENT NO. 4184

(Ordered to lie on the table.)

Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill, S. 1745, supra; as follows:

At the end of subtitle B of title II, add the following:

SEC. 223. FUNDING FOR BASIC RESEARCH IN NUCLEAR SEISMIC MONITORING.

Of the amount authorized to be appropriated by section 201(3) and made available for arms control implementation for the Air Force (account PE0305145F), $6,500,000 shall be available for basic research in nuclear seismic monitoring.

KYL (AND BINGAMAN) AMENDMENTS NOS. 4185–4186

(Ordered to lie on the table.)

Mr. KYL (for himself and Mr. BINGAMAN) submitted two amendments intended to be proposed by him to the bill, S. 1745, supra; as follows:

AMENDMENT NO. 4185

At the end of subtitle D of title X, add the following:

SEC. 1043. PROHIBITION ON COLLECTION AND RELEASE OF DETAILED SATELLITE IMAGERY RELATING TO ISRAEL AND OTHER COUNTRIES AND AREAS.

(a) COLLECTION AND DISSEMINATION.—No department or agency of the Federal Government may license the collection or dissemination by any non-Federal entity of satellite imagery with respect to Israel, or to any other country or geographic area designated by the President for this purpose, unless such imagery is no more detailed or precise than satellite imagery of the country or geographic area concerned that is routinely available from commercial sources.

(b) DECLASSIFICATION AND RELEASE.—No department or agency of the Federal Government may declassify or otherwise release satellite imagery with respect to Israel, or to any other country or geographic area designated by the President for this purpose, unless such imagery is no more detailed or precise than satellite imagery of the country or geographic area concerned that is routinely available from commercial sources.

AMENDMENT NO. 4186

At the end of subtitle D of title X, add the following:

SEC. 1043. PROHIBITION ON COLLECTION AND RELEASE OF DETAILED SATELLITE IMAGERY RELATING TO ISRAEL AND OTHER COUNTRIES AND AREAS.

(a) COLLECTION AND DISSEMINATION.—No department or agency of the Federal Government may license the collection or dissemination by any non-Federal entity of satellite imagery with respect to Israel, or to any other country or geographic area designated by the President for this purpose, unless such imagery is no more detailed or precise than satellite imagery of the country or geographic area concerned that is routinely available from commercial sources.

(b) DECLASSIFICATION AND RELEASE.— No department or agency of the Federal Government may declassify or otherwise release satellite imagery with respect to Israel, or to any other country or geographic area designated by the President for this purpose, unless such imagery is no more detailed or precise than satellite imagery of the country or geographic area concerned that is routinely available from commercial sources.

KYL AMENDMENTS NOS. 4187–4188

(Ordered to lie on the table.)

Mr. KYL submitted two amendments intended to be proposed by him to the bill, S. 1745, supra; as follows:

AMENDMENT NO. 4187

At the end of subtitle B of title II, add the following:

SEC. 223, SURGICAL STRIKE VEHICLE FOR USE AGAINST HARDENED AND DEEPLY BURIED TARGETS.

Of the amount authorized to be appropriated by section 201(4) for counterproliferation support program, $3,000,000 shall be made available for research and development into the near-term development of a B52H system as a surgical strike vehicle for defeating hardened and deeply buried targets, including tunnels and deeply buried facilities for the production and storage of chemical, biological, and nuclear weapons and their delivery systems.

AMENDMENT NO. 4188

At the end of subtitle D of title X add the following:

SEC. 1044. SENSE OF THE SENATE CONCERNING EXPORT CONTROLS.

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

(1) Export controls are a part of a comprehensive response to national security threats. United States exports should be restricted where those threats exist to national security, nonproliferation, and foreign policy interests of the United States.

(2) The export of certain commodities and technology may adversely affect the national security and foreign policy of the United States by making a significant contribution to the military potential of individual countries or by disseminating the capability to design, develop, test, produce, stockpile, or use weapons of mass destruction, missile delivery systems, and other significant military capabilities. Therefore, the administration of export controls should emphasize the control of these exports.

(3) The acquisition of sensitive commodities and technologies by those countries and end users whose actions or policies run counter to United States national security or foreign policy interests may enhance the military capabilities of those countries, particularly their ability to design, develop, test, produce, stockpile, use, and deliver nuclear, chemical, and biological weapons, missile delivery systems, and other significant military capabilities. This enhancement threatens the security of the United States and its allies. The availability to countries and end users of items that contribute to military capabilities or the proliferation of weapons of mass destruction is a fundamental concern of the United States and should be eliminated through deterrence, negotiations, and other appropriate means whenever possible.

(4) The national security of the United States depends not only on wise foreign policies and a strong defense, but also a vibrant national economy. To be truly effective, export controls should be applied uniformly by all suppliers.

(5) On November 5, 1995, President William J. Clinton extended Executive Order No. 12938 regarding "Weapons of Mass Destruction", and "declared a national emergency with respect to the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States posed by the proliferation of nuclear, biological, and chemical weapons and the means of delivering such weapons".

(6) A successor regime to COCOM (the Coordinating Commission on Multilateral Controls) has not been established. Currently, each nation is determining independently which dual-use military items, if any, will be controlled for export.

(7) The United States should play a leading role in promoting transparency and responsibility with regard to the transfers of sensitive dual-use goods and technologies.

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

(1) establishing an international export control regime, empowered to control exports of dual-use technology, is critically important and should become a top priority for the United States; and

(2) the United States should strongly encourage its allies and friends to—

(A) adopt a commodity control list which governs the same or similar items as are controlled by the United States Commodity Control list;

(B) strengthen enforcement activities; and

(C) explore the use of unilateral export controls where the possibility exists that an export could contribute to proliferation.

THURMOND AMENDMENTS NOS. 4189–4190

(Ordered to lie on the table.)

Mr. THURMOND submitted two amendments intended to be proposed by him to the bill, S. 1745, supra; as follows:

AMENDMENT NO. 4189

At the end of subtitle B of title IV, add the following:

SEC. 413. PERSONNEL MANAGEMENT RELATING TO ASSIGNMENT TO SERVICE IN THE SELECTIVE SERVICE SYSTEM.

Section 10 of the Military Selective Service Act (50 U.S.C. App. 460) is amended—

(1) in subsection (b)(2), by inserting ", subject to subsection (e)," after "to employ such number of civilians, and"; and

(2) by inserting after subsection (d) the following:

"(e)(1) The number of armed forces personnel assigned to the Selective Service System under subsection (b)(2) may not exceed 745, except in a time of war declared by Congress or national emergency declared by Congress or the President.

"(2) Members of the Selected Reserve assigned to the Selective Service System under subsection (b)(2) shall not be counted for purposes of any limitation on the authorized strength of Selected Reserve personnel of the reserve components under any law authorizing the end strength of such personnel.".

AMENDMENT NO. 4190

At the end of title XI add the following:

Subtitle B—Defense Intelligence Personnel

SEC. 1131. SHORT TITLE.

This subtitle may be cited as the "Department of Defense Civilian Intelligence Personnel Reform Act of 1996".

SEC. 1132. CIVILIAN INTELLIGENCE PERSONNEL MANAGEMENT.

Section 1590 of title 10, United States Code, is amended to read as follows:

"§ 1590. Management of civilian intelligence personnel of the Department of Defense

"(a) GENERAL PERSONNEL MANAGEMENT AUTHORITY.—The Secretary of Defense may, without regard to the provisions of any other law relating to the appointment, number, classification, or compensation of employees—

"(1) establish—

"(A) as positions in the excepted service, such defense intelligence component positions (including Intelligence Senior Level positions) as the Secretary determines necessary to carry out the intelligence functions of the defense intelligence components; and

"(B) such Intelligence Senior Executive Service positions as the Secretary determines necessary to carry out functions referred to in subparagraph (B);

"(2) appoint individuals to such positions (after taking into consideration the availability of preference eligibles for appointment to such positions); and

"(3) fix the compensation of such individuals for service in such positions.

"(b) BASIC PAY.—(1)(A) Subject to subparagraph (B) and paragraph (2), the Secretary of Defense shall fix the rates of basic pay for positions established under subsection (a) in relation to the rates of basic pay provided in subpart D of part III of title 5 for positions subject to that subpart which have corresponding levels of duties and responsibilities.

"(B) Except as otherwise provided by law, no rate of basic pay fixed under subparagraph (A) for a position established under subsection (a) may exceed—

"(i) in the case of an Intelligence Senior Executive Service position, the maximum rate provided in section 5382 of title 5;

"(ii) in the case of an Intelligence Senior Level position, the maximum rate provided in section 5382 of title 5; and

"(iii) in the case of any other defense intelligence component position, the maximum rate provided in section 5306(e) of title 5.

"(2) The Secretary of Defense may, consistent with section 5341 of title 5, adopt such provisions of that title as provide for prevailing rate systems of basic pay and may apply those provisions to positions for civilian employees in or under which the Department of Defense may employ individuals described by section 5342(a)(2)(A) of such title.

"(c) ADDITIONAL COMPENSATION, INCENTIVES, AND ALLOWANCES.—(1) Employees in defense intelligence component positions may be paid additional compensation, including benefits, incentives, and allowances, in accordance with this subsection if, and to the extent, authorized in regulations prescribed by the Secretary of Defense.

"(2) Additional compensation under this subsection shall be consistent with, and not in excess of the levels authorized for, comparable positions authorized by title 5.

"(3)(A) Employees in defense intelligence component positions, if citizens or nationals of the United States, may be paid an allowance while stationed outside the continental United States or in Alaska.

"(B) Subject to subparagraph (C), allowances under subparagraph (A) shall be based on—

"(i) living costs substantially higher than in the District of Columbia;

"(ii) conditions of environment which differ substantially from conditions of environment in the continental United States and warrant an allowance as a recruitment incentive; or

"(iii) both of the factors described in clauses (i) and (ii).

"(C) An allowance under subparagraph (A) may not exceed an allowance authorized to be paid by section 5941(a) of title 5 for employees whose rates of basic pay are fixed by statute.

"(d) INTELLIGENCE SENIOR EXECUTIVE SERVICE.—(1) The Secretary of Defense may establish an Intelligence Senior Executive Service for defense intelligence component positions established pursuant to subsection (a) that are equivalent to Senior Executive Service positions.

"(2) The Secretary of Defense shall prescribe regulations for the Intelligence Senior Executive Service which are consistent with the requirements set forth in sections 3131, 3132(a)(2), 3396(c), 3592, 3595(a), 5384, and 6304 of title 5, subsections (a), (b), and (c) of section 7543 of such title (except that any hearing or appeal to which a member of the Intelligence Senior Executive Service is entitled shall be held or decided pursuant to the regulations), and subchapter II of chapter 43 of such title. To the extent that the Secretary determines it practicable to apply to members of, or applicants for, the Intelligence Senior Executive Service other provisions of title 5 that apply to members of, or applicants for, the Senior Executive Service, the Secretary shall also prescribe regulations to implement those sections with respect to the Intelligence Senior Executive Service.

"(e) AWARD OF RANK TO MEMBERS OF THE INTELLIGENCE SENIOR EXECUTIVE SERVICE.—The President, based on the recommendations of the Secretary of Defense, may award a rank referred to in section 4507 of title 5 to members of the Intelligence Senior Executive Service whose positions may be established pursuant to this section. The awarding of such rank shall be made in a manner consistent with the provisions of that section.

"(f) INTELLIGENCE SENIOR LEVEL POSITIONS.—The Secretary of Defense may, in accordance with regulations prescribed by the Secretary, designate as an Intelligence Senior Level position any defense intelligence component position that, as determined by the Secretary—

"(1) is classifiable above grade GS–15 of the General Schedule;

"(2) does not satisfy functional or program management criteria for being designated an Intelligence Senior Executive Service position; and

"(3) has no more than minimal supervisory responsibilities.

"(g) TIME LIMITED APPOINTMENTS.—(1) The Secretary of Defense may, in regulations, authorize appointing officials to make time limited appointments to defense intelligence component positions specified in the regulations.

"(2) An employee serving in a defense intelligence component position pursuant to a time limited appointment is not eligible for a permanent appointment to an Intelligence Senior Executive Service position (including a position in which serving) unless selected for the permanent appointment on a competitive basis.

"(3) In this subsection, the term 'time limited appointment' means an appointment for a period not to exceed two years. . . .

"(h) TERMINATION OF CIVILIAN INTELLIGENCE EMPLOYEES.—(1) Notwithstanding any other provision of law, the Secretary of Defense may terminate the employment of any employee in a defense intelligence component position if the Secretary—

"(A) considers such action to be in the interests of the United States; and

"(B) determines that the procedures prescribed in other provisions of law that authorize the termination of the employment of such employee cannot be invoked in a manner consistent with the national security.

"(2) A decision by the Secretary of Defense to terminate the employment of an employee under this subsection is final and may not be appealed or reviewed outside the Department of Defense.

"(3) The Secretary of Defense shall promptly notify the Committee on National Security and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on Armed Services and the Select Committee on Intelligence of the Senate whenever the Secretary terminates the employment of any employee under the authority of this subsection.

"(4) Any termination of employment under this subsection shall not affect the right of the employee involved to seek or accept employment with any other department or agency of the United States if that employee is declared eligible for such employment by the Director of the Office of Personnel Management.

"(5) The authority of the Secretary of Defense under this subsection may be delegated only to the Deputy Secretary of Defense and the head of a defense intelligence component (with respect to employees of that component). An action to terminate employment of such an employee by any such official may be appealed to the Secretary of Defense.

"(i) REDUCTIONS AND OTHER ADJUSTMENTS IN FORCE.—(1) The Secretary of Defense, in consultation with the Director of the Office of Personnel Management, shall prescribe regulations for the separation of employees in defense intelligence component positions, including members of the Intelligence Senior Executive Service and employees in Intelligence Senior Level positions, in a reduction in force or other adjustment in force. The regulations shall apply to such a reduction in force or other adjustment in force notwithstanding sections 3501(b) and 3502 of title 5.

"(2) The regulations shall give effect to—

"(A) tenure of employment;

"(B) military preference, subject to sections 3501(a)(3) and 3502(b) of title 5;

"(C) the veteran's preference under section 3502(b) of title 5;

"(D) performance; and

"(E) length of service computed in accordance with the second sentence of section 3502(a) of title 5.

"(2) The regulations relating to removal from the Intelligence Senior Executive Service in a reduction in force or other adjustment in force shall be consistent with section 3595(a) of title 5.

"(3) The regulations shall provide a right of appeal regarding a personnel action under the regulations. The appeal shall be determined within the Department of Defense. An appeal determined at the highest level provided in the regulations shall be final and not subject to review outside the Department of Defense. A personnel action covered by the regulations is not subject to any other provision of law that provides appellate rights or procedures.

"(j) APPLICABILITY OF MERIT SYSTEM PRINCIPLES.—Section 2301 of title 5 shall apply to the exercise of authority under this section.

"(k) COLLECTIVE BARGAINING AGREEMENTS.—Nothing in this section may be construed to impair the continued effectiveness of a collective bargaining agreement with respect to an agency or office that is a successor to an agency or office covered by the agreement before the succession.

"(l) NOTIFICATION OF CONGRESS.—At least 60 days before the effective date of regulations prescribed to carry out this section, the Secretary of Defense shall submit the regulations to the Committee on National Security and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on Armed Services and the Select Committee on Intelligence of the Senate.

"(m) DEFINITIONS.—In this section:

"(1) The term 'defense intelligence component position' means a position of civilian employment as an intelligence officer or employee of a defense intelligence component.

"(2) The term 'defense intelligence component' means each of the following components of the Department of Defense:

"(A) The National Security Agency.

"(B) The Defense Intelligence Agency.

"(C) The Central Imagery Office.

"(D) Any component of a military department that performs intelligence functions

and is designated as a defense intelligence component by the Secretary of Defense.

"(E) Any other component of the Department of Defense that performs intelligence functions and is designated as a defense intelligence component by the Secretary of Defense.

"(F) Any successor to a component listed in, or designated pursuant to, this paragraph.

"(3) The term 'Intelligence Senior Level position' means a defense intelligence component position designated as an Intelligence Senior Level position pursuant to subsection (f).

"(4) The term 'excepted service' has the meaning given such term in section 2103 of title 5.

"(5) The term 'preference eligible' has the meaning given such term in section 2108(3) of title 5.

"(6) The term 'Senior Executive Service position' has the meaning given such term in section 3132(a)(2) of title 5.

"(7) The term 'collective bargaining agreement' has the meaning given such term in section 7103(8) of title 5.".

SEC. 1133. REPEALS.

(a) DEFENSE INTELLIGENCE SENIOR EXECUTIVE SERVICE.—Sections 1601, 1603, and 1604 of title 10, United States Code, are repealed.

(b) NATIONAL SECURITY AGENCY PERSONNEL MANAGEMENT AUTHORITIES.—(1) Sections 2 and 4 of the National Security Agency Act of 1959 (50 U.S.C. 402 note) are repealed.

(2) Section 303 of the Internal Security Act of 1950 (50 U.S.C. 833) is repealed.

SEC. 1134. CLERICAL AMENDMENTS.

(a) AMENDED SECTION HEADING.—The item relating to section 1590 in the table of sections at the beginning of chapter 81 of title 10, United States Code, is amended to read as follows:

"1590. Management of civilian intelligence personnel of the Department of Defense.".

(b) REPEALED SECTIONS.—The table of sections at the beginning of chapter 83 of title 10, United States Code, is amended by striking out the items relating to sections 1601, 1603, and 1604.

THURMOND (AND WARNER) AMENDMENT NO. 4191

(Ordered to lie on the table.)

Mr. THURMOND (for himself and Mr. WARNER) submitted an amendment intended to be proposed by them to the bill, S. 1745, supra; as follows:

At the end of subtitle C of title V, add the following:

SEC. 523. PROHIBITION ON REORGANIZATION OF ARMY ROTC CADET COMMAND OR TERMINATION OF SENIOR ROTC UNITS PENDING REPORT ON ROTC.

(a) PROHIBITION.—Notwithstanding any other provision of law, the Secretary of the Army may not reorganize or restructure the Reserve Officers Training Corps Cadet Command or terminate any Senior Reserve Officer Training Corps units identified in the Information for Members of Congress concerning Senior Reserve Officer Training Corps (ROTC) Unit Closures dated May 20, 1996, until 180 days after the date on which the Secretary submits to the congressional defense committees the report described in subsection (b).

(b) REPORT.—The report referred to in subsection (a) shall—

(1) describe the selection process used to identify the Reserve Officer Training Corps units of the Army to be terminated;

(2) list the criteria used by the Army to select Reserve Officer Training Corps units for termination;

(3) set forth the specific ranking of each unit of the Reserve Officer Training Corps of the Army to be terminated as against all other such units;

(4) set forth the authorized and actual cadre staffing of each such unit to be termination for each fiscal year of the 10-fiscal year period ending with fiscal year 1996;

(5) set forth the production goals and performance evaluations of each Reserve Officer Training Corps unit of the Army on the closure list for each fiscal year of the 10-fiscal year period ending with fiscal year 1996;

(6) describe how cadets currently enrolled in the units referred to in paragraph (5) will be accommodated after the closure of such units;

(7) describe the incentives to enhance the Reserve Officer Training Corps program that are provided by each of the colleges on the closure list; and

(8) include the projected officer accession plan by source of commission for the active-duty Army, the Army Reserve, and the Army National Guard.

(9) describe whether the closure of any ROTC unit will adversely effect the recruitment of minority officer candidates.

THURMOND AMENDMENT NO. 4192

(Ordered to lie on the table.)

Mr. THURMOND submitted an amendment intended to be proposed by him to the bill, S. 1745, supra; as follows:

At the end of section 1061 add the following:

(c) REPEAL OF 13-YEAR SPECIAL LIMIT ON TERM OF TRANSITIONAL JUDGE OF UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES.—(1) Subsection (d)(2) of section 1301 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1575; 10 U.S.C. 942 note) is amended by striking out "to the judges who are first appointed to the two new positions of the court created as of October 1, 1990—" and all that follows and inserting in lieu thereof "to the judge who is first appointed to one of the two new positions of the court created as of October 1, 1990, as designated by the President at the time of appointment, the anniversary referred to in subparagraph (A) of that paragraph shall be treated as being the seventh anniversary and the number of years referred to in subparagraph (B) of that paragraph shall be treated as being seven.".

(2) Subsection (e)(1) of such section is amended by striking out "each judge" and inserting in lieu thereof "a judge".

PELL (AND HELMS) AMENDMENT NO. 4193

(Ordered to lie on the table.)

Mr. PELL (for himself and Mr. HELMS) submitted an amendment intended to be proposed by them to the bill, S. 1745, supra; as follows:

On page 268, strike lines 12 through 22.

KOHL AMENDMENT NO. 4194

(Ordered to lie on the table.)

Mr. KOHL submitted an amendment intended to be proposed by him to the bill, S. 1745, supra; as follows:

After section 3, add the following:

SEC. 4. GENERAL LIMITATION.

Notwithstanding any other provision of this Act, the total amount authorized to be appropriated for fiscal year 1997 under the provisions of this Act is $265,583,000,000.

CHAFEE AMENDMENT NO. 4195

(Ordered to lie on the table.)

Mr. CHAFEE submitted an amendment intended to be proposed by him to the bill, S. 1745, supra; as follows:

At the end of section 348, add the following:

(c) REPORT ON COMPLIANCE WITH ANNEX V TO THE CONVENTION.—The Secretary of Defense shall include in each report on environmental compliance activities submitted to Congress under section 2706(b) of title 10, United States Code, the following information:

(1) A list of the ships types, if any, for which the Secretary of the Navy has made the determination referred to in paragraph (2)(C) of section 3(c) of the Act to Prevent Pollution from Ships, as amended by subsection (a)(2) of this section.

(2) A list of ship types which the Secretary of the Navy has determined can comply with Regulation 5 of Annex V to the Convention.

(3) A summary of the progress made by the Navy in implementing the requirements of paragraphs (2) and (3) such section 3(c), as so amended.

(4) A description of any emerging technologies offering the potential to achieve full compliance with Regulation 5 of Annex V to the Convention.

(d) PUBLICATION REGARDING SPECIAL AREA DISCHARGES.—Section 3(e)(4) of the Act to Prevent Pollution from Ships (33 U.S.C. 1902(e)(4)) is amended by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) The amount and nature of the discharges in special areas, not otherwise authorized under this title, during the preceding year from ships referred to in subsection (b)(1)(A) of this section owned or operated by the Department of the Navy.".

THURMOND (AND NUNN) AMENDMENT NO. 4196

(Ordered to lie on the table.)

Mr. THURMOND (for himself and Mr. NUNN) submitted an amendment intended to be proposed by him to the bill, S. 1745, supra; as follows:

At the end of subtitle F of title X, add the following:

SEC. 1072. INCREASE IN PENALTIES FOR CERTAIN TRAFFIC OFFENSES ON MILITARY INSTALLATIONS.

Section 4 of the Act of June 1, 1948 (40 U.S.C. 318c) is amended to read as follows:

"SEC. 4. (a) Except as provided in subsection (b), whoever shall violate any rule or regulation promulgated pursuant to section 2 of this Act may be fined not more than $50 or imprisoned for not more than thirty days, or both.

"(b) Whoever shall violate any rule or regulation for the control of vehicular or pedestrian traffic on military installations that is promulgated by the Secretary of Defense, or the designee of the Secretary, under the authority delegated pursuant to section 2 of this Act may be fined an amount not to exceed the amount of a fine for a like or similar offense under the criminal or civil law of the State, territory, possession, or district

where the military installation is located, or imprisoned for not more than thirty days, or both.".

BYRD AMENDMENTS NOS. 4197–4198

(Ordered to lie on the table.)

Mr. BYRD submitted two amendments intended to be proposed by him to the bill, S. 1745, supra; as follows:

AMENDMENT NO. 4197

At the end of subtitle A of title V add the following:

SEC. 506. SERVICE CREDIT FOR SENIOR R.O.T.C. CADETS AND MIDSHIPMEN IN SIMULTANEOUS MEMBERSHIP PROGRAM.

(a) AMENDMENTS TO TITLE 10.—(1) Section 2106(c) of title 10, United States Code, is amended by striking out "while serving on active duty other than for training after July 31, 1990, while a member of the Selected Reserve" and inserting in lieu thereof "performed on or after August 1, 1979, as a member of the Selected Reserve".

(2) Section 2107(g) of such title is amended by striking out "while serving on active duty other than for training after July 31, 1990, while a member of the Selected Reserve" and inserting in lieu thereof "performed on or after August 1, 1979, as a member of the Selected Reserve".

(3) Section 2107a(g) of such title is amended by inserting ", other than enlisted service performed after August 1, 1979, as a member of Selected Reserve" after "service as a cadet or with concurrent enlisted service".

(b) AMENDMENT TO TITLE 37.—Section 205(d) of title 37, United States Code, is amended by striking out "that service after July 31, 1990, that the officer performed while serving on active duty" and inserting in lieu thereof "for service that the officer performed on or after August 1, 1979.".

(c) BENEFITS NOT TO ACCRUE FOR PRIOR PERIODS.—No increase in pay or retired or retainer pay shall accrue for periods before the date of the enactment of this Act by reason of the amendments made by this section.

AMENDMENT NO. 4198

At the end of title VII add the following:

SEC. 708. RESEARCH AND BENEFITS RELATING TO GULF WAR SERVICE.

(a) RESEARCH.—(1) The Secretary of Defense shall, by contract, grant, or other transaction, provide for scientific research to be carried out by entities independent of the Federal Government on possible causal relationships between the complex of illnesses and symptoms commonly known as "Gulf War syndrome" and the possible exposures of members of the Armed Forces to chemical warfare agents or other hazardous materials during Gulf War service.

(2) The Secretary shall prescribe the procedures for making awards under paragraph (1). The procedures shall—

(A) include a comprehensive, independent peer-review process for the evaluation of proposals for scientific research that are submitted to the Department of Defense; and

(B) provide for the final selection of proposals for award to be based on the scientific merit and program relevance of the proposed research.

(3) Of the amount authorized to be appropriated under section 301(19), $10,000,000 is available for research under paragraph (1).

(b) HEALTH CARE BENEFITS FOR AFFLICTED CHILDREN OF GULF WAR VETERANS.—(1) Under regulations prescribed by the Secretary of Defense, any child of a Gulf War veteran who has been born after August 2, 1990, and has a congenital defect or catastrophic illness not excluded from coverage under paragraph (2) is eligible for medical and dental care under chapter 55 of title 10, United States Code, for the congenital defect or catastrophic illness, and associated conditions, of the child.

(2) The administering Secretaries may exclude from coverage under this subsection—

(A) any congenital defect or catastrophic illness that, as determined by the Secretary of Defense to a reasonable degree of scientific certainty on the basis of scientific research, is not a defect or catastrophic illness that can result in a child from an exposure of a parent of the child to a chemical warfare agent or other hazardous material to which members of the Armed Forces might have been exposed during Gulf War service; and

(B) a particular congenital defect or catastrophic illness (and any associated condition) of a particular child if the onset of the defect or illness is determined to have preceded any possible exposure of the parent or parents of the child to a chemical warfare agent or other hazardous material during Gulf War service.

(3) No fee, deductible, or copayment requirement may be imposed or enforced for medical or dental care provided under chapter 55 of title 10, United States Code, in the case of a child who is eligible for such care under this subsection (even if the child would otherwise be subject to such a requirement on the basis of any eligibility for such care that the child also has under any provision of law other than this subsection).

(c) DEFINITIONS.—(1) In this section:

(A) The term "Gulf War veteran" means a veteran of Gulf War service.

(B) The term "Gulf War service" means service on active duty as a member of the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War.

(C) The term "Persian Gulf War" has the meaning given that term in section 101(33) of title 38, United States Code.

(D) The term "administering Secretaries" has the meaning given that term in section 1072(3) of title 10, United States Code.

(E) The term "child" means a natural child.

(2) The Secretary of Defense shall prescribe in regulations a definition of the terms "congenital defect" and "catastrophic illness" for the purposes of this section.

FEINSTEIN AMENDMENTS NOS. 4199–4200

(Ordered to lie on the table.)

Mrs. FEINSTEIN submitted two amendments intended to proposed by her to the bill, S. 1745, supra; as follows:

AMENDMENT NO. 4199

At the appropriate place, insert the following:

SEC. . CONTRIBUTIONS THROUGH INTERMEDIARIES AND CONDUITS.

Section 315(a)(8) of FECA (2 U.S.C. 441a(a)(8)) is amended to read as follows:

"(8) For the purposes of this subsection:

"(A) Contributions made by a person, either directly or indirectly, to or on behalf of a particular candidate, including contributions that are in any way earmarked or otherwise directed through an intermediary or conduit to a candidate, shall be treated as contributions from the person to the candidate. If a contribution is made to a candidate through an intermediary or conduit, the intermediary or conduit shall report the original source and the intended recipient of the contribution to the Commission and the intended recipient.

"(B) Contributions made directly or indirectly by a person to or on behalf of a particular candidate through an intermediary or conduit, including contributions arranged to be made by an intermediary or conduit, shall be treated as contributions from the intermediary or conduit to the candidate if—

"(i) the contributions made through the intermediary or conduit are in the form of a check or other negotiable instrument made payable to the intermediary or conduit rather than the intended recipient; or

"(ii) the intermediary or conduit is—

"(I) a political committee with a connected organization, a political party, or an officer, employee, or agent of either;

"(II) a person whose activities are required to be reported under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267), the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.), or any successor Federal law requiring a person who is a lobbyist or foreign agent to report the activities of such person;

"(III) a person who is prohibited from making contributions under section 316 or a partnership; or

"(IV) an officer, employee, or agent of a person described in subclause (II) or (III) acting on behalf of such person.

"(C) The term 'contributions arranged to be made' includes—

"(i)(I) contributions delivered directly or indirectly to a particular candidate or the candidate's authorized committee or agent by the person who facilitated the contribution; and

"(II) contributions made directly or indirectly to a particular candidate or the candidate's authorized committee or agent that are provided at a fundraising event sponsored by an intermediary or conduit described in subparagraph (B);

(D) This paragraph shall not prohibit—

"(i) fundraising efforts for the benefit of a candidate that are conducted by another candidate or Federal officeholder; or

"(ii) the solicitation by an individual using the individual's resources and acting in the individual's own name of contributions from other persons in a manner not described in paragraphs (B) and (C).".

AMENDMENT NO. 4200

At the appropriate place, insert the following:

SEC. . CANDIDATE EXPENDITURES FROM PERSONAL FUNDS.

Section 315 of FECA (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

"(i)(1)(A) Not later than 15 days after a candidate qualifies for a primary election ballot under State law, the candidate shall file with the Commission, and each other candidate who has qualified for that ballot, a declaration stating whether the candidate intends to expend during the election cycle an amount exceeding $250,000 from—

"(i) the candidate's personal funds;

"(ii) the funds of the candidate's immediate family; and

"(iii) personal loans incurred by the candidate and the candidate's immediate family in connection with the candidate's election campaign.

"(B) The declaration required by subparagraph (A) shall be in such form and contain such information as the Commission may require by regulation.

"(2) Notwithstanding subsection (a), the limitations on contributions under subsection (a) shall be modified as provided under paragraph (3) with respect to other candidates for the same office who are not described in subparagraph (A), (B), or (C), if the candidate—

"(A) declares under paragraph (1) that the candidate intends to expend for the primary and general election funds described in such paragraph in an amount exceeding $250,000;

"(B) expends such funds in the primary and general election in an amount exceeding $250,000; or

"(C) fails to file the declaration required by paragraph (1).

"(3) For purposes of paragraph (2)—

"(A) if a candidate described in paragraph (2)(B) expends funds in an amount exceeding $250,000, the limitation under subsection (a)(1)(A) shall be increased to $2,000; and

"(B) if a candidate described in paragraph (2)(B) expends funds in an amount exceeding $250,000, the limitation under subsection (a)(1)(A) shall be increased to $5,000.

"(4) If—

"(A) the modifications under paragraph (3) apply for a convention or a primary election by reason of 1 or more candidates taking (or failing to take) any action described in subparagraph (A), (B), or (C) of paragraph (2); and

"(B) such candidates are not candidates in any subsequent election in the same election campaign, including the general election,

paragraph (3) shall cease to apply to the other candidates in such campaign.

"(5) No increase described in paragraph (3) shall apply under paragraph (2) to noneligible Senate candidates in any election if eligible Senate candidates are participating in the same election campaign.

"(6) A candidate who—

"(A) declares, pursuant to paragraph (1), that the candidate does not intend to expend funds described in paragraph (1) in excess of $250,000; and

"(B) subsequently changes such declaration or expends such funds in excess of that amount,

shall file an amended declaration with the Commission and notify all other candidates for the same office not later than 24 hours after changing such declaration or exceeding such limits, whichever first occurs, by sending a notice by certified mail, return receipt requested.".

BRYAN AMENDMENTS NOS. 4201–4202

(Ordered to lie on the table.)

Mr. BRYAN submitted two amendments intended to be proposed by him to the bill, S. 1745, supra; as follows:

AMENDMENT NO. 4201

At the end of subtitle F of title X, add the following new section:

SEC. 1072. FEDERAL RETIREMENT PROVISIONS RELATING TO MEMBERS OF CONGRESS AND CONGRESSIONAL EMPLOYEES.

(a) SHORT TITLE.—This section may be cited as the "Congressional Annuity Reform Act of 1996".

(b) RELATING TO THE MAXIMUM ANNUITY ALLOWABLE PURSUANT TO COST-OF-LIVING ADJUSTMENTS.—Section 8340(g)(1) of title 5, United States Code, is amended—

(1) in subparagraph (A) by striking "or" after the semicolon;

(2) in subparagraph (B)—

(A) by striking "employee or Member" and inserting "employee";

(B) by striking "employee or Member," and inserting "employee,";

(C) by striking "employee's or Member's" and inserting "employee's"; and

(D) by striking the period at the end of subparagraph (B)(ii) and inserting "; or"; and

(3) by adding at the end the following:

"(C) the final pay of the Member with respect to whom the annuity is paid.".

(c) RELATING TO THE YEARS OF SERVICE AS A MEMBER OF CONGRESS AND CONGRESSIONAL EMPLOYEES FOR PURPOSES OF COMPUTING AN ANNUITY.—

(1) CSRS.—Section 8339 of title 5, United States Code, is amended—

(A) in subsection (a) by inserting "or Member" after "employee";

(B) by striking subsections (b) and (c); and

(C) in subsection (h)—

(i) in the first sentence by striking out "subsections (a), (b)" and inserting in lieu thereof "subsections (a),"; and

(ii) in the second sentence by striking out "subsections (c) and (f)" and inserting in lieu thereof "subsections (a) and (f)".

(2) FERS.—Section 8415 of title 5, United States Code, is amended—

(A) by striking subsections (b) and (c);

(B) in subsections (a) and (g) by inserting "or Member" after "employee" each place it appears; and

(C) in subsection (g)(2) by striking out "Congressional employee".

(d) CONTRIBUTION RATES.—

(1) CSRS.—(A) Section 8334(a)(1) of title 5, United States Code, is amended—

(i) by striking out "of an employee, 7½ percent of the basic pay of a Congressional employee," and inserting in lieu thereof "of an employee, a Member,"; and

(ii) by striking out "basic pay of a Member," and inserting in lieu thereof "basic pay of".

(B) The table under section 8334(c) of title 5, United States Code, is amended—

(i) in the item relating to Member or employee for Congressional employee service by striking out

"	7½.....	After December 31, 1969."

and inserting in lieu thereof

"	7½.....	December 31, 1969 to (but not including) the effective date of the Congressional Annuity Reform Act of 1996.
"	7.....	On and after the effective date of the Congressional Annuity Reform Act of 1996.";

and (ii) in the item relating to Member for Member service by striking out

"	8.....	After December 31, 1969."

and inserting in lieu thereof

"	8.....	December 31, 1969 to (but not including) the effective date of the Congressional Annuity Reform Act of 1996.
"	7.....	On and after the effective date of the Congressional Annuity Reform Act of 1996.".

(2) FERS.—Section 8422(a)(2) of title 5, United States Code, is amended—

(A) in subparagraph (A) by striking out "employee (other than a law enforcement officer, firefighter, air traffic controller, or Congressional employee)" and inserting in lieu thereof "employee or Member (other than a law enforcement officer, firefighter, or air traffic controller)"; and

(B) in subparagraph (B)—

(i) by striking out "a Member,"; and

(ii) by striking out "air traffic controller, or Congressional employee," and inserting in lieu thereof "or air traffic controller,".

(e) ADMINISTRATIVE REGULATIONS.—The Office of Personnel Management, in consultation with the Secretary of the Senate and the Clerk of the House of Representatives, may prescribe regulations to carry out the provisions of this section and the amendments made by this section for applicable employees and Members of Congress.

(f) EFFECTIVE DATES.—

(1) SHORT TITLE.—Subsection (a) shall take effect on the date of the enactment of this Act.

(2) COLA ADJUSTMENTS.—The amendments made by subsection (b) shall take effect on the date of the enactment of this Act and shall apply with respect to annuities commencing on or after such date.

(3) YEARS OF SERVICE; ANNUITY COMPUTATION.—(A) The amendments made by subsection (c) shall take effect on the date of the enactment of this Act and shall apply only with regard to the computation of an annuity relating to—

(i) the service of a Member of Congress as a Member or as a Congressional employee performed after such date; and

(ii) the service of a Congressional employee as a Congressional employee performed after such date.

(B) An annuity shall be computed as though the amendments made under subsection (c) had not been enacted with regard to—

(i) the service of a Member of Congress as a Member or a Congressional employee or military service performed before the date of the enactment of this Act; and

(ii) the service of a Congressional employee as a Congressional employee or military service performed before the date of the enactment of this Act.

(4) CONTRIBUTION RATES.—The amendments made by subsection (d) shall take effect on the first day of the first applicable pay period beginning on or after the date of the enactment of this Act.

(5) REGULATIONS.—The provisions of subsection (e) shall take effect on the date of the enactment of this Act.

(6) ALTERNATIVE EFFECTIVE DATE RELATING TO MEMBERS OF CONGRESS.—If a court of competent jurisdiction makes a final determination that a provision of this subsection violates the 27th amendment of the United States Constitution, the effective date and application dates relating to Members of Congress shall be January 3, 1997.

AMENDMENT NO. 4202

At the end of subtitle F of title X, add the following new section:

SEC. 1072. CONGRESSIONAL, PRESIDENTIAL, AND JUDICIAL PENSION FORFEITURE.

(a) SHORT TITLE.—This section may be cited as the "Congressional, Presidential, and Judicial Pension Forfeiture Act".

(b) CONVICTION OF CERTAIN OFFENSES.—

(1) IN GENERAL.—Section 8312(a) of title 5, United States Code, is amended—

(A) by striking "or" at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting "; or";

(C) by adding after paragraph (2) the following new paragraph:

"(3) is convicted of an offense named by subsection (d), to the extent provided by that subsection.";

(D) by striking "and" at the end of subparagraph (A);

(E) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(F) by adding after subparagraph (B) the following new subparagraph:

"(C) with respect to the offenses named by subsection (d) of this section, to the period after the date of the conviction.".

(2) IDENTIFICATION OF OFFENSES.—Section 8312 of title 5, United States Code, is amended—

(A) by redesignating subsection (d) as subsection (e); and

(B) by inserting after subsection (c) the following new subsection:

"(d)(1) The offenses under paragraph (2) are the offenses to which subsection (a) of this section applies, but only if—

"(A) the individual is convicted of such offense committed after the date of the enactment of the Congressional, Presidential, and Judicial Pension Forfeiture Act;

"(B) the individual was a Member of Congress (including the Vice President), a congressional employee, or a Federal justice or judge at the time of committing the offense; and

"(C) the offense is punishable by imprisonment for more than 1 year.

"(2) The offenses under this paragraph are as follows:

"(A) An offense within the purview of—

"(i) section 201 of title 18 (bribery of public officials and witnesses);

"(ii) section 203 of title 18 (compensation to Members of Congress, officers, and others in matters affecting the Government);

"(iii) section 204 of title 18 (practice in United States Court of Federal Claims or the United States Court of Appeals for the Federal Circuit by Members of Congress);

"(iv) section 219 of title 18 (officers and employees acting as agents of foreign principals);

"(v) section 286 of title 18 (conspiracy to defraud the Government with respect to claims);

"(vi) section 287 of title 18 (false, fictitious, or fraudulent claims);

"(vii) section 371 of title 18 (conspiracy to commit offense or to defraud the United States;

"(viii) section 597 of title 18 (expenditures to influence voting);

"(ix) section 599 of title 18 (promise of appointment by candidate);

"(x) section 602 of title 18 (solicitation of political contributions);

"(xi) section 606 of title 18 (intimidation to secure political contributions);

"(xii) section 607 of title 18 (place of solicitation);

"(xiii) section 641 of title 18 (public money, property or records); or

"(xiv) section 1001 of title 18 (statements or entries generally).

"(B) Perjury committed under the statutes of the United States in falsely denying the commission of an act which constitutes an offense within the purview of a statute named by subparagraph (A).

"(C) Subornation of perjury committed in connection with the false denial of another individual as specified by subparagraph (B).".

(c) ABSENCE FROM THE UNITED STATES TO AVOID PROSECUTION.—

(1) IN GENERAL.—Section 8313 of title 5, United States Code, is amended—

(A) by redesignating subsection (b) as subsection (c); and

(B) by inserting after subsection (a) the following new subsection:

"(b) An individual, or his survivor or beneficiary, may not be paid annuity or retired pay on the basis of the service of the individual which is creditable toward the annuity or retired pay, subject to the exceptions in section 8311(2) and (3) of this title, if the individual—

"(1) is under indictment, after the date of the enactment of the Congressional, Presidential, and Judicial Pension Forfeiture Act, for an offense named by section 8312(d)(2) of this title, but only if such offense satisfies section 8312(d)(1)(C) of this title;

"(2) willfully remains outside the United States, or its territories and possessions including the Commonwealth of Puerto Rico, for more than 1 year with knowledge of the indictment or charges, as the case may be; and

"(3) is an individual described in section 8312(d)(1)(B).".

(2) CONFORMING AMENDMENT.—Subsection (c) of section 8313 of title 5, United States Code (as redesignated under paragraph (1)(A)) is amended by inserting "or (b)" after "subsection (a)".

(d) REFUND OF CONTRIBUTIONS AND DEPOSITS.—Section 8316(b) of title 5, United States Code, is amended—

(1) by striking "or" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(3) if the individual was convicted of an offense named by section 8312(d) of this title, for the period after the conviction of the violation.".

(e) FORFEITURE OF PRESIDENTIAL ALLOWANCE.—Subsection (a) of the first section of the Act entitled "An Act to provide retirement, clerical assistance, and free mailing privileges to former Presidents of the United States, and for other purposes", approved August 25, 1958 (Public Law 85-745; 72 Stat. 838; 3 U.S.C. 102 note) is amended—

(1) by striking "Each former President" and inserting "(1) Subject to paragraph (2), each former President"; and

(2) by inserting at the end the following new paragraph:

"(2) The allowance payable to an individual under paragraph (1) shall be forfeited if—

"(A) the individual is convicted of an offense described under section 8312(d)(2) of title 5, United States Code, committed after the date of the enactment of the Congressional, Presidential, and Judicial Pension Forfeiture Act;

"(B) such individual committed such offense during the individual's term of office as President; and

"(C) the offense is punishable by imprisonment for more than 1 year.".

GLENN (AND PELL) AMENDMENT NO. 4203

(Ordered to lie on the table.)

Mr. GLENN (for himself and Mr. PELL) submitted an amendment intended to be proposed by them to the bill, S. 1745, supra; as follows:

At the end of subtitle F of title X, add the following:

SEC. 1072. STRENGTHENING CERTAIN SANCTIONS AGAINST NUCLEAR PROLIFERATION ACTIVITIES.

(a) IN GENERAL.—Section 2(b)(4) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(4)) is amended—

(1) by inserting after "any country has willfully aided or abetted" the following: ", or any person has knowingly aided or abetted,";

(2) by striking "or countries" and inserting ", countries, person, or persons";

(3) by inserting after "United States exports to such country" the following: "or, in the case of any such person, give approval to guarantee, insure, or extend credit, or participate in the extension of credit in support of, exports to or by any such person for a 12-month period,";

(4) by inserting "(A)" immediately after "(4)";

(5) by inserting after "United States exports to such country" the second place it appears the following ", except as provided in subparagraph (b),"; and

(6) by adding at the end the following:

"(B) In the case of any country or person aiding or abetting a non-nuclear-weapon state as described in subparagraph (A), the prohibition on financing by the Bank contained in the second sentence of that subparagraph shall not apply to the country or person, as the case may be, if the President determines and certifies in writing to the Congress that—

"(i) reliable information indicates that the country or person with respect to which the determination is made has ceased to aid or abet any non-nuclear-weapon state to acquire any nuclear explosive device or to acquire unsafeguarded special nuclear material; and

"(ii) the President has received reliable assurances from the country or person that such country or person will not, in the future, aid or abet any non-nuclear-weapon state in its efforts to acquire any nuclear explosive device or any unsafeguarded special nuclear material.

"(C) For purposes of subparagraphs (A) and (B)—

"(i) the term 'country' has the meaning given to 'foreign state' in section 1603(a) of title 28, United States Code;

"(ii) the term 'knowingly' is used within the meaning of the term 'knowing' in section 104 of the Foreign Corrupt Practices Act; and

"(iii) the term 'person' means a natural person as well as a corporation, business association, partnership, society, trust, any other nongovernmental entity, organization, or group, and any governmental entity operating as a business enterprise, and any successor of any such entity.".

(b) EFFECTIVE DATE.—(1) The amendments made by paragraphs (1) through (5) of subsection (a) shall apply to persons, and the amendment made by subsection (a)(6), shall apply to countries and persons, aiding or abetting non-nuclear weapon states on or after June 29, 1994.

(2) Nothing in this section or the amendments made by this section shall apply to obligations undertaken pursuant to guarantees, insurance, and the extension of credits (and participation in the extension of credits) made before the date of enactment of this Act.

HARKIN AMENDMENT NO. 4204

(Ordered to lie on the table.)

Mr. HARKIN submitted an amendment intended to be proposed by him to the bill, S. 1745, supra; as follows:

In section 305(a), strike out "may be made available to" and insert in lieu thereof "shall be made available to".

In section 305(b), strike out "search and rescue missions" and insert in lieu thereof "associated with Civil Air Patrol Emergency Services operations, including search and

rescue missions, disaster relief missions, and other missions.".

SARBANES AMENDMENTS NOS. 4205–4206

(Ordered to lie on the table.)

Mr. SARBANES submitted two amendments intended to be proposed by him to the bill, S. 1745, supra; as follows:

AMENDMENT NO. 4205

At the end of subtitle F of title X, add the following:

SEC. 1072. NATIONAL MILITARY MUSEUM FOUNDATION FOR THE PRESERVATION OF MILITARY TECHNOLOGY AND MATERIEL.

(a) ESTABLISHMENT.—There is established a nonprofit corporation to be known as the National Military Museum Foundation for the Preservation of Military Technology and Materiel (in this section referred to as the "Foundation"). The Foundation is not an agency or instrumentality of the United States.

(b) PURPOSES.—The Foundation shall have the following purposes:

(1) To encourage and facilitate the preservation of military materiel having historical or technological significance.

(2) To promote innovative solutions to the problems associated with the preservation of such military materiel.

(3) To facilitate research on and educational activities relating to military history.

(4) To promote voluntary partnerships between the Federal Government and the private sector for the preservation of such military materiel and of military history.

(5) To facilitate the display of such military materiel for the education and benefit of the public.

(6) To develop publications and other interpretive materials pertinent to the historical collections of the Armed Forces that will supplement similar publications and materials available from public, private, and corporate sources.

(7) To provide financial support for educational, interpretive, and conservation programs of the Armed Forces relating to such military materiel.

(8) To broaden public understanding of the role of the military in United States history.

(c) BOARD OF DIRECTORS.—(1) The Foundation shall have a Board of Directors (in this section referred to as the "Board") composed of nine individuals appointed by the Secretary of Defense from among individuals who are United States citizens.

(2) Of the individuals appointed under paragraph (1)—

(A) at least one shall have an expertise in historic preservation;

(B) at least one shall have an expertise in military history;

(C) at least one shall have an expertise in the administration of museums; and

(D) at least one shall have an expertise in military technology and materiel.

(3)(A) The Secretary shall designate one of the individuals first appointed to the Board under paragraph (1) as the chairperson of the Board. The individual so designated shall serve as chairperson for a term of 2 years.

(B) Upon the expiration of the term of chairperson of the individual designated as chairperson under subparagraph (A), or of the term of a chairperson elected under this subparagraph, the members of the Board shall elect a chairperson of the Board from among its members.

(4)(A) Subject to subparagraph (B), members appointed to the Board shall serve on the Board for a term of 4 years.

(B) If a member of the Board misses three consecutive meetings of the Board, the Board may remove the member from the Board for that reason.

(C) Any vacancy in the Board shall not affect its powers but shall be filled, not later than 60 days after the vacancy, in the same manner in which the original appointment was made.

(5) A majority of the members of the Board shall constitute a quorum.

(6) The Board shall meet at the call of the chairperson of the Board. The Board shall meet at least once a year.

(d) ORGANIZATIONAL MATTERS.—The members of the Board first appointed under subsection (c)(1) shall—

(1) adopt a constitution and bylaws for the Foundation;

(2) serve as incorporators of the Foundation; and

(3) take whatever other actions the Board determines appropriate in order to establish the Foundation as a nonprofit corporation.

(e) OFFICERS AND EMPLOYEES.—(1) The Foundation shall have an executive director appointed by the Board and such other officers as the Board may appoint. The executive director and the other officers of the Foundation shall be compensated at rates fixed by the Board and shall serve at the pleasure of the Board.

(2) Subject to the approval of the Board, the Foundation may employ such individuals, and at such rates of compensation, as the executive director determines appropriate.

(3) Subject to the approval of the Board, the Foundation may accept the services of volunteers in the performance of the functions of the Foundation.

(4) A person who is a full-time or part-time employee of the Federal Government may not serve as a full-time or part-time employee of the Foundation and shall not be considered for any purpose an employee of the Federal Government.

(f) POWERS AND RESPONSIBILITIES.—In order to carry out the purposes of this section, the Foundation is authorized to—

(1) accept, hold, administer, invest, and spend any gift, devise, or bequest of real or personal property made to the Foundation;

(2) enter into contracts with individuals, public or private organizations, professional societies, and government agencies for the purpose of carrying out the functions of the Foundation; and

(3) enter into such other contracts, leases, cooperative agreements, and other transactions at the executive director of the Foundation considers appropriate to carry out the activities of the Foundation.

(g) AUDITS.—(1) The first section of the Act entitled "An Act to provide for the audit of accounts of private corporations established under Federal law," approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end the following:

"(78) The National Military Museum Foundation for the Preservation of Military Technology and Materiel.".

(2) The amendment made by paragraph (1) shall take effect on the date that the chairperson of the Board notifies the Secretary of Defense of the incorporation of the Foundation under this section.

(h) REPORTS.—As soon as practicable after the end of each fiscal year of the Foundation, the Board shall submit to Congress and to the Secretary of Defense a report on the activities of the Foundation during the preceding fiscal year, including a full and complete statement of the receipts, expenditures, investment activities, and other financial activities of the Foundation during such fiscal year.

(i) INITIAL SUPPORT.—(1) In addition to any other amounts authorized to be appropriated by this Act, there is authorized to be appropriated for the Department of Defense $1,000,000 for the purpose of making a grant to the Foundation in order to assist the Foundation in defraying the costs of its activities. Such amount shall be available for such purpose until September 30, 1998.

(2) For each of fiscal years 1997 through 1999, the Secretary of Defense may provide, without reimbursement, personnel, facilities, and other administrative services of the Department to the Foundation.

AMENDMENT NO. 4206

At the end of title XXI, add the following:

SEC. 2105. PLAN FOR REPAIRS AND STABILIZATION OF THE HISTORIC DISTRICT AT THE FOREST GLEN ANNEX OF WALTER REED MEDICAL CENTER, MARYLAND.

Not later than 30 days after the date of the enactment of this Act, the Secretary of the Army shall submit to the congressional defense committees a comprehensive plan for basic repairs and stabilization measures throughout the historic district at the Forest Glen Annex of Walter Reed Army Medical Center, Maryland, together with a reprogramming request for funds necessary to implement the plan.

SIMON AMENDMENTS NOS. 4207–4208

(Ordered to lie on the table.)

Mr. SIMON submitted two amendments intended to be proposed by him to the bill, S. 1745, supra; as follows:

AMENDMENT NO. 4207

At the end of subtitle D of title II, add the following:

SEC. 243. DESALTING TECHNOLOGIES.

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

(1) Access to scarce fresh water is likely to be a cause of future military conflicts in the Middle East and has a direct impact on stability and security in the region.

(2) The Middle East is an area of vital and strategic importance to the United States.

(3) The United States has played a military role in the Middle East, most recently in the Persian Gulf War, and may likely be called upon again to deter aggression in the region.

(4) United States troops have used desalting technologies to guarantee the availability of fresh water in past deployments in the Middle East.

(5) Adequate, efficient, and cheap access to high-quality fresh water will be vital to maintaining the readiness and sustainability of United States troops, and those of our allies.

(b) SENSE OF SENATE.—It is the sense of the Senate that, as improved access to fresh water will be an important factor in helping prevent future conflicts in the Middle East, the United States should, in cooperation with its allies, promote and invest in technologies to reduce the costs of converting saline water into fresh water.

(c) FUNDING FOR RESEARCH AND DEVELOPMENT.—Of the amounts authorized to be appropriated by this title, the Secretary shall place greater emphasis on making funds available for research and development into

efficient and economical processes and methods for converting saline water into fresh water.

AMENDMENT NO. 4208

At the end of subtitle C of title II, add the following:

SEC. 237. TEMPORARY PROHIBITION ON USE OF CERTAIN FUNDS FOR RESEARCH AND DEVELOPMENT RELATING TO NATIONAL MISSILE DEFENSE.

Of the funds authorized to be appropriated by section 201(4) for the Ballistic Missile Defense Organization for the purpose of research and development relating to national missile defense systems, $300,000,000 may not be obligated or expended for such research and development until the later of—

(1) the date of the enactment of an Act entitled "Defend America Act"; or

(2) the date of the enactment of this Act.

HELMS AMENDMENT NO. 4209

(Ordered to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed by him to the bill, S. 1745, supra; as follows:

At the appropriate place, add the following:

SEC. . SENSE OF THE SENATE.

(a) FINDINGS.—The Senate finds that—

(1) President Clinton has repeatedly voiced the need for increased protection and strengthening of moral values among our children, including using school uniforms, curfews, and educational television;

(2) pornography and smut of the most indecent and offensive nature is proliferating on the Internet and thereby spreading around the electronic world, including sites often visited by children;

(3) increasing numbers of electronic pornographers are participating in the transmission of pornography and other indecent material that is easily accessible to children;

(4) pornographers are now targeting children as potential customers;

(5) Congress enacted the Communications Decency Act of 1996 (referred to in this resolution as "the Act") to protect our youngest and most vulnerable generation from the morally corrupting influence of depravity on computer networks by, among other measures, prohibiting the knowing transmission of indecent material to recipients known to be minors;

(6) Congress specifically described indecent communications in the Act by using language upheld by the Supreme Court in FCC v. Pacifica Foundation, 438 U.S. 726 (1978);

(7) on February 8, 1996, when the Act was signed into law, the American Civil Liberties Union and others filed suit in the United States District Court for the Eastern District of Pennsylvania, seeking a preliminary injunction against enforcement of the Act on the specious and erroneous grounds that the Act violates the first and fifth amendments to the Constitution;

(8) on June 11, 1996, the District Court granted such injunction based on the unworthy pretext, by the American Civil Liberties Union and others, contrary to applicable Supreme Court precedents, that the Act is "unconstitutional on its face";

(9) section 561(b) of the Act provides for direct appeal to the Supreme Court, as a matter of right, should any part of the Act be held unconstitutional by a District Court;

(10) the Department of Justice has hesitated to appeal the District Court's injunction;

(10) the Clinton Administration's 1993 failure to defend aggressively Federal child pornography statutes in the case of United States v. Knox, 32 F.3d 733 (3rd Cir. 1994) compelled the Senate to resolve that the Administration defend the statute, which calls into question the Administration's resolve in this case; and

(11) the Senate finds it imperative that the Department of Justice vigorously defend the Act before the Supreme Court.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Department of Justice should appeal directly to the Supreme Court the order of the District Court in ACLU v. Reno, No. 96-963 (E.D. Pa. June 11, 1996).

BINGAMAN AMENDMENTS NOS. 4210–4211

(Ordered to lie on the table.)

Mr. BINGAMAN submitted two amendments intended to be proposed by him to the bill, S. 1745, supra; as follows:

AMENDMENT NO. 4210

On page 398, after line 23, insert the following:

SEC. 2828. RENOVATION OF THE PENTAGON RESERVATION.

The Secretary of Defense shall take such action as is necessary to reduce the total cost of the renovation of the Pentagon Reservation to not more than $1,118,000,000.

AMENDMENT NO. 4211

Strike out section 402 and insert in lieu thereof the following:

SEC. 402. REPEAL OF PERMANENT END STRENGTHS.

(a) REPEAL.—Section 691 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 39 of such title is amended by striking out the item relating to section 691.

FEINGOLD AMENDMENTS NOS. 4212–4213

(Ordered to lie on the table.)

Mr. FEINGOLD submitted two amendments intended to be proposed by him to the bill, S. 1745, supra; as follows:

AMENDMENT NO. 4212

At the end of subtitle B of title II, adds the following:

SEC. 223. COST-BENEFIT ANALYSIS OF F/A-18E/F AIRCRAFT PROGRAM.

(a) REPORT ON PROGRAM.—Not later than March 30, 1997, the Secretary of Defense shall submit to the congressional defense committees a report on the F/A-18E/F aircraft program.

(b) CONTENT OF REPORT.—The report shall contain the following:

(1) A review of the F/A-18E/F aircraft program.

(2) An analysis and estimate of the production costs of the program for the total number of aircraft realistically expected to be procured at each of three annual production rates as follows:

(A) 18 aircraft.

(B) 24 aircraft.

(C) 36 aircraft.

(3) A comparison of the costs and benefits of the program with the costs and benefits of the F/A-18C/D aircraft program taking into account the operational combat effectiveness of the aircraft.

(c) LIMITATION ON USE OF FUNDS PENDING TRANSMITTAL OF REPORT.—No funds authorized to be appropriated by this Act may be obligated or expended for the procurement of F/A-18E/F aircraft before the date that is 90 days after the date on which the congressional defense committees receive the report required under subsection (a).

AMENDMENT NO. 4213

Strike out section 902 and insert in lieu thereof the following:

SEC. 902. TERMINATION OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.

(a) TERNMINATION.—(1) The Uniformed Services University of the Health Sciences is terminated.

(2)(A) Chapter 104 of title 10, United States Code, is repealed.

(B) The table of chapters at the beginning of subtitle A of such title, and at the beginning of part III of such subtitle, are each amended by striking out the item relating to chapter 104.

(b) EFFECTIVE DATE.—The termination referred to in subsection (a), and the amendments made by such subsection, shall take effect on the date of the graduation from the Uniformed Services University of the Health Sciences of the last class of students that enrolled in such university on or before the date of the enactment of this Act.

BINGAMAN AMENDMENT NO. 4214

(Ordered to lie on the table.)

Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill, S. 1745, supra; as follows:

In section 402, strike out "5" in the last line and insert in lieu thereof "100".

LAUTENBERG AMENDMENT NO. 4215

(Ordered to lie on the table.)

Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill, S. 1745, supra; as follows:

Beginning on page 90, strike line 1 and all that follows through page 91, line 17.

JOHNSTON (AND BREAUX) AMENDMENT NO. 4216

(Ordered to lie on the table.)

Mr. JOHNSTON (for himself and Mr. BREAUX) submitted an amendment intended to be proposed by them to the bill, S. 1745, supra; as follows:

At the end of subtitle C of title XXVIII, add the following:

SEC. 2828. LAND TRANSFER, VERNON RANGER DISTRICT, KISATCHIE NATIONAL FOREST, LOUISIANA.

(a) TRANSFER PURSUANT TO ADMINISTRATIVE AGREEMENT.—(1) Not later than six months after the date of the enactment of this Act, the Secretary of the Army and the Secretary of Agriculture shall enter into an agreement providing for the transfer to the Secretary of the Army of administrative jurisdiction over such portion of land currently owned by the United States within the Vernon Ranger District of the Kisatchie National Forest, Louisiana, as the Secretary of the Army and the Secretary of Agriculture jointly determine appropriate for military training activities in connection

with Fort Polk, Louisiana. The agreement shall allocate responsibility for land management and conservation activities with respect to the property transferred between the Secretary of the Army and the Secretary of Agriculture.

(2) The Secretary of the Army and the Secretary of Agriculture may jointly extend the deadline for entering into an agreement under paragraph (1). The deadline may be extended by not more than six months.

(b) ALTERNATIVE TRANSFER REQUIREMENT.—If the Secretary of the Army and the Secretary of Agriculture fail to enter into the agreement referred to in paragraph (1) of subsection (a) within the time provided for in that subsection, the Secretary of Agriculture shall, at the end of such time, transfer to the Secretary of the Army administrative jurisdiction over property consisting of approximately 84,825 acres of land currently owned by the United States and located in the Vernon Ranger District of the Kisatchie National Forest, Louisiana, as generally depicted on the map entitled "Fort Polk Military Installation map", dated June 1995.

(c) LIMITATION OF ACQUISITION OF PRIVATE PROPERTY.—The Secretary of the Army may acquire privately-owned land within the property transferred under this section only with the consent of the owner of the land.

(d) USE OF PROPERTY.—(1) Subject to paragraph (2), the Secretary of the Army shall use the property transferred under this section for military maneuvers, training and weapons firing, and other military activities in connection with Fort Polk, Louisiana.

(2) The Secretary may not permit the firing of live ammunition on or over any portion of the property unless the firing of such ammunition on or over such portion is permitted as of the date of the enactment of this Act.

(e) MAP AND LEGAL DESCRIPTION.—(1) As soon as practicable after the date of the transfer of property under this section, the Secretary of Agriculture shall—

(A) publish in the Federal Register a notice containing the legal description of the property transferred; and

(B) file a map and the legal description of the property with the Committee on Energy and Natural Resources, the Committee on Agriculture, Nutrition, and Forestry, and the Committee on Armed Services of the Senate and the Committee on Resources, the Committee on Agriculture, and the Committee on National Security of the House of Representatives.

(2) The maps and legal descriptions prepared under paragraph (1) shall have the same force and effect as if included in this subsection, except that the Secretary of Agriculture may correct clerical and typographical errors in the maps and legal descriptions.

(3) As soon as practicable after the date of the enactment of this Act, copies of the maps and legal descriptions prepared under paragraph (1) shall be available for public inspection in the following offices:

(A) The Office of the Secretary of Agriculture.

(B) Such offices of the United States Forest Service as the Secretary of Agriculture shall designate.

(C) The Office of the Commander of Fort Polk, Louisiana.

(D) The appropriate office in the Vernon Parish Court House, Louisiana.

(f) MANAGEMENT OF PROPERTY.—(1) If the transfer of property under this section occurs under subsection (a), the Secretary of the Army and the Secretary of Agriculture shall manage the property in accordance with the agreement entered into under that subsection.

(2)(A) If the transfer of property under this section occurs under subsection (b), the Secretary of the Army and the Secretary of Agriculture shall manage the property in accordance with the management plan under subparagraph (B) and the memorandum of understanding under subparagraph (C).

(B)(i) For purposes of managing the property under this paragraph, the Secretary of the Army shall, with the concurrence of the Secretary of Agriculture, develop a plan for the management of the property not later than two years after the transfer of the property. The Secretary of the Army shall provide for a period of public comment in developing the plan in order to ensure that the concerns of local citizens are taken into account in the development of the plan. The Secretary of the Army may utilize the property pending the completion of the plan.

(ii) The Secretary of the Army shall develop and implement the plan in compliance with applicable Federal law, including the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(iii) The plan shall provide for the management of the natural, cultural, and other resources of the property, including grazing, the management of wildlife and wildlife habitat, recreational uses (including hunting and fishing), and non-public uses of non-Federal lands within the property.

(C)(i) For purposes of managing the property under this paragraph, the Secretary of the Army and the Secretary of Agriculture shall enter into a memorandum of understanding in order to provide for—

(I) the implementation of the management plan developed under subparagraph (B); and

(II) the management by the Secretary of Agriculture of such areas of the property as the Secretary of the Army and the Secretary of Agriculture designate for use for non-military purposes.

(ii) The Secretary of the Army and the Secretary of Agriculture may amend the memorandum of understanding by mutual agreement.

(g) REVERSION.—If at any time after the transfer of property under this section the Secretary of the Army determines that the property, or any portion thereof, is no longer to be retained by the Army for possible use for military purposes, jurisdiction over the property, or such portion thereof, shall revert to the Secretary of Agriculture who shall manage the property, or portion thereof, as part of the Kisatchie National Forest.

MOSELEY-BRAUN AMENDMENT NO. 4217

(Ordered to lie on the table.)

Ms. MOSELEY-BRAUN submitted an amendment intended to be proposed by her to the bill, S. 1745, supra; as follows:

At the end of subtitle D of title VI, add the following:

SEC. 636. PREVENTION OF CIRCUMVENTION OF COURT ORDER BY WAIVER OF RETIRED PAY TO ENHANCE CIVIL SERVICE RETIREMENT ANNUITY.

(a) CIVIL SERVICE RETIREMENT AND DISABILITY SYSTEM.—

(1) IN GENERAL.—Subsection (c) of section 8332 of title 5, United States Code, is amended by adding at the end the following:

"(4) If an employee or Member waives retired pay that is subject to a court order for which there has been effective service on the Secretary concerned for purposes of section 1408 of title 10, the military service on which the retired pay is based may be credited as service for purposes of this subchapter only if, in accordance with regulations prescribed by the Director of the Office of Personnel Management, the employee or Member authorizes the Director to deduct and withhold from the annuity payable to the employee or Member under this subchapter, and to pay to the former spouse covered by the court order, the same amount that would have been deducted and withheld from the employee's or Member's retired pay and paid to that former spouse under such section 1408.".

(2) CONFORMING AMENDMENT.—Paragraph (1) of such subsection is amended by striking "Except as provided in paragraph (2)" and inserting "Except as provided in paragraphs (2) and (4)".

(b) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—

(1) IN GENERAL.—Subsection (c) of section 8411 of title 5, United States Code, is amended by adding at the end the following:

"(5) If an employee or Member waives retired pay that is subject to a court order for which there has been effective service on the Secretary concerned for purposes of section 1408 of title 10, the military service on which the retired pay is based may be credited as service for purposes of this chapter only if, in accordance with regulations prescribed by the Director of the Office of Personnel Management, the employee or Member authorizes the Director to deduct and withhold from the annuity payable to the employee or Member under this subchapter, and to pay to the former spouse covered by the court order, the same amount that would have been deducted and withheld from the employee's or Member's retired pay and paid to that former spouse under such section 1408.".

(2) CONFORMING AMENDMENT.—Paragraph (1) of such subsection is amended by striking "Except as provided in paragraph (2) or (3)" and inserting "Except as provided in paragraphs (2), (3), and (5)".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on January 1, 1997.

LAUTENBERG (AND OTHERS) AMENDMENT NO. 4218

(Ordered to lie on the table.)

Mr. LAUTENBERG (for himself, Mr. SIMON, Mrs. FEINSTEIN, and Mr. BUMPERS) submitted an amendment intended to be proposed by them to the bill, S. 1745, supra; as follows:

At the end of title X, add the following;

SUBTITLE G—CIVILIAN MARKSMANSHIP

SEC. 1081. SHORT TITLE.

This subtitle may be cited as the "Self Financing Civilian Marksmanship Program Act of 1996".

SEC. 1082. PRIVATE SHOOTING COMPETITIONS AND FIREARM SAFETY PROGRAMS.

Nothing in this subtitle prohibits any private person from establishing a privately financed program to support shooting competitions or firearms safety programs.

SEC. 1083. REPEAL OF CHARTER LAW FOR THE CORPORATION FOR THE PROMOTION OF RIFLE PRACTICE AND SAFETY.

(a) REPEAL OF CHARTER.—The Corporation for the Promotion of Rifle Practice and Firearms Safety Act (title XVI of Public Law 104–106; 110 Stat. 515; 36 U.S.C. 5501 et seq.), except for section 1624 of such Act (110 Stat. 522), is repealed.

(b) RELATED REPEALS.—Section 1624 of such Act (110 Stat. 522) is amended—

(1) in paragraphs (1) and (2) of subsection (a), by striking out "and 4311" and inserting in lieu thereof "4311, 4312, and 4313";

(2) by striking out subsection (b); and

(3) in subsection (c), by striking out "on the earlier of—" and all that follows and inserting in lieu thereof "on October 1, 1996.".

BURNS AMENDMENTS NOS. 4219–4220

(Ordered to lie on the table.)

Mr. BURNS submitted two amendments intended to be proposed by him to the bill, S. 1745, supra; as follows:

AMENDMENT NO. 4219

At the end of subtitle E of title III add the following:

SEC. 368. MILITARY TRAFFIC MANAGEMENT COMMAND'S REENGINEERING PERSONNEL PROPERTY PILOT PROGRAM INITIATIVE.

(A) The Secretary of Defense will establish a military/industry working group to develop, within 60 days of enactment of this bill, an alternative pilot program to reengineer household goods moves.

(B) This working group shall be chaired by the Department of Defense and shall include equal representation of both military and industry not to exceed a combined total of 12 individuals. Industry representation within the working group shall be as follows:

(i) Small business shall comprise a percentage consistent with their participation within the industry;

(ii) There shall be at least one representative from each of the following industry groups: the American Movers Conference, the Household Goods Forwarders Association of America, the National Moving and Storage Association, and the Independent Movers Conference.

(C) The General Accounting Office shall conduct an independent analysis of this pilot program as well as the pilot program currently being proposed by DoD.

(D) GAO shall report back to the appropriate committees within 90 days of enactment of this bill on the impact of the following factors of both programs:

(i) quality of service to DoD;

(ii) cost savings to the government;

(iii) effect on industry infrastructure;

(iv) effect on small business; and,

(v) adoption of commercial contracting practices.

(E) The Secretary shall not proceed with the implementation of any aspect of any pilot program until the Congressional Committees of jurisdiction review and evaluate the GAO reports.

AMENDMENT NO. 4220

In section 2601(a)(1)(A), strike out "$79,628,000" and insert in lieu thereof "$92,899,000".

STEVENS AMENDMENTS NOS. 4221–4222

(Ordered to lie on the table.)

Mr. STEVENS submitted two amendments intended to be proposed by him to the bill, S. 1745, supra; as follows:

AMENDMENT NO. 4221

In the table in section 2401(a), strike out "$18,000,000" in the amount column in the item relating to Elmendorf Air Force Base, Alaska, and insert in lieu thereof "$21,000,000".

Strike out the amount set forth as the total amount at the end of the table in section 2401(a) and insert in lieu thereof "$530,590,000".

In section 2406(a), in the matter preceding paragraph (1), strike out "$3,421,366,000" and insert in lieu thereof "$3,424,366,000".

In section 2406(a)(1), strike out "$364,487,000" and insert in lieu thereof "$367,487,000".

AMENDMENT NO. 4222

At the end of title subtitle F of title X, add the following:

SEC. 1072. FACILITY FOR MILITARY DEPENDENT CHILDREN WITH DISABILITIES, LACKLAND AIR FORCE BASE, TEXAS.

(a) FUNDING.—Of the amounts authorized to be appropriated by this Act for the Department of the Air Force, $2,000,000 shall be available for the construction at Lackland Air Force Base, Texas, of a facility (and supporting infrastructure) to provide comprehensive care and rehabilitation services to children with disabilities who are dependents of members of the Armed Forces at the base.

(b) TRANSFER OF FUNDS.—Subject to subsection (c), the Secretary of the Air Force shall grant the funds available under subsection (a) to the Children's Association for Maximum Potential (CAMP) for use by the association to defray the costs of designing and constructing the facility referred to in subsection (a).

(c) LEASE OF FACILITY.—(1) The Secretary may not make a grant of funds under subsection (b) until the Secretary and the association enter into an agreement under which the Secretary leases to the association the facility to be constructed using the funds.

(2)(A) The term of the lease under paragraph (1) may not be less than 25 years.

(B) As consideration for the lease of the facility, the association shall assume responsibility for the operation and maintenance of the facility, including the costs of such operation and maintenance.

(3) The Secretary may require such additional terms and conditions in connection with the lease as the Secretary considers appropriate to protect the interests of the United States.

LEVIN AMENDMENTS NOS. 4223–4231

(Ordered to lie on the table.)

Mr. LEVIN submitted nine amendments intended to be proposed by him to the bill, S. 1745, supra; as follows:

AMENDMENT NO. 4223

At the end of title I add the following:

Subtitle E—Reserve Components

SEC. 141. RESERVE COMPONENT EQUIPMENT.

(a) APPLICABILITY OF MODERNIZATION PRIORITIES.—The selection of equipment to be procured for a reserve component with funds authorized to be appropriated under section 105 shall be made in accordance with the highest priorities established for the modernization of that reserve component.

(b) REPORTS.—(1) Not later than December 1, 1996, each officer referred to in paragraph (2) shall submit to the congressional defense committees an assessment of the modernization priorities established for the reserve component or reserve components for which that officer is responsible.

(2) The officers required to submit a report under paragraph (1) are as follows:

(A) The Chief of the National Guard Bureau.

(B) The Chief of Army Reserve.

(C) The Chief of Air Force Reserve.

(D) The Director of Naval Reserve.

(E) The Commanding General, Marine Forces Reserve.

AMENDMENT NO. 4224

At the end of subtitle F of title X add the following:

SEC. 1072. OPERATIONAL SUPPORT AIRLIFT AIRCRAFT.

(a) STATUS OF EXCESS AIRCRAFT.—Operational support airlift aircraft excess to the requirements of the Department of Defense shall be placed in an inactive status and stored at Davis-Monthan Air Force Base, Arizona, pending the completion of any study or analysis of the costs and benefits of disposing of or operating such aircraft that precedes a decision to dispose of or continue to operate such aircraft.

(b) OPERATIONAL SUPPORT AIRLIFT AIRCRAFT DEFINED.—In this section, the term "operational support airlift aircraft" has the meaning given such term in section 1086(f) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 458).

AMENDMENT NO. 4225

In section 103(1), strike out "$7,003,528,000" and insert in lieu thereof "$6,958,028,000".

At the end of subtitle D of title I, add the following:

SEC. 132. F-16 AIRCRAFT PROGRAM.

None of the funds authorized to be appropriated under section 103(1) may be obligated or expended for more than six new production F-16 aircraft.

AMENDMENT NO. 4226

In section 103(1), strike out "$7,003,528,000" and insert in lieu thereof "$6,896,128,000".

At the end of subtitle D of title I, add the following:

SEC. 132. F-16 AIRCRAFT PROGRAM.

None of the funds authorized to be appropriated under section 103(1) may be obligated or expended for more than four new production F-16 aircraft.

AMENDMENT NO. 4227

In section 101(1), strike out "$1,508,515,000" and insert in lieu thereof "$1,388,515,000".

At the end of subtitle B of title I, add the following:

SEC. 113. CONVERSION OF OH-58A/C HELICOPTERS.

None of the funds authorized to be appropriated under section 101(1) may be obligated or expended for conversion of OH-58A/C helicopters to the OH-58D configuration.

AMENDMENT NO. 4228

In section 101(1), strike out "$1,508,515,000" and insert in lieu thereof "$1,388,515,000".

In section 103(1), strike out "$7,003,528,000" and insert in lieu thereof "$6,958,028,000".

At the end of subtitle B of title I, add the following:

SEC. 113. CONVERSION OF OH-58A/C HELICOPTERS.

None of the funds authorized to be appropriated under section 101(1) may be obligated or expended for conversion of OH-58A/C helicopters to the OH-58D configuration.

At the end of subtitle D of title I, add the following:

SEC. 132. F-16 AIRCRAFT PROGRAM.

None of the funds authorized to be appropriated under section 103(1) may be obligated or expended for more than six new production F-16 aircraft.

AMENDMENT NO. 4229

Strike out section 233.

AMENDMENT NO. 4230

Beginning with the section heading for section 231, strike out all through section 232.

AMENDMENT NO. 4231

Beginning with the section heading for section 231, strike out all through section 232, and insert in lieu thereof the following:

SEC. 231. DEMARCATION OF THEATER MISSILE DEFENSE SYSTEMS FROM ANTI-BALLISTIC MISSILE SYSTEMS.

(a) REAFFIRMATION OF SENSE OF CONGRESS CONCERNING COMPLIANCE POLICY.—Congress reaffirms the expression of the sense of Congress concerning compliance policy that is set forth in subsection (b) of section 235 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 232).

(b) EXTENSION OF PROHIBITION ON FUNDING.—Subsection (c) of section 235 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 232) is amended by inserting "or fiscal year 1997" after "fiscal year 1996".

KENNEDY AMENDMENT NO. 4232

(Ordered to lie on the table.)

Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill, S. 1745, supra; as follows:

At the end of subtitle A of title X add the following:

SEC. . TRANSFERS FOR EDUCATION TECHNOLOGY PROGRAMS.

(a) EDUCATION PROGRAMS.—Of the total amount appropriated for the Department of Defense for fiscal year 1997 pursuant to the authorizations of appropriations contained in the Act, the Secretary of Defense shall transfer to the Secretary of Education $325,000,000, to carry out technology programs as follows:

(1) $5,000,000, to carry out Section 3122 of subpart 1 of part A of title III of the Improving America's Schools Act of 1994 (20 U.S.C. 6832), relating to Federal Leadership in National Programs for Technology in Education;

(2) $250,000,000, to carry out Section 3132 of subpart 2 of part A of title III of the Improving America's Schools Act of 1994 (20 U.S.C. 6842), relating to School Technology Resource Grants;

(3) $60,000,000, to carry out Section 3136 of subpart 2 of part A of title III of the Improving America's Schools Act of 1994 (20 U.S.C. 6846), relating to National Challenge Grants for Technology in Education; and

(4) $10,000,000, to carry out Section 3141 of subpart 3 of part A of title III of the Improving America's Schools Act of 1994 (20 U.S.C. 6861), relating to Regional Technical Support and Professional Development.

KENNEDY (AND PELL) AMENDMENT NO. 4233

(Ordered to lie on the table.)

Mr. KENNEDY (for himself and Mr. PELL) submitted an amendment intended to be proposed by them to the bill, S. 1745, supra; as follows:

At the end of subtitle A of title X add the following:

SEC. . TRANSFERS FOR PELL GRANT MERIT BONUS.

(a) EDUCATION PROGRAMS.—Of the total amount appropriated for the Department of Defense for fiscal year 1997 pursuant to the authorizations of appropriations contained in this Act, the Secretary of Defense shall transfer to the Secretary of Education $250,000,000 to fund Pell grant merit bonus awards under subpart 1 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1970a), relating to Federal Pell Grants, as follows:

(1) Every secondary school student who has graduated in the top 20% of his or her high school class, is enrolled full time in the first year of an associate or baccalaureate degree program that is 2 years or longer at an eligible institution, and is eligible to receive a Pell grant, shall be entitled to a Pell Grant Merit Bonus Award in addition to such student's Pell grant in an amount equal to the grant for which the student is otherwise eligible, up to the cost of attendance at the institution at which the student is in attendance.

DODD AMENDMENT NO. 4234

(Ordered to lie on the table.)

Mr. DODD submitted an amendment intended to be proposed by him to the bill, S. 1745, supra; as follows:

At the appropriate place, insert the following:

TITLE XIII—FAMILY AND MEDICAL LEAVE

SEC. 1301. PARENTAL INVOLVEMENT LEAVE.

(a) LEAVE REQUIREMENT.—Section 102(a) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(a)) is amended by adding at the end the following:

"(3) ENTITLEMENT TO PARENTAL INVOLVEMENT LEAVE.—

"(A) IN GENERAL.—Subject to section 103(f), an eligible employee shall be entitled to a total of 4 hours of leave during any 30-day period, and a total of 24 hours of leave during any 12-month period, in addition to leave available under paragraph (1), to participate in or attend an activity that—

"(i) is sponsored by a school or community organization; and

"(ii) relates to a program of the school or organization that is attended by a son or daughter of the employee.

"(B) DEFINITIONS.—As used in this paragraph:

"(i) COMMUNITY ORGANIZATION.—The term 'community organization' means a private nonprofit organization that is representative of a community or a significant segment of a community and provides activities for individuals described in subparagraph (A) or (B) of section 101(12), such as a scouting or sports organization.

"(ii) SCHOOL.—The term 'school' means an elementary school or secondary school (as such terms are defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801)), a Head Start program assisted under the Head Start Act (42 U.S.C. 9831 et seq.), and a child care facility licensed under State law.".

(b) SCHEDULE.—Section 102(b)(1) of such Act (29 U.S.C. 2612(b)(1)) is amended by inserting after the second sentence the following: "Leave under subsection (a)(3) may be taken intermittently or on a reduced leave schedule.".

(c) SUBSTITUTION OF PAID LEAVE.—Section 102(d)(2)(A) of such Act (29 U.S.C. 2612(d)(2)(A)) is amended by inserting before the period the following: ", or for leave provided under subsection (a)(3) for any part of the 24-hour period of such leave under such subsection".

(d) NOTICE.—Section 102(e)(1) of such Act (29 U.S.C. 2612(e)(1) is amended by adding at the end the following: "In any case in which an employee requests leave under subsection (a)93), the employee shall provide the employer with not less than 7 days' notice, before the date the leave is to begin, of the employee's intention to take leave under such subsection.".

(e) CERTIFICATION.—Section 103 of such Act (29 U.S.C. 2613) is amended by adding at the end the following:

"(f) CERTIFICATION FOR PARENTAL INVOLVEMENT LEAVE.—An employer may require that a request for leave under section 102(a)(3) be supported by a certification issued at such time and in such manner as the Secretary may by regulation prescribe.".

SEC. 1302. PARENTAL INVOLVEMENT LEAVE FOR CIVIL SERVANTS.

(a) LEAVE REQUIREMENT.—Section 6382(a) of title 5, United States Code, is amended by adding at the end the following:

"(3)(A) Subject to section 6383(f), an employee shall be entitled to a total of 4 hours of leave during any 30-day period, and a total of 24 hours of leave during any 12-month period, in addition to leave available under paragraph (1), to participate in or attend an activity that—

"(i) is sponsored by a school or community organization; and

"(ii) relates to a program of the school or organization that is attended by a son or daughter of the employee.

"(B) As used in this paragraph:

"(i) The term 'community organization' means a private nonprofit organization that is representative of a community or a significant segment of a community and provides activities for individuals described in subparagraph (A) or (B) of section 6381(6), such as a scouting or sports organization.

"(ii) The term 'school' means an elementary school or secondary school (as such terms are defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801)), a Head Start program assisted under the Head Start Act (42 U.S.C. 9831 et seq.), and a child care facility licensed under State law.".

(b) SCHEDULE.—Section 6382(b)(1) of such title is amended by inserting after the second sentence the following: "Leave under subsection (a)(3) may be taken intermittently or on a reduced leave schedule.".

(c) SUBSTITUTION OF PAID LEAVE.—Section 6382(d) of such title is amended by inserting before ", except" the following: ", or for leave provided under subsection (a)(3) any of the employee's accrued or accumulated annual leave under subchapter I for any part of the 24-hour period of such leave under such subsection".

(d) NOTICE.—Section 6382(e)(1) of such title is amended by adding at the end the following: "In any case in which an employee requests leave under subsection (a)(3), the employee shall provide the employing agency with not less than 7 days' notice, before the date the leave is to begin, of the employee's intention to take leave under such subsection.".

(e) CERTIFICATION.—Section 6383 of such title is amended by adding at the end the following:

"(f) An employing agency may require that a request for leave under section 6382(a)(3) be supported by a certification issued at such time and in such manner as the Office of Personnel Management may by regulation prescribe.".

COHEN AMENDMENT NO. 4235

(Ordered to lie on the table.)

Mr. COHEN submitted an amendment intended to be proposed by him to the bill, S. 1745, supra; as follows:

At the end of subtitle F of title X add the following:

SEC. 1072. INFORMATION TECHNOLOGY MANAGEMENT AMENDMENT.

(b)(2) The definition of "national security system" shall not be construed to include any system which involves storage, processing, or forwarding of classified information and is protected at all times by procedures established for the handling of classified information except to the extent that such system is covered by paragraphs (1) through (5) of subsection (a).

KYL AMENDMENT NO. 4236

(Ordered to lie on the table.)

Mr. KYL submitted an amendment intended to be proposed by him to the bill, S. 1745, supra; as follows:

On page ___, between lines ___ and ___, insert the following:

Subtitle ___—National Missile Defense

SEC. 261. SHORT TITLE.

This subtitle may be cited as the "Defend America Act of 1996".

SEC. 262. FINDINGS.

Congress makes the following findings:

(1) Although the United States possesses the technological means to develop and deploy defensive systems that would be highly effective in countering limited ballistic missile threats to its territory, the United States has not deployed such systems and currently has no policy to do so.

(2) The threat that is posed to the national security of the United States by the proliferation of ballistic missiles is significant and growing, both quantitatively and qualitatively.

(3) The trend in ballistic missile proliferation is toward longer range and increasingly sophisticated missiles.

(4) Several countries that are hostile to the United States (including North Korea, Iran, Libya, and Iraq) have demonstrated an interest in acquiring ballistic missiles capable of reaching the United States.

(5) The Intelligence Community of the United States has confirmed that North Korea is developing an intercontinental ballistic missile that will be capable of reaching Alaska or beyond once deployed.

(6) There are ways for determined countries to acquire missiles capable of threatening the United States with little warning by means other than indigenous development.

(7) Because of the dire consequences to the United States of not being prepared to defend itself against a rogue missile attack and the long-lead time associated with preparing an effective defense, it is prudent to commence a national missile defense deployment effort before new ballistic missile threats to the United States are unambiguously confirmed.

(8) The timely deployment by the United States of an effective national missile defense system will reduce the incentives for countries to develop or otherwise acquire intercontinental ballistic missiles, thereby inhibiting as well as countering the proliferation of missiles and weapons of mass destruction.

(9) Deployment by the United States of a national missile defense system will reduce concerns about the threat of an accidental or unauthorized ballistic missile attack on the United States.

(10) The offense-only approach to strategic deterrence presently followed by the United States and Russia is fundamentally adversarial and is not a suitable basis for stability in a world in which the United States and the states of the former Soviet Union are seeking to normalize relations and eliminate Cold War attitudes and arrangements.

(11) Pursuing a transition to a form of strategic deterrence based increasingly on defensive capabilities and strategies is in the interest of all countries seeking to preserve and enhance strategic stability.

(12) The deployment of a national missile defense system capable of defending the United States against limited ballistic missile attacks would (A) strengthen deterrence at the levels of forces agreed to by the United States and Russia under the START I Treaty, and (B) further strengthen deterrence if reductions below START I levels are implemented in the future.

(13) Article XIII of the ABM Treaty envisions "possible changes in the strategic situation which have a bearing on the provisions of this treaty".

(14) Articles XIII and XIV of the treaty establish means for the parties to amend the treaty, and the parties have in the past used those means to amend the treaty.

(15) Article XV of the treaty establishes the means for a party to withdraw from the treaty, upon six months notice "if it decides that extraordinary events related to the subject matter of this treaty have jeopardized its supreme interests".

(16) Previous discussions between the United States and Russia, based on Russian President Yeltsin's proposal for a Global Protection System, envisioned an agreement to amend the ABM Treaty to allow (among other measures) deployment of as many as four ground-based interceptor sites in addition to the one site permitted under the ABM Treaty and unrestricted exploitation of sensors based within the atmosphere and in space.

SEC. 263. NATIONAL MISSILE DEFENSE POLICY.

(a) It is the policy of the United States to deploy by the end of 2003 a National Missile Defense system that—

(1) is capable of providing a highly-effective defense of the territory of the United States against limited, unauthorized, or accidental ballistic missile attacks; and

(2) will be augmented over time to provide a layered defense against larger and more sophisticated ballistic missile threats as they emerge.

(b) It is the policy of the United States to seek a cooperative transition to a regime that does not feature an offense-only form of deterrence as the basis for strategic stability.

SEC. 264. NATIONAL MISSILE DEFENSE SYSTEM ARCHITECTURE.

(a) REQUIREMENT FOR DEVELOPMENT OF SYSTEM.—To implement the policy established in section 263(a), the Secretary of Defense shall develop for deployment an affordable and operationally effective National Missile Defense (NMD) system which shall achieve an initial operational capability (IOC) by the end of 2003.

(b) ELEMENTS OF THE NMD SYSTEM.—The system to be developed for deployment shall include the following elements:

(1) An interceptor system that optimizes defensive coverage of the continental United States, Alaska, and Hawaii against limited, accidental, or unauthorized ballistic missile attacks and includes one or a combination of the following:

(A) Ground-based interceptors.

(B) Sea-based interceptors.

(C) Space-based kinetic energy interceptors.

(D) Space-based directed energy systems.

(2) Fixed ground-based radars.

(3) Space-based sensors, including the Space and Missile Tracking System.

(4) Battle management, command, control, and communications (BM/C^3).

SEC. 265. IMPLEMENTATION OF NATIONAL MISSILE DEFENSE SYSTEM.

The Secretary of Defense shall—

(1) upon the enactment of this Act, promptly initiate required preparatory and planning actions that are necessary so as to be capable of meeting the initial operational capability (IOC) date specified in section 264(a);

(2) plan to conduct by the end of 1998 an integrated systems test which uses elements (including BM/C^3 elements) that are representative of, and traceable to, the national missile defense system architecture specified in section 264(b);

(3) prescribe and use streamlined acquisition policies and procedures to reduce the cost and increase the efficiency of developing the system specified in section 264(a); and

(4) develop an affordable national missile defense follow-on program that—

(A) leverages off of the national missile defense system specified in section 264(a), and

(B) augments that system, as the threat changes, to provide for a layered defense.

SEC. 266. REPORT ON PLAN FOR NATIONAL MISSILE DEFENSE SYSTEM DEVELOPMENT AND DEPLOYMENT.

Not later than March 15, 1997, the Secretary of Defense shall submit to Congress a report on the Secretary's plan for development and deployment of a national missile defense system pursuant to this subtitle. The report shall include the following matters:

(1) The Secretary's plan for carrying out this subtitle, including—

(A) a detailed description of the system architecture selected for development under section 264(b); and

(B) a discussion of the justification for the selection of that particular architecture.

(2) The Secretary's estimate of the amount of appropriations required for research, development, test, evaluation, and for procurement, for each of fiscal years 1997 through 2003 in order to achieve the initial operational capability date specified in section 264(a).

(3) A cost and operational effectiveness analysis of follow-on options to improve the effectiveness of such system.

(4) A determination of the point at which any activity that is required to be carried out under this subtitle would conflict with the terms of the ABM Treaty, together with a description of any such activity, the legal basis for the Secretary's determination, and an estimate of the time at which such point would be reached in order to meet the initial operational capability date specified in section 264(a).

SEC. 267. POLICY REGARDING THE ABM TREATY.

(a) ABM TREATY NEGOTIATIONS.—In light of the findings in section 262 and the policy established in section 263, Congress urges the President to pursue high-level discussions with the Russian Federation to achieve an agreement to amend the ABM Treaty to allow deployment of the national missile defense system being developed for deployment under section 264.

(b) REQUIREMENT FOR SENATE ADVICE AND CONSENT.—If an agreement described in subsection (a) is achieved in discussions described in that subsection, the President

shall present that agreement to the Senate for its advice and consent. No funds appropriated or otherwise available for any fiscal year may be obligated or expended to implement such an amendment to the ABM Treaty unless the amendment is made in the same manner as the manner by which a treaty is made.

(c) ACTION UPON FAILURE TO ACHIEVE NEGOTIATED CHANGES WITHIN ONE YEAR.—If an agreement described in subsection (a) is not achieved in discussions described in that subsection within one year after the date of the enactment of this Act, the President and Congress, in consultation with each other, shall consider exercising the option of withdrawing the United States from the ABM Treaty in accordance with the provisions of Article XV of that treaty.

SEC. 268. ABM TREATY DEFINED.

For purposes of this subtitle, the term "ABM Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, and signed at Moscow on May 26, 1972, and includes the Protocols to that Treaty, signed at Moscow on July 3, 1974.

SHELBY (AND HEFLIN) AMENDMENTS NOS. 4237–4240

(Ordered to lie on the table.)

Mr. SHELBY (for himself and Mr. HEFLIN) submitted four amendments intended to be proposed by them to the bill, S. 1745, supra; as follows:

AMENDMENT NO. 4237

In section 330, in the matter preceding paragraph (1), insert ", the Letterkenny Army Depot," after "Sacramento Air Logistics Center".

AMENDMENT NO. 4238

At the end of subtitle C of title I, add the following:

SEC. 125. PROCUREMENT OF MAIN FEED PUMP TURBINES FOR THE CONSTELLATION (CV–64).

(a) INCREASED AUTHORIZATION.—The amount authorized to be appropriated by section 102(4) is hereby increased by $4,200,000.

(b) AUTHORITY TO PROCURE.—Of the amount authorized to be appropriated by section 102(4), as increased by subsection (a), $4,200,000 shall be available for the procurement of main feed pump turbines for the Constellation (CV–64).

AMENDMENT NO. 4239

At the end of subtitle C of title II, add the following:

SEC. 237. DESIGNATION OF THE ARMY AS LEAD SERVICE IN THE NATIONAL MISSILE DEFENSE JOINT PROGRAM OFFICE FOR INITIAL DEPLOYMENT PHASE OF NATIONAL MISSILE DEFENSE PROGRAM.

The Director of the Ballistic Missile Defense Organization shall designate the Army as the lead service in the National Missile Defense Joint Program Office for the initial deployment phase of the national missile defense program.

AMENDMENT NO. 4240

At the end of subtitle B of title II add the following:

SEC. 223. DEPRESSED ALTITUDE GUIDED GUN ROUND.

Of the amount authorized to be appropriated under section 201(1), $5,400,000 is available for continued development and target intercept testing of the depressed altitude guided gun round.

THURMOND AMENDMENTS NOS. 4241–4242

(Ordered to lie on the table.)

Mr. THURMOND submitted two amendments intended to be proposed by him to the bill, S. 1745, supra; as follows:

AMENDMENT NO. 4241

At the end of subtitle C of title XXXI, add the following:

SEC. 3138. DISPOSAL OF CERTAIN ASSETS OF THE DEPARTMENT OF ENERGY.

(a) PROGRAM.—(1) In order to maximize the use of Department of Energy assets and to reduce costs related to asset management at the facilities and laboratories of the Department, the Secretary of Energy shall carry out a program to dispose of assets of the Department that the Secretary determines to be unnecessary for the discharge of the functions of the Department. The Secretary shall carry out the program so as to result in net receipts to the United States by September 30, 2002, of not less than $110,000,000.

(2) Not later than October 1 of each of 1997 through 2001, the Secretary shall submit to Congress an inventory of the assets of the Department that the Secretary proposes to dispose of under the program.

(3)(A) Notwithstanding any other law and subject to subparagraphs (B) and (C), the Secretary shall deposit the proceeds of the disposition of assets under the program in the General Fund of the Treasury. If the President so designates, amounts deposited in the General Fund under this subparagraph shall be included in the budget baseline required by the Balanced Budget and Emergency Deficit Control Act of 1985 and shall be counted for purposes of section 252 of that Act (2 U.S.C. 902).

(B) The Secretary shall exclude from deposit under subparagraph (A) an amount of the proceeds of a disposal under the program equal to the amount, if any, of appropriated funds expended in carrying out the disposal. Amounts excluded under this subparagraph shall be credited to the account from which the appropriated funds concerned were derived and merged with and available to the same and extent and for the same purposes as such appropriated funds.

(C) After making any deposit required under subparagraph (B) using the proceeds of disposal under the program, the Secretary may, instead of making the deposit of the remaining portion of such proceeds otherwise required under subparagraph (A), utilize all or a portion of such remaining portion for the decontamination or other clean-up of facilities, equipment, and materiel of the Department.

(b) PILOT PROGRAM.—(1) The Secretary shall carry out a pilot program in each fiscal year through fiscal year 2002 under which the Secretary disposes of assets of the Department that the Secretary determines to be unnecessary for the discharge of the functions of the Department so as to result in proceeds to the Department sufficient to cover the costs of carrying out the program under subsection (a).

(2) Not later than 90 days after the beginning of a fiscal year in which the Secretary carries out a pilot program under paragraph (1), the Secretary shall submit to Congress a list and description of the assets of the Department that the Secretary proposes to dispose of under the pilot program.

(c) DEFINITIONS.—(1) For the purposes of this section, the term "assets of the Department" means assets under the control of the Department to Energy, including chemicals and industrial gases, radiation sources, industrial, scientific, and commercial equipment tools and machinery, fuels, and precious and base metals.

(2) The term does not include real property, uranium, assets of any Federal Power Administration, oil in the Strategic Petroleum Reserve, and products from the Naval Petroleum Reserves and the Naval Shale Reserves.

(d) REPEAL OF REQUIREMENT FOR TRANSFER AND DISPOSAL OF EXCESS STRATEGIC AND CRITICAL MATERIALS OF DOE.—Section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c) is amended by striking out subsections (a)(10) and (c).

AMENDMENT NO. 4242

In section 216, strike out the section heading and insert in lieu thereof the following:

SEC. 216. TIER III MINUS UNMANNED AERIAL VEHICLE.

PRESSLER (AND DASCHLE) AMENDMENT NO. 4243

(Ordered to lie on the table.)

Mr. PRESSLER (for himself and Mr. DASCHLE) submitted an amendment intended to be proposed by them to the bill, S. 1745, supra; as follows:

On page 311, between lines 9 and 10, insert the following:

SEC. 1072. SENSE OF CONGRESS ON NAMING ONE OF THE NEW ATTACK SUBMARINES THE "SOUTH DAKOTA".

It is the sense of the Congress that the Secretary of the Navy should name one of the new attack submarines of the Navy the "South Dakota".

THURMOND (AND NUNN) AMENDMENT NO. 4244

(Ordered to lie on the table.)

Mr. THURMOND (for himself and Mr. NUNN) submitted an amendment intended to be proposed by them to the bill, S. 1745, supra; as follows:

After section 3, add the following:

SEC. 4. GENERAL LIMITATION.

Notwithstanding any other provision of this Act, the total amount authorized to be appropriated for fiscal year 1997 for the national defense function under the provisions of this Act is $265,583,000,000.

THURMOND AMENDMENT NO. 4245

(Ordered to lie on the table.)

Mr. THURMOND submitted an amendment intended to be proposed by him to the bill, S. 1745, supra; as follows:

At the end of subtitle C of title I add the following:

SEC. 124. ADDITIONAL EXCEPTION FROM COST LIMITATION FOR SEAWOLF SUBMARINE PROGRAM.

Section 133 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 211) is amended—

(1) in subsection (a), by striking out "subsection (b)" and inserting in lieu thereof "subsections (b) and (c)"; and

(2) by striking out subsection (c) and inserting in lieu thereof the following:

"(c) COSTS NOT INCLUDED.—The previous obligations of $745,700,000 for the SSN-23, SSN-24, and SSN-25 submarines, out of funds appropriated for fiscal years 1990, 1991, and 1992, that were subsequently canceled (as a result of a cancellation of such submarines) shall not be taken into account in the application of the limitation in subsection (a).".

WARNER AMENDMENT NO. 4246

(Ordered to lie on the table.)

Mr. WARNER submitted an amendment intended to be proposed by him to the bills, S. 1745, supra; as follows:

At the end of subtitle B of title I, add the following:

SEC. 113. PERMANENT AUTHORITY TO CARRY OUT ARMS INITIATIVE.

Section 193(a) of the Armament Retooling and Manufacturing Support Initiative Act of 1992 (subtitle H of title I of Public Law 102-484; 10 U.S.C. 2501 note) is amended by striking out "During fiscal years 1993 through 1996, the Secretary" and inserting in lieu thereof "The Secretary".

BROWN AMENDMENT NO. 4247

(Ordered to lie on the table.)

Mr. BROWN submitted an amendment intended to be proposed by him to the bills, S. 1745, supra; as follows:

At the end of subtitle B of title I, add the following:

SEC. 113. STUDY REGARDING NEUTRALIZATION OF THE CHEMICAL WEAPONS STOCKPILE.

(a) STUDY.—(1) The Secretary of Defense shall conduct a study to determine the cost of incineration of the current chemical munitions stockpile by building incinerators at each existing facility compared to the proposed cost of dismantling those same munitions, neutralizing them at each storage site and transporting the neutralized remains and all munitions parts to a centrally located incinerator within the United States for incineration.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate committees of the Congress a report on the study carried out under subsection (a).

THURMOND AMENDMENT NO. 4248

(Ordered to lie on the table.)

Mr. THURMOND submitted an amendment intended to be proposed by him to the bill, S. 1745, supra; as follows:

Strike out section 2812, relating to the disposition of proceeds of certain commissary stores and nonappropriated fund instrumentalities.

KYL (AND BINGAMAN) AMENDMENT NO. 4249

(Ordered to lie on the table.)

Mr. KYL (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by them to the bill, S. 1745, supra; as follows:

At the end of subtitle D of title X, add the following:

SEC. 1043. PROHIBITION OF COLLECTION AND RELEASE OF DETAILED SATELLITE IMAGERY RELATING TO ISRAEL AND OTHER COUNTRIES AND AREAS.

(a) COLLECTION AND DISSEMINATION.—No department or agency of the Federal Government may license the collection or dissemination by any non-Federal entity of satellite imagery with respect to Israel, or to any other country or geographic area designated by the President for this purpose, unless such imagery is no more detailed or precise than satellite imagery of the country or geographic area concerned that is routinely available from commercial sources.

(b) DECLASSIFICATION AND RELEASE.—No department or agency of the Federal Government may declassify or otherwise release satellite imagery with respect to Israel, or to any other country or geographic area designated by the President for this purpose, unless such imagery is no more detailed or precise than satellite imagery of the country or geographic area concerned that is routinely available from commercial sources.

THURMOND AMENDMENT NO. 4250

(Ordered to lie on the table.)

Mr. THURMOND submitted an amendment intended to be proposed by him to the bill, S. 1745, supra; as follows:

In section 201(2), strike out "$9,041,534,000" and insert in lieu thereof "8,893,234,000".

In section 301(1) strike out "18,147,623,000" and insert in lieu therefore "$18,295,923,000".

COHEN (AND LOTT) AMENDMENT NO. 4251

(Ordered to lie on the table.)

Mr. COHEN (for himself and Mr. LOTT) submitted an amendment intended to be proposed by them to the bill, S. 1745, supra; as follows:

Strike out section 124 and insert in lieu thereof the following:

SEC. 124. ARLEIGH BURKE CLASS DESTROYER PROGRAM.

(a) FUNDING.—(1) Subject to paragraph (3), funds authorized to be appropriated by section 102(a)(3) may be made available for contracts entered into in fiscal year 1996 under subsection (b)(1) of section 135 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 211) for construction for the third of the three Arleigh Burke class destroyers covered by that subsection. Such funds are in addition to amounts made available for such contracts by the second sentence of subsection (a) of that section.

(2) Subject to paragraph (3), funds authorized to be appropriated by section 102(a)(3) may be made available for contracts entered into in fiscal year 1997 under subsection (b)(2) of such section 135 for construction (including advance procurement) for the Arleigh Burke class destroyers covered by such subsection (b)(2).

(3) The aggregate amount of funds available under paragraphs (1) and (2) for contracts referred to in such paragraphs may not exceed $3,483,030,000.

(4) Within the amount authorized to be appropriated by section 102(a)(3), $750,000,000 is authorized to be appropriated for advance procurement for construction for the Arleigh Burke class destroyers authorized by subsection (b).

(b) AUTHORITY FOR MULTIYEAR PROCUREMENT OF TWELVE VESSELS.—The Secretary of the Navy is authorized, pursuant to section 2306b of title 10, United States Code, to enter into multiyear contracts for the procurement of a total of 12 Arleigh Burke class destroyers at a procurement rate of three ships in each of fiscal years, 1998, 1999, 2000, and 2001 in accordance with this subsection and subsections (a)(4) and (c), subject to the availability of appropriations for such destroyers. A contract for construction of one or more vessels that is entered into in accordance with this subsection shall include a clause that limits the liability of the Government to the contractor for any termination of the contract.

CHAFEE AMENDMENT NO. 4252

(Ordered to lie on the table.)

Mr. CHAFEE submitted an amendment intended to be proposed by him to the bill, S. 1745, supra; as follows:

At the end of section 348, add the following:

(c) REPORT ON COMPLIANCE WITH ANNEX V TO THE CONVENTION.—The Secretary of Defense shall include in each report on environmental compliance activities submitted to Congress under section 2706(c) of title 10, United States Code, the following information:

(1) A list of the ships types, if any, for which the Secretary of the Navy has made the determination referred to in paragraph (2)(C) of section 3(c) of the Act to Prevent Pollution from Ships, as amended by subsection (a)(2) of this section.

(2) A list of ship types which the Secretary of the Navy has determined can comply with Regulation 5 of Annex V to the Convention.

(3) A summary of the progress made by the Navy in implementing the requirements of paragraphs (2) and (3) such section 3(c), as so amended.

(4) A description of any emerging technologies offering the potential to achieve full compliance with Regulation 5 of Annex V to the Convention.

(d) PUBLICATON REGARDING SPECIAL AREA DISCHARGES.—Section 3(e)(4) of the Act to Prevent Pollution from Ships (33 U.S.C. 1902(e)(4)) is amended by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) The amount and nature of the discharges in special areas, not otherwise authorized under this title, during the preceding year from ships referred to in subsection (b)(1)(A) of this section owned or operated by the Department of the Navy.".

THURMOND AMENDMENT NO. 4253

(Ordered to lie on the table.)

Mr. THURMOND submitted an amendment intended to be proposed by him to the bill, S. 1745, supra; as follows:

In section 201(2), strike out "$9,041,534,000" and insert in lieu thereof "$8,893,234,000".

In section 301(1) strike out "18,147,623,000" and insert in lieu thereof "$18,295,923,000".

THURMOND (AND NUNN) AMENDMENT NO. 4254

(Ordered to lie on the table.)

Mr. THURMOND (for himself and Mr. NUNN) submitted an amendment intended to be proposed an amendment to the bill, S. 1745, supra; as follows:

Mr. THURMOND (for himself and Mr. NUNN) submitted an amendment intended to be proposed an amendment to the bill, S. 1745, supra; as follows:

On page 219, line 11, insert ", for the Secretary's consideration," after "of Defense".

On page 223, strike out lines 1 and 2 and insert in lieu thereof the following:

"(a) ESTABLISHMENT.—The National Imagery and Mapping Agency is a combat support agency of the Department of Defense and has significant national missions.

On page 223, strike out line 17 and all that follows through page 224, line 2 and insert in lieu thereof the following:

"(3) If an officer of the armed forces is appointed to the position of Director under this subsection, the position is a position of importance and responsibility for purposes of section 601 of this title and carries the grade of lieutenant general, or, in the case of an officer of the Navy, vice admiral.

THURMOND AMENDMENTS NOS. 4255–4256

(Ordered to lie on the table.)

Mr. THURMOND submitted two amendments intended to be proposed by him to the bills, S. 1745, supra; as follows:

AMENDMENT NO. 4255

At the end of subtitle D of title III, add the following:

SEC. . AUTHORITY FOR AGREEMENTS WITH INDIAN TRIBES FOR SERVICES UNDER ENVIRONMENTAL RESTORATION PROGRAM.

Section 2701(d) of title 10, United States Code, is amended—

(1) in the first sentence of paragraph (1), by striking out ", or with any State or local government agency," and inserting in lieu thereof ", with any State or local government agency, or with any Indian tribe,"; and

(2) by adding at the end the following:

"(3) DEFINITION.—In this subsection, the term 'Indian tribe' has the meaning given such term in section 101(36) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(36)).".

AMENDMENT NO. 4256

In section 3136(a), in the matter preceding paragraph (1), strike out "section 3102" and insert in lieu thereof "section 3102(b)".

In section 3136(a)(1), strike out "$43,000,000" and insert in lieu thereof "$65,700,000".

In section 3136(a)(2), strike out "$15,000,000" and insert in lieu thereof "$80,000,000".

In section 3136(a)(2), strike out "stainless steel" and insert in lieu thereof "non-aluminum clad".

LOTT AMENDMENTS NOS. 4257–4258

(Ordered to lie on the table.)

Mr. LOTT submitted two amendments intended to be proposed by him to the bill, S. 1745, supra; as follows:

AMENDMENT NO. 4257

At the end of subtitle E of the title X add the following:

SEC. 1054. REPORT ON FACILITIES USED FOR TESTING LAUNCH VEHICLE ENGINES.

(a) REPORT REQUIRED.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Administrator of the National Aeronautics and Space Administration, shall submit to Congress a report on the facilities used for testing launch vehicle engines.

(b) CONTENT OF REPORT.—The report shall contain an analysis of the duplication between Air Force and National Aeronautics and Space Administration hydrogen rocket test facilities and the potential benefits of further coordinating activities at such facilities.

AMENDMENT NO. 4258

At the end of subtitle A of title V add the following:

SEC. 506. GRADE OF CHIEF OF NAVAL RESEARCH.

Section 5022(a) of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following:

"(2) Unless appointed to higher grade under another provision of law, an officer, while serving in the Office of Naval Research as Chief of Naval Research, has the rank of rear admiral (upper half).".

THURMOND AMENDMENT NO. 4259

(Ordered to lie on the table.)

Mr. THURMOND submitted an amendment intended to be proposed by him to the bill, S. 1745, supra; as follows:

Beginning on page 127, strike out line 20 and all that follows through page 129, line 10, and insert in lieu thereof the following:

"(2)(A) Not more than 25 officers of any one armed force may be serving on active duty concurrently pursuant to orders to active duty issued under this section.

"(B) In the administration of subparagraph (A), the following officers shall not be counted:

"(i) A chaplain who is assigned to duty as a chaplain for the period of active duty to which ordered.

"(ii) A health care professional (as characterized by the Secretary concerned) who is assigned to duty as a health care professional for the period of the active duty to which ordered.

"(iii) Any officer assigned to duty with the American Battle Monuments Commission for the period of active duty to which ordered.".

(b) OFFICERS RETIRED ON SELECTIVE EARLY RETIREMENT BASIS.—Such section is amended by adding at the end the following:

"(e) The following officers may not be ordered to active duty under this section:

"(1) An officer who retired under section 638 of this title.

"(2) An officer who—

"(A) after having been notified that the officer was to be considered for early retirement under section 638 of this title by a board convened under section 611(b) of this title and before being considered by that board, requested retirement under section 3911, 6323, or 8911 of this title; and

"(B) was retired pursuant to that request.".

(c) LIMITATION OF PERIOD OF RECALL SERVICE.—Such section, as amended by subsection (b), is further amended by adding at the end the following:

"(f) A member ordered to active duty under subsection (a) may not serve on active duty pursuant to orders under such subsection for more than 12 months within the 24 months following the first day of the active duty to which ordered under this section.".

ROBB AMENDMENT NO. 4260

(Ordered to lie on the table.)

Mr. ROBB submitted an amendment intended to be proposed by him to the bill, S. 1745, supra; as follows:

At the end of subtitle E of title X, add the following:

SEC. 1054. INFORMATION ON PROPOSED FUNDING FOR THE GUARD AND RESERVE COMPONENTS IN FUTURE-YEARS DEFENSE PROGRAMS.

(a) REQUIREMENT.—The Secretary of Defense shall specify in each future-years defense program submitted to Congress after the date of the enactment of this Act the estimated expenditures and proposed appropriations for the procurement of equipment and for military construction for each of the Guard and Reserve components.

(b) DEFINITION.—For purposes of this section, the term "Guard and Reserve components" means the following:

(1) The Army Reserve.

(2) The Army National Guard of the United States.

(3) The Naval Reserve.

(4) The Marine Corps Reserve.

(5) The Air Force Reserve.

(6) The Air National Guard of the United States.

McCAIN (AND OTHERS) AMENDMENT NO. 4261

(Ordered to lie on the table.)

Mr. McCAIN (for himself, Mr. HATCH, Mr. BENNETT, and Mr. NUNN) submitted an amendment intended to be proposed by them to the bill, S. 1745, supra; as follows:

Strike out section 366 and insert in lieu thereof the following new section:

SEC. 366. DEPARTMENT OF DEFENSE SUPPORT FOR SPORTING EVENTS

(a) SECURITY AND SAFETY ASSISTANCE.—At the request of a Federal, State, or local government agency responsible for providing law enforcement services, security services, or safety services, the Secretary of Defense may authorize the commander of a military installation or other facility of the Department of Defense or the commander of a specified or unified combatant command to provide assistance for the World Cup Soccer Games, the Goodwill Games, the Olympics, and any other civilian sporting event in support of essential security and safety at such event, but only if the Attorney General certifies that such assistance is necessary to meet essential security and safety needs.

(b) OTHER ASSISTANCE.—the Secretary may authorize a commander referred to in subsection (a) to provide assistance for a sporting event referred to in that subsection in support of other needs relating to such event, but only—

(1) to the extent that such needs cannot reasonably be met by a source other than the Department;

(2) to the extent that the provision of such assistance does not adversely affect the military preparedness of the Armed Forces; and

(3) if the organization requesting such assistance agrees to reimburse the Department for amounts expended by the Department in providing the assistance in accordance with the provisions of section 377 of title 10, United States Code, and other applicable provisions of law.

(c) INAPPLICABILITY TO CERTAIN EVENTS.—Subsections (a) and (b) do not apply to the following sporting events:

(1) Sporting events for which funds have been appropriated before the date of the enactment of this Act.

(2) The Special Olympics.

(3) The Paralympics.

(d) TERMS AND CONDITIONS.—The Secretary may require such terms and conditions in

connection with the provision of assistance under this section as the Secretary considers necessary and appropriate to protect the interests of the United States.

(e) REPORT ON ASSISTANCE.—Not later than January 30 of each year following a year in which the Secretary provides assistance under this section, the Secretary shall submit to the congressional defense committees a report on the assistance provided. The report shall set forth—

(1) a description of the assistance provided;

(2) the amount expended by the Department in providing the assistance;

(3) if the assistance was provided under subsection (a), the certification of the Attorney General with respect to the assistance under that subsection; and

(4) if the assistance was provided under subsection (b)—

(A) an explanation why the assistance could not reasonably be met by a source other than the Department; and

(B) the amount the Department was reimbursed under that subsection.

(f) RELATIONSHIP TO OTHER LAWS.—Assistance provided under this section shall be subject to the provisions of sections 375 and 376 of title 10, United States Code.

DOMENICI AMENDMENT NO. 4262

(Ordered to lie on the table.)

Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill, S. 1745, supra; as follows:

At the end of subtitle C of title II add the following:

SEC. 237. SCORPIUS SPACE LAUNCH TECHNOLOGY PROGRAM.

Of the amount authorized to be appropriated under section 201(4) for the Ballistic Missile Defense Organization for Support Technologies/Follow-On Technologies (PE 63173C), up to $7,500,000 is available for the Scorpius space launch technology program.

GLENN (AND ABRAHAM) AMENDMENT NO. 4263

(Ordered to lie on the table.)

Mr. GLENN (for himself and Mr. ABRAHAM) submitted an amendment intended to be proposed by them to the bill, S. 1745, supra; as follows:

In section 1022(a), strike out ". Such transfers" and insert in lieu thereof ", if the Secretary determines that the tugboats are not needed for transfer, donation, or other disposal under title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.). A transfer made under the preceding sentence".

WELLSTONE AMENDMENTS NOS. 4264–4265

(Ordered to lie on the table.)

Mr. WELLSTONE submitted an amendment intended to be proposed by him to the bill, S. 1745, supra; as follows:

AMENDMENT NO. 4264

At the end of subtitle A of title X add the following:

SEC. . TRANSFERS FOR EDUCATION AND EMPLOYMENT ASSISTANCE PROGRAMS.

(a) EDUCATION PROGRAMS.—Of the total amount authorized to be appropriated for the Department of Defense for fiscal year 1997 pursuant to the authorizations of appropriations contained in this Act, the Secretary of Defense authorized to transfer to the Secretary of Education—

(1) $577,000,000, to carry out subpart 1 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a), relating to Federal Pell Grants;

(2) $158,000,000, to carry out part E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087aa et seq.), relating to Federal Perkins Loans; and

(3) $71,000,000, to carry out part D of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087a et seq.), relating to Federal Direct Student Loans.

(b) EMPLOYMENT ASSISTANCE PROGRAMS.—Of the total amount appropriated for the Department of Defense for fiscal year 1997 pursuant to the authorizations of appropriations contained in this Act, the Secretary of Defense shall transfer to the Secretary of Labor—

(1) $193,000,000, to provide employment and training assistance to dislocated workers under title III of the Job Training Partnership Act (29 U.S.C. 1651 et seq.);

(2) $246,000,000, to carry out summer youth employment and training programs under part B of title II of the Job Training Partnership Act (29 U.S.C. 1630 et seq.);

(3) $25,000,000, to carry out School-to-Work Opportunities programs under the School-to-Work Opportunities Act of 1994 (20 U.S.C. 2101 et seq.); and

(4) $40,000,000, to carry out activities, including activities provided through one-stop centers, under the Wagner-Peyser Act (29 U.S.C. 49 et seq.).

AMENDMENT NO. 4265

At the end of title VII add the following:

SEC. 708. PREVENTIVE HEALTH CARE SCREENING FOR COLON AND PROSTATE CANCER.

(a) MEMBERS AND FORMER MEMBERS.—(1) Section 1074d of title 10, United States Code, is amended—

(A) in subsection (a)—

(i) by inserting "(1)" before "Female"; and

(ii) by adding at the end the following new paragraph:

"(2) Male members and former members of the uniformed services entitled to medical care under section 1074 or 1974a of this title shall also be entitled to preventive health care screening for colon or prostate cancer at such intervals and using such screening methods as the administering Secretaries consider appropriate."; and

(B) in subsection (b), by adding at the end the following new paragraph:

"(8) Colon cancer screening, at the intervals and using the screening methods prescribed under subsection (a)(2).".

(2)(A) The heading of such section is amended to read as follows:

"§ 1074d. Primary and preventive health care services

(B) The item relating to such section in the table of sections at the beginning of chapter 55 of such title is amended to read as follows:

"1074d. Primary and preventive health care services.".

(b) DEPENDENTS.—(1) Section 1077(a) of such title is amended by adding at the end the following new paragraph:

"(14) Preventive health care screening for colon or prostate cancer, at the intervals and using the screening methods prescribed under section 1074d(a)(2) of this title.".

(2) Section 1079(a)(2) of such title is amended—

(A) in the matter preceding subparagraph (A), by inserting "the schedule and method of colon and prostate cancer screenings," after "pap smears and mammograms,"; and

(B) in subparagraph (B), by inserting "or colon and prostate cancer screenings" after "pap smears and mammograms".

WELLSTONE (AND HARKIN) AMENDMENT NO. 4266

(Ordered to lie on the table.)

Mr. WELLSTONE (for himself and Mr. HARKIN) submitted an amendment intended to be proposed by them to the bill, S. 1745, supra; as follows:

After section 3, insert the following:

SEC. 4. GENERAL LIMITATION.

(a) LIMITATION.—Notwithstanding any other provision of this Act, the total amount authorized to be appropriated by this Act may not exceed the amount requested by the President for fiscal year 1997 for the national security activities of the Department of Defense and the Department of Energy in the budget submitted to Congress by the President for that fiscal year under section 1105 of title 31, United States Code.

(b) ALLOCATION OF REDUCTIONS.—The Secretary of Defense shall allocate reductions in authorizations of appropriations that are necessary as a result of the application of the limitation set forth in subsection (a) so as not to jeopardize the military readiness of the Armed Forces or the quality of life of Armed Forces personnel.

(c) EXCESS AUTHORIZATIONS TO BE USED FOR DEFICIT REDUCTION.—The reduction under subsection (a) of the total amount that, except for that subsection, would otherwise be authorized to be appropriated for fiscal year 1997 by this Act shall be applied to reduce the budget deficit for fiscal year 1997.

FEINSTEIN (AND OTHERS) AMENDMENT NO. 4267

(Ordered to lie on the table.)

Mrs. FEINSTEIN (for herself, Mr. KYL, and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill, S. 1745, supra; as follows:

At the end of subtitle F of title X, add the following:

SEC. 1072. SALE OF CHEMICALS USED TO MANUFACTURE CONTROLLED SUBSTANCES BY FEDERAL DEPARTMENTS OR AGENCIES.

A Federal department or agency may not sell from the stocks of the department or agency any chemical which, as determined by the Administrator of the Drug Enforcement Agency, could be used in the manufacture of a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802) unless the Administrator certifies in writing to the head of the department or agency that there is no reasonable cause to believe that the sale of the chemical would result in the illegal manufacture of a controlled substance.

FEINSTEIN AMENDMENT NO. 4268

(Ordered to lie on the table.)

Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill, S. 1745, supra; as follows:

At the end of subtitle F of title X, add the following:

SEC. REVISION OF CERTAIN AUTHORITIES RELATING TO THE CORPORATION FOR THE PROMOTION OF RIFLE PRACTICE AND FIREARMS SAFETY.

(a) USE OF PROCEEDS OF SALES FOR BREAST CANCER RESEARCH.—(1) Section 1614 of the Corporation for the Promotion of Rifle Practice and Firearms Safety Act (title XVI of Public Law 104–106; 110 Stat. 517; 36 U.S.C. 5504) is amended—

(A) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(B) by inserting after subsection (c) the following new subsection (d):

"(d) USE OF PROCEEDS OF SALES.—Proceeds from the sale of rifles, ammunition, targets, repair parts and accoutrements, and other supplies and appliances under this subsection shall be deposited in the Defense Health Program account and available for breast cancer research. Amounts so deposited shall be available for that purpose without fiscal year limitation.".

(2) Section 1618(a)(3) of that Act (110 Stat. 520; 36 U.S.C. 5508(a)(3)) is amended by striking out ", including the proceeds" and all that follows through "supplies and appliances,".

(b) TRANSFER OF FUNDS FOR BREAST CANCER RESEARCH.—Notwithstanding section 1621(a) of the Corporation for the Promotion of Rifle Practice and Firearms Safety Act (title XVI of Public Law 104–106; 110 Stat. 521; 36 U.S.C. 5521(a)), funds to be transferred to the Corporation for the Promotion of Rifle Practice and Firearms Safety in accordance with that section shall be transferred instead to the Defense Health Program and available only for breast cancer research. Funds so transferred shall be available for that purpose without fiscal year limitation.

(c) DETERMINATION OF FAIR MARKET VALUE OF ITEMS SOLD.—Section 1614(b) of the Corporation for the Promotion of Rifle Practice and Firearms Safety Act (title XVI of Public Law 104–106; 110 Stat. 517; 36 U.S.C. 5504(b)) is amended by adding at the end the following:

"(3) In determining the fair market value of rifles, ammunition, targets, repair parts and accoutrements, and other supplies and appliances sold under this subsection, the Corporation shall use the average price for such items at a variety of retail gun stores nationwide.".

SMITH AMENDMENT NO. 4269

(Ordered to lie on the table.)

Mr. SMITH submitted an amendment intended to be proposed by him to the bill, S. 1745, supra; as follows:

At the appropriate place, insert:

SEC. . SENSE OF THE SENATE CONCERNING USS LCS 102.

It is the sense of the Senate that the Secretary of Navy should use existing authorities in law to seek the expeditious return of the former USS LCS 102 from the Government of Thailand in order for the ship to be transferred to the United States Shipbuilding Museum in Quincy, Massachusetts.

WARNER AMENDMENT NO. 4270

(Ordered to lie on the table.)

Mr. WARNER submitted an amendment intended to be proposed by him to the bill, S. 1745, supra; as follows;

At the end of subtitle B of title II add the following:

SEC. 223. CYCLONE CLASS CRAFT SELF-DEFENSE.

(a) STUDY REQUIRED.—Not later than March 31, 1997, the Secretary of Defense shall—

(1) carry out a study of vessel self-defense options for the Cyclone class patrol craft; and

(2) submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the results of the study.

(b) SOCOM INVOLVEMENT.—The Secretary shall carry out the study through the Commander of the Special Operations Command.

(c) SPECIFIC SYSTEM TO BE EVALUATED.—The study under subsection (a) shall include an evaluation of the BARAK ship self-defense missile system.

(d) FUNDING.—Of the amount authorized to be appropriated by section 104, $2,000,000 is available for carrying out this section.

HATFIELD (AND WYDEN) AMENDMENT NO. 4271

(Ordered to lie on the table.)

Mr. HATFIELD (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by them to the bill, S. 1745, supra; as follows:

Insert at the appropriate place the following:

SEC. . OPPORTUNITY FOR REVIEW AND COMMENT BY STATE OF OREGON ON CERTAIN REMEDIAL ACTIONS AT HANFORD RESERVATION.

(a) Except as provided in subsection (b), the Site Manager of the Hanford Reservation ("Site Manager") shall provide to the State of Oregon all written information required to be provided to the State of Washington on any matter covered by the Hanford Tri-Party Agreement.

(1) Any such information provided to the State of Washington shall be provided to the State of Oregon when it is provided to the State of Washington or as soon as practical thereafter.

(2) Except as provided in subsection (b), whenever an opportunity for review and comment is provided to the State of Washington on matters covered by the Hanford Tri-Party Agreement, the Site Manager shall also provide an opportunity for review and comment to the State of Oregon.

(b) Nothing in this section: (1) Requires the Site Manager to share enforcement sensitive information or information related to the negotiation, dispute resolution or State cost recovery provisions of the Hanford Tri-Party Agreement; (2) requires the Site Manager to provide confidential budget or procurement information under terms other than those provided in the Tri-Party Agreement for the transmission of such information to the State of Washington; (3) authorizes the State of Oregon to participate in enforcement, dispute resolution or negotiation actions conducted under provisions of the Hanford Tri-Party Agreement; (4) shall delay implementation of remedial or environmental management activities at the Hanford Reservation; or (5) obligates the Department of Energy to provide additional funds to the State of Oregon.

Insert at the appropriate place the following:

SEC. . SENSE OF THE SENATE ON HANFORD MEMORANDUM OF UNDERSTANDING

It is the sense of the Senate that the State of Oregon has the authority to and may enter into a joint memorandum of understanding with the State of Washington or a joint memorandum of understanding with the State of Washington and the Site Manager of the Hanford Reservation in order to address issues of mutual concern to such States regarding the Hanford Reservation.

THE SMALL BUSINESS JOB PROTECTION ACT OF 1996

BOND AMENDMENT NO. 4272

(Ordered to lie on the table.)

Mr. LOTT (for Mr. BOND) submitted an amendment intended to be proposed by him to the bill (H.R. 3448) to provide tax relief for small businesses, to protect jobs, to create opportunities, to increase the take home pay of workers, and for other purposes; as follows:

Strike title II and insert the following:

TITLE II—PAYMENT OF WAGES

SEC. 2101. PROPER COMPENSATION FOR USE OF EMPLOYER VEHICLES.

(a) SHORT TITLE.—This section may be cited as the "Employee Commuting Flexibility Act of 1996".

(b) USE OF EMPLOYER VEHICLES.—Section 4(a) of the Portal-to-Portal Act of 1947 (29 U.S.C. 254(a)) is amended by adding at the end the following: "For purposes of this subsection, the use of an employer's vehicle for travel by an employee and activities performed by an employee which are incidental to the use of such vehicle for commuting shall not be considered part of the employee's principal activities if the use of such vehicle for travel is within the normal commuting area for the employer's business or establishment and the use of the employer's vehicle is subject to an agreement on the part of the employer and the employee or representative of such employee.".

(c) EFFECTIVE DATE.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act and shall apply in determining the application of section 4 of the Portal-to-Portal Act of 1947 to an employee in any civil action brought before such date of enactment but pending on such date.

SEC. 2102. MINIMUM WAGE INCREASE.

(a) SHORT TITLE.—This section may be cited as the "Minimum Wage Increase Act of 1996".

(b) AMENDMENT TO MINIMUM WAGE.—Section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)) is amended by striking "(a) Every" and all that follows through "$4.25 an hour after March 31, 1991;" and inserting the following: "(a) An employer shall pay to an employee of the employer the following wage rate in accordance with the requirements of this subsection:

"(1)(A) in the case of an employee who in any workweek is employed in an enterprise engaged in commerce or in the production of goods for commerce, not less than $4.25 an hour during the period ending on December 31, 1996, not less than $4.75 an hour during the year beginning on January 1, 1997, and not less than $5.15 an hour after December 31, 1997;

"(B) in the case of an employee who in any workweek is engaged in commerce or in the production of goods for commerce, but is not employed in an enterprise engaged in commerce or in the production of goods for commerce, not less than $4.25 an hour;".

(c) CONSTRUCTION.—Section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) is amended by adding at the end thereof the following new subsection;

"(h) Nothing in this section shall be construed as affecting any exemption provided under section 13.".

SEC. 2103. FAIR LABOR STANDARDS ACT AMENDMENTS.

(a) COMPUTER PROFESSIONALS.—Section 13(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(A)) is amended—

(1) by striking the period at the end of paragraph (16) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(17) any employee—

"(A) who is a computer systems analyst, computer programmer, software engineer, or other similarly skilled worker;

"(B) whose primary duty is—

"(i) the application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software, or system functional specifications;

"(ii) the design, development, documentation, analysis, creation, testing, or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications;

"(iii) the design, documentation, testing, creation, or modification of computer programs related to machine operating systems; or

"(iv) a combination of duties described in clauses (i), (ii), and (iv) the performance of which requires the same level of skills; and

"(C) who is compensated on an hourly bases and is comp4ensated at a rate of not less than $27.63.".

(b) TIP CREDIT.—Section 3(m) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(m)) is amended—

(1) by striking "(m) 'Wage' paid" and inserting "(m)(1) 'Wage' paid"; and

(2) by striking "In determining the war" and all that follows through "who customarily and regularly receive tips." and inserting the following:

"(2)(A) In determining the wage an employer is required to pay a tipped employee, the amount paid such employee by the employee's employer shall be an amount equal to—

"(i) the cash wage paid such employee which for purposes of such determination shall be not less than the cash wage required to be paid such an employee on the day proceeding the date of enactment of this paragraph; and

"(ii) an additional amount on account of the tips received by such employee which amount is equal to the difference between the wage specified in subclause (i) and the cash wage in effect under section 6(a)(1).

"(B) Subparagraph (A) shall not apply with respect to any tipped employee unless—

"(i) such employee has been informed by the employer of the provisions of this subsection; and

"(ii) all tips received by such employee have been retained by the employee, except that this subsection shall not be construed to prohibit the pooling of tips among employees who customarily and regularly receive tips."

"(c) OPPORTUNITY WAGE.—Section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) is amended by inserting after subsection (f) the following new subsection:

"(g)(1) In lieu of the rate prescribed by subsection (a)(1), any employer may pay any employee of such employer, during the first 180 consecutive calendar days after such employee is initially employed by such employer, a wage which is not less than $4.25 an hour.

"(2) No employer may take any action to displace employees (including partial displacements such as a reduction in hours, wages, or employment benefits) for purposes of hiring individuals at the wage authorized in paragraph (1).

"(3) Any employer who violates this subsection shall be deemed to have violated section 15(a)(3).".

KENNEDY AMENDMENT NO. 4273

(Ordered to lie on the table.)

Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 3448, supra; as follows:

Strike Title II and replace with the following:

TITLE II—LABOR PROVISIONS

SEC. 1. INCREASE IN THE MINIMUM WAGE RATE.

(a) IN GENERAL.—Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $4.25 an hour during the period ending July 4, 1996, not less than $4.70 an hour during the year beginning July 5, 1996, and not less than $5.15 an hour after July 4, 1997;".

(b) EMPLOYEES WHO ARE YOUTHS.—Section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)) is amended—

(1) in paragraph (4), by striking "; or" and inserting a semicolon;

(2) in paragraph (5), by striking the period at the end thereof and inserting "; or"; and

(3) by adding at the end thereof the following new paragraph:

"(6) if the employee—

"(A) is not a migrant agricultural worker or a seasonal agricultural worker (as defined in paragraphs (8) and (10) of section 3 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1802 (8) and (10)) without regard to subparagraph (B) of such paragraphs and is not a nonimmigrant described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)); and

"(B) has not attained the age of 20 years, not less than $4.25 an hour during the first 30 days in which the employee is employed by the employer, and, thereafter, not less than the applicable wage rate described in paragraph (1).".

(c) EMPLOYEES IN PUERTO RICO.—Section 6(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(c)) is amended to read as follows:

"(c) The rate or rates provided by subsection (a)(1) shall be applicable in the case of any employee in Puerto Rico except an employee described in subsection (a)(2).".

SEC. 2. EXEMPTION OF COMPUTER PROFESSIONALS FROM CERTAIN WAGE REQUIREMENTS.

Section 13(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)) is amended—

(1) by striking the period at the end of paragraph (16) and inserting "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(17) any employee who is a computer systems analyst, computer programmer, software engineer, or other similarly skilled worker, whose primary duty is—

"(A) the application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software, or system functional specifications;

"(B) the design, development, documentation, analysis, creation, testing, or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications;

"(C) the design, documentation, testing, creation, or modification of computer programs related to machine operating systems; or

(D) a combination of duties described in subparagraph (A), (B), and (C) the performance of which requires the same level of skills, and

who, in the case of an employee who is compensated on an hourly basis, is compensated at a rate of not less then $27.63 an hour.".

SEC 3. USE OF AN EMPLOYER-OWNED VEHICLE.

(a) IN GENERAL.—Section 4 of the Portal-to-Portal Act of 1947 (29 U.S.C. 254) is amended by inserting at the end the following:

"(e) For purposes of subsection (a), the use by an employee of an employer-owned vehicle to initially travel to the actual place of performance of the principal activity which such employee is employed to perform at the start of the workday and to ultimately travel to the home of the employee from the actual place of performance of the principal activity which such employee is employed to perform at the end of the workday shall not be considered an activity for which the employer is required to pay the minimum wage or overtime compensation if—

"(1) such employee has chosen to drive such vehicle pursuant to a knowing and voluntary agreement between such employer and such employee or the representative of such employee and such agreement is not a condition of employment;

"(2) such employee incurs no costs for driving, parking, or otherwise maintaining the vehicle of such employer;

"(3) the worksites to which such employee is commuting to or from are within the normal commuting area of the establishment of such employer; and

"(4) such vehicle is of a type that does not impose substantially greater difficulties to drive than the type of vehicle that is normally used by individuals for commuting.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of enactment of this Act and shall apply in determining the application of section 4 of the Portal-to-Portal Act of 1947 (29 U.S.C. 254) to an employee in any civil action brought before such date of enactment but pending on such date.

THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1997

BYRD AMENDMENT NO. 4274

Mr. BYRD proposed an amendment to the bill, S. 1745, supra; as follows:

At the end of title VII add the following:

SEC. 708. RESEARCH AND BENEFITS RELATING TO GULF WAR SERVICE.

(a) RESEARCH.—(1) The Secretary of Defense shall, by contract, grant, or other transaction, provide for scientific research to be carried out by entities independent of the Federal Government on possible causal relationships between the complex of illnesses and symptoms commonly known as "Gulf War syndrome" and the possible exposures of members of the Armed Forces to chemical warfare agents or other hazardous materials during Gulf War service.

(2) The Secretary shall prescribe the procedures for making awards under paragraph (1). The procedures shall—

(A) include a comprehensive, independent peer-review process for the evaluation of proposals for scientific research that are submitted to the Department of Defense; and

(B) provide for the final selection of proposals for award to be based on the scientific merit and program relevance of the proposed research.

(3) Of the amount authorized to be appropriated under section 301(19), $10,000,000 is available for research under paragraph (1).

(b) HEALTH CARE BENEFITS FOR AFFLICTED CHILDREN OF GULF WAR VETERANS.—(1) Under regulations prescribed by the Secretary of Defense, any child of a Gulf War veteran who has been born after August 2, 1990, and has a congenital defect or catastrophic illness not excluded from coverage under paragraph (2) is eligible for medical and dental care under chapter 55 of title 10, United States Code, for the congenital defect or catastrophic illness, and associated conditions, of the child.

(2) The administering Secretaries may exclude from coverage under this subsection—

(A) any congenital defect or catastrophic illness that, as determined by the Secretary of Defense to a reasonable degree of scientific certainty on the basis of scientific research, is not a defect or catastrophic illness that can result in a child from an exposure of a parent of the child to a chemical warfare agent or other hazardous material to which members of the Armed Forces might have been exposed during Gulf War service; and

(B) a particular congenital defect or catastrophic illness (and any associated condition) of a particular child if the onset of the defect or illness is determined to have preceded any possible exposure of the parent or parents of the child to a chemical warfare agent or other hazardous material during Gulf War service.

(3) No fee, deductible, or copayment requirement may be imposed or enforced for medical or dental care provided under chapter 55 of title 10, United States Code, in the case of a child who is eligible for such care under this subsection (even if the child would otherwise be subject to such a requirement on the basis of any eligibility for such care that the child also has under any provision of law other than this subsection).

(c) DEFINITIONS.—(1) In this section:

(A) The term "Gulf War veteran" means a veteran of Gulf War service.

(B) The term "Gulf War service" means service on active duty as a member of the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War.

(C) The term "Persian Gulf War" has the meaning given that term in section 101(33) of title 38, United States Code.

(D) The term "administering Secretaries" has the meaning given that term in section 1072(3) of title 10, United States Code.

(E) The term "child" means a natural child.

(2) The Secretary of Defense shall prescribe in regulations a definition of the terms "congenital defect" and "catastrophic illness" for the purposes of this section.

BINGAMAN (AND OTHERS) AMENDMENT NO. 4275

Mr. BINGAMAN (for himself, Mr. BRADLEY, and Mr. FEINGOLD) proposed an amendment to the bill, S. 1745, supra; as follows:

On page 398, after line 23, insert the following:

SEC. 2828. RENOVATION OF THE PENTAGON RESERVATION.

The Secretary of Defense shall take such action as is necessary to reduce the total cost of the renovation of the Pentagon Reservation to not more than $1,118,000,000.

BINGAMAN AMENDMENT NO. 4276

Mr. BINGAMAN proposed an amendment to the bill, S. 1745, supra; as follows:

Strike out section 402 and insert in lieu thereof the following:

SEC. 402. REPEAL OF PERMANENT END STRENGTHS.

(a) REPEAL.—Section 691 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 39 of such title is amended by striking out the item relating to section 691.

GREGG AMENDMENT NO. 4277

Mr. GREGG proposed an amendment to the bill, S. 1745, supra; as follows:

At the appropriate place, insert the following:

SEC. . (a) the Congress finds that—

(1) Federal Bureau of Investigation background files contain highly sensitive and extremely private information;

(2) the White House is entrusted with Federal Bureau of Investigation background files for legitimate security purposes but it should ensure that any files requested are needed for such purposes and that these files remain confidential and private;

(3) the White House has admitted that the personnel security office headed by Mr. Livingstone inappropriately requested the files of over 400 former White House pass holders who worked under the past two Republican Presidents;

(4) Craig Livingstone, the director of the White House personnel security office, has been placed on paid administrative leave at his own request;

(5) the President has taken no action to reprimand those responsible for improperly collecting sensitive Federal Bureau of Investigation files; and

(6) the taxpayers of the United States should not bear the financial responsibility of paying Mr. Livingstone's salary.

(b) It is the sense of the Senate that the President should terminate Mr. Livingstone from his position at the White House immediately.

NOTICE OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources to receive testimony regarding S. 1678, a bill to abolish the Department of Energy, and for other purposes.

The hearing will be held on Tuesday, July 23, 1996, it will begin at 9:30 a.m., and will take place in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

For further information, please call Karen Hunsicker, counsel or Betty Nevitt, staff assistant.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be allowed to meet during the Tuesday, June 25, 1996, session of the Senate for the purpose of conducting a closed hearing on broadcast spectrum reform.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, June 25, 1996, at 10 a.m., to hold a hearing.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, June 25, 1996, at 2 p.m., to hold a hearing.

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

COMMITTEE ON THE JUDICIARY

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, June 25, 1996, at 2 p.m. to hold a nominations hearing.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. McCONNELL. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a markup on pending legislation at 10 a.m., on Tuesday, June 25, 1996. The markup will be held in room 418 of the Russell Senate Office Building.

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

SUBCOMMITTEE ON INVESTIGATIONS

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Commerce on Governmental Affairs, be authorized to meet during the session of the Senate on Tuesday, June 25, 1996 to hold hearings on security in cyberspace.

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

SUBCOMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Subcommittee on Transportation and Infrastructure be granted permission to conduct an oversight hearing Tuesday, June 25, at 9:30 a.m., hearing room (SD-406) on the impact of Federal streamlining efforts on GSA leasing activities.

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

ADDITIONAL STATEMENTS

TRIBUTE TO THE MILFORD MIDDLE SCHOOL FIFTH-GRADE STUDENTS FOR SUPPORTING THE SHRINERS HOSPITAL

• Mr. SMITH. Mr. President, I rise today to pay tribute to the 80 fifth-grade students in Pam Moreau's math classes at Milford Middle School in New Hampshire. Pam and her students organized an elaborate recycling system and donated 80,000 metal pull-tabs from soft drink cans to the Shriners hospital in Springfield, MA. The Shriners Hospital sells the tabs and uses the money to buy medical and nonmedical supplies for the hospital's burn victims and orthopaedic patients, all of whom are children. I congratulate the Milford students who worked for so many months to collect and recycle the tabs.

These 80 fifth-graders and the 80,000 tabs they collected are an example of the type of goodwill exemplified all across the country for the Shriners hospital. The Shriners hospital in Massachusetts is one of 22 Shriner hospitals in the United States that provides high-quality medical care absolutely free of charge. The Shriners hospital network is the only hospital system in the Nation that provides 100-percent charitable care, accepting no government or insurance reimbursement for treating hundreds of thousands of children. The only way the Shriners are able to help so many young patients is due to the generous support of the American people like the Milford fifth-graders.

Since 1922, when the first Shriner hospital was founded, the Shriner hospital network has helped over 500,000 children. Last year, the hospitals treated close to 20,000 orthopaedic cases and conducted over 200,000 outpatient and outreach clinic visits.

Money raised from the tabs collected by the Milford students will help pay for x-ray film, children's books, and VCR tapes for the patients at the Springfield Shriners Hospital. This hospital and other Shriner hospitals make the largest single contribution on a continuing basis to the care of disabled children in the United States.

I have always been impressed with the number of children the Shriners hospital helps each year and have worked with them over the years to promote and assist their efforts. I am particularly pleased that a group of young students in New Hampshire worked so diligently to contribute to this outstanding institution. These young fifth-graders will help make a difference in the lives of the sick and disabled children at the Shriners hospital. They should be very proud of their volunteer effort.

Mr. President, I ask that this recently published article from the Telegraph describing the students' hard work be inserted into the RECORD.

[From the Telegraph]

PROJECT HAS KIDS PULLING FOR OTHER KIDS

Fifth-graders in Pam Moreau's math classes are getting a lesson in numbers while helping other kids.

About 80 pupils at the Milford Middle School in New Hampshire began collecting metal pull-tabs from soft drink cans last fall and donating them to the Shriners Hospital in Springfield, Mass., which treats orthopaedic patients; other Shriners Hospitals, such as one in Boston, treat child burns patients.

The hospital sells the tabs to an aluminum recycler and uses the money to purchase a variety of medical and nonmedical items, from X-ray film to children's books and VCR tapes patients use during their hospitalization.

As of mid-April, the Milford pupils had collected about 80,000 of the small metal objects—an average of 1,000 per pupil. The dollar value of their efforts is estimated to be $130, so far [price fluctuates daily].

"It's a project we got started for the fun of it . . . but the kids come in with thousands each week," said Moreau, who added they might expand the effort to include more pupils next year.

Many pupils involve their parents, aunts, and uncles in their collecting, said Moreau. One girl made a bin for employees at her father's workplace to donate the tabs. Each month, Moreau gives out a small prize to the pupils who collect the most.

She said their collecting efforts have translated well in the math classes—pupils keep track of their collecting by plotting numbers on graphs. They deposit them into empty five-gallon water bottles, and have filled about five since they began.

It has also spawned a sense of recycling, which for many Milford residents is already the norm. But she said pupils have taken to checking the family garbage and picking up cans littering local parks.

Moreau said she learned about the fundraising project through a friend who saves the tabs and gives them to Chief Grayden, a Nashua Shriner active in Shriners Hospitals. Grayden regularly drives local patients to their treatments in Boston or Springfield, and he brings the tabs to Springfield when he has a bunch.

Moreau said they kicked off the volunteer effort by inviting Grayden in to speak about how collecting them would help other kids. Since then, pupils have been unstoppable.

"It's kids helping kids," she said. "Even though they never have met these kids, they think it's great to be helping out."•

DEATH OF RALPH H. GOODPASTEUR

• Ms. MOSELEY-BRAUN. Mr. President, on June 20, 1996, the First Church of Deliverance in Chicago lost a minister of music and music director who had brought great joy, great energy, and great spirituality to its services for over 48 years. On that same date, gospel music lost an innovator, and a tremendous talent, a singer, pianist, composer, and arranger who performed with such great artists as Mahalia Jackson, Ethel Waters, Earl "Fatha" Hines, Sally Martin, and Nat King Cole.

Ralph H. Goodpasteur died on June 20, 1996. His death is a great loss to the First Church of Deliverance, to its ministers, staff, and congregation, to gospel music, to his relatives, and to his legions of friends.

Ralph Goodpasteur was born on December 12, 1923, in Columbus, IN. He was educated in the public schools in Richmond, IN. He was a graduate of the University of Southern California, with a degree in English and music, and George Williams College, where he received a masters degree in music.

His musical ability was apparent at an early age, and he began a musical career at age 7. His church life dates back almost as long as his musical interests. He was baptized at the Second Baptist Church at age 7. His entire life was spent combining those two great loves. Religious music, songs of praise and spiritual uplifting, were all part of his special gift, one that he shared with millions.

In 1943, he became pianist and director of the gospel choir of the Grant A.M.E. Church in Los Angeles, CA. In 1948, however, my home town of Chicago, IL was fortunate enough to become Ralph Goodpasteur's home town.

In Chicago, he brought life and joy, not just to the congregation at the First Church of Deliverance, but to every life he touched. His impact on his community was enormous. The love, the admiration, and the respect his adopted home town of Chicago had for him was evidenced by the fact that Mayor Harold Washington of Chicago issued a proclamation making October 4, 1987, Ralph Goodpasteur day. He has been recognized for his many contributions by institutions ranging from the Chicago Historical Society to the Smithsonian Institution to academic institutions throughout the world.

His life was a life of service to others, through his work in the church, and through his music generally. He was a wonderful gospel singer and composer, and used gospel music to move people, and to bring them closer to God. He was the first African-American to have a song published as a hymn in the 1975 edition of the National Baptist Hymnal, Southern Baptist Convention.

He was a special friend to me personally. I called him Uncle Ralph, as did many others, and he gave of his time to help me in my election effort. "Uncle Ralph" helped in may ways, but most importantly, with campaign finance. He was good at that, and brought the same commitment to excellence to the task that he brought to every endeavor he undertook. I will miss him.

Ralph Goodpasteur lived a life filled with accomplishment. He will be long remembered by all those who knew him, or who heard him perform. He has left all of us something very enduring, however; his legacy of music will live on and on for generations to come.

I regret that all of my colleagues have not had the opportunity to come

to know Ralph Goodpasteur. I urge every Member of this Senate to allow his wonderful music to become a part of their lives.•

TRIBUTE TO COL. STANLEY F. DAVIDSON

• Mr. D'AMATO. Mr. President, I rise today to honor Col. Stanley F. Davidson, who will retire from the U.S. Army on July 1, 1996 after completing a long and distinguished career of more than 30 years of service to our Nation, including 6 years of service in key assignments in the Office of the Secretary of Defense. I would like to take a few minutes to highlight some of his contributions and accomplishments.

Colonel Davidson joined the U.S. Army Reserve as a private on August 30, 1965 and rose to the rank of sergeant. After completing 4 years of enlisted service, he was selected to attend Officer Candidate School and was appointed a second lieutenant on June 16, 1969. He served in several Army Reserve units within the 77th U.S. Army Reserve Command and the 98th Division (Training) in the State of New York and in the Missouri Army National Guard. He subsequently rose through the commissioned ranks and was promoted to the grade of colonel on June 25, 1996.

Prior to entering on active duty, Colonel Davidson's military positions included supply sergeant, detachment commander, platoon leader, and company commander in various engineer and military police units. Colonel Davidson entered on active duty for the U.S. Army Reserve as a member of the Active Guard and Reserve Program on August 1, 1977. His initial active duty assignment was as a captain in the Office of Recruiting and Retention at Headquarters, U.S. Army Forces Command, Fort McPherson, GA. Following this assignment, he was transferred to the Pentagon where he served as a staff officer in the Office of the Deputy Chief of Staff for Personnel. He was later assigned as a manpower mobilization planner in the Office of the Assistant Secretary of Defense for Force Management and Personnel.

His subsequent assignments were in the Personnel Division of the Office of the Chief, Army Reserve and on Project Vanguard in the Office of the Chief of Staff of the Army. He was then transferred to the newly established U.S. Army Reserve Command in Atlanta, GA, where he served as Chief of the Personnel Management Division. Returning once again to the Pentagon, Colonel Davidson served as the Chief of the Office of Policy and Liaison in the Office of the Chief, Army Reserve.

Colonel Davidson also served as liaison officer to the Reserve Forces Policy Board in the Office of the Secretary of Defense; to the Army Reserve Forces Policy Committee in the Office of the Chief of Staff of the Army; and to the Reserve Components Coordination Council in the Office of the Assistant Secretary of the Army for Manpower and Reserve Affairs.

Colonel Davidson's current assignment is as a field representative on the staff of the National Committee for Employer Support of the Guard and Reserve in the Office of the Assistant Secretary of Defense for Reserve Affairs where he has served since October 1994.

His performance of duty in each of these assignments has been exemplary. His decorations include the Legion of Merit, the Defense Meritorious Service Medal, the Meritorious Service Medal with three Oak Leaf Clusters, the Joint Service Commendation Medal, the Joint Service Achievement Medal, the Selective Service Meritorious Service Award, the Army Commendation Medal, the National Defense Service Medal, the Army Reserve Components Achievement Medal with one Oak Leaf Cluster, the Armed Forces Reserve Medal with two 10-year Devices, the Army General Staff Identification Badge, the Office of Secretary of Defense Identification Badge, and numerous other awards and decorations.

Mr. President, Colonel Davidson is an extraordinary officer. I have been impressed by his outstanding service and contributions to our Nation by his service in our Armed Forces. As he prepares to retire from military service, I congratulate him and thank him for his many years of outstanding service to our Nation and extend my best wishes for his future endeavors.•

PORTRAIT OF HATTIE CARAWAY

• Mr. BUMPERS. Mr. President, last evening more than 200 folks braved the weather to pay tribute to a former Member of this body and a fellow Arkansan, Hattie Caraway

My colleague, Senator DAVID PRYOR, ably presided over a ceremony dedicating a portrait of Hattie Caraway, the first woman ever to place her name on a ballot and be elected to the Senate. This portrait is the second in the Senate art collection which honors a woman; the first is Pocahontas.

Members of the Caraway family, representatives from the Capitol historical and arts communities, congressional staffers, and a number of members of the Arkansas State Society heard Dr. David Malone and Prof. Diane Blair, both authors of books about this Arkansan, extol the many virtues of Hattie Caraway.

They heard Senator STROM THURMOND tell of her trailblazing accomplishments and Senator NANCY KASSEBAUM tell of how the example of Hattie Caraway was an inspiring one to her when she first entertained ideas of seeking a seat in the U.S. Senate.

Hattie Ophelia Wyatt Caraway was appointed to the U.S. Senate on November 13, 1931, to fill the vacancy caused by the death of her husband, Thaddeus Caraway. She was subsequently elected in a January 12, 1932, special election to complete the term. She ran for reelection to a full 6-year term later that year.

At first, Senator Caraway spoke so infrequently that she became known as "Silent Hattie." As she grew more comfortable in her new role, she emerged as a staunch supporter of the New Deal legislation, seconding the nomination of President Franklin Roosevelt at the 1936 Democratic Convention.

Senator Caraway was reelected in 1938. Thus, she served from November 13, 1931, to January 2, 1945. She was the first woman to preside over the Senate—on May 9, 1932—and the first to chair a Senate committee. Hattie died December 21, 1950, and is buried in her hometown, Jonesboro, AR.

Mr. President, I want to pay tribute to the Hattie Caraway Portrait Committee, so superbly chaired by Mary Ellen Jesson of Fort Smith. Members of the committee, which Senator PRYOR and I were proud to appoint to oversee this project—including raising the necessary funds—are: Diane Alderson, Diane Blair, Cassie Brothers, Irma Hunter Brown, Meredith Catlett, Gwen Cupp, Ann Dawson, Dorine Deacon, Mimi Dortch, Jacqueline Douglas, Lib Dunklin, Judy Gaddy, Jane Huffman, Dr. Charlott Jones, Chloe Kirksey, Karen Lackey, Bev Lindsey, Donna Kay Matteson, Susan Mayes, Clarice Miller, Betty Mitchell, Julia Mobley, Nancy Monroe, Sylvia Prewitt, Billie Rutherford, Irene Samuel, and Helen Walton.

Betty Bumpers and Barbara Pryor, were honorary co-chairs of the committee and had the honor of initially unveiling the portrait in Little Rock back in April.

Supporting the committee in this project were the Arkansas Humanities Council, the National Endowment for the Humanities, and the Arkansas Community Foundation. Special thanks also go to Thom Hall at the Arkansas Arts Center.

I also want to pay tribute to Senate Sergeant at Arms Howard Greene, Senate Historian Dick Baker, Assistant Senate Historian Jo Quatannens, Senate Registrar Melinda Smith, and Frank Wright, an artist and member of the advisory panel for the Senate Commission on Art, for their support and advice.

Kelly Johnston, Secretary of the Senate and executive secretary of the U.S. Senate Commission on Art, and Diane Skvarla, Senate Curator, were the guiding forces behind this project and instrumental in bringing us from initial approval of the project to dedication day.

The U.S. Senate Commission on Art selected J.O. Buckley, a Little Rock,

AR, artist to paint the portrait. He was selected from among a number of fine Arkansas portraitists. I invite my colleagues to step outside the Senate Chamber and take a look at this magnificent portrait, which hangs at the end of the main corridor.

Mr. President, last evening was indeed a proud one for Arkansans as a portrait of one of our State's most famous citizens was added to the prestigious collection of art in these hallowed Halls.

Mr. President, I ask that a letter that Bob Nash, Assistant to the President and Director of Presidential Personnel, read on behalf of the President last evening, as well as a letter read on behalf of Congresswoman BLANCHE LINCOLN, be included in the RECORD at this point.

The letters follow:

THE WHITE HOUSE,
Washington, DC, June 20, 1996.

Warm greetings to everyone gathered for the unveiling of the portrait of Senator Hattie Caraway of Arkansas.

On August 26, 1920, a new era dawned in America. Recognizing that the right to vote is fundamental to democratic citizenship, suffragists succeeded in empowering women with the political voice that was their due. Elected to her seat in the Senate twelve years later in 1932, Hattie Caraway built on the important progress of the women's movement as America's first elected female senator. Since then, women like Hattie Caraway have carved out for themselves positions of leadership from industry and government to academia and the arts, proving time and again that society benefits immeasurably when all people enjoy equal rights and opportunities.

We must continue the progress she made and urge a new generation to follow the heroic example set by Senator Hattie Caraway and so many other pioneering women. As you install Hattie's portrait into the Senate's permanent art collection, let us dedicate ourselves to building on her legacy of opportunity and achievement.

Best wishes to all for a memorable event.

BILL CLINTON.

HOUSE OF REPRESENTATIVES,
Washington, DC, June 21, 1996.

Hon. DALE BUMPERS,
Hattie Caraway Portrait Committee, Dirksen Senate Office Building, Washington, DC.

DEAR FELLOW ARKANSANS AND HATTIE CARAWAY ADMIRERS: It is with deep regret that I cannot share in this historic occasion with you. As I am sure you are all aware, my new family has kept me home in Arkansas, but be assured I am with you in heart and spirit. I join with everyone gathered here today in honoring Senator Caraway for her service to our great state and for her courage to enter a profession which was dominated by men.

I have both a unique bond with and debt to Hattie Caraway. As the first woman ever elected to the Senate, first woman to chair a Senate committee, and the first woman to preside over the Senate, Mrs. Caraway paved the way for the women who would follow her. By blazing the trail over 60 years ago for other women to pursue a political career and by serving with distinction and diligence, she was an inspiration to me in becoming the first woman elected as Representative from the First District of Arkansas.

Without the tireless efforts of Senator and Mrs. Bumpers, Senator and Mrs. Pryor, and the members of the Hattie Caraway Portrait Committee, it would not have been possible to bring her portrait to the Capitol. This is a fitting tribute to a great and illustrious citizen whom we so proudly honor today. Many people are surprised to learn that Arkansas elected the first woman to the United States Senate. This dedication is indeed a celebration of the open-mindedness and fairness of the people of Arkansas.

When I return to Washington and resume my Congressional schedule, one of my first stops on the Hill will be to view the portrait of Hattie Caraway.

Thank you all for making this unveiling a reality.

Sincerely,

BLANCHE LAMBERT LINCOLN,
Member of Congress.•

TRIBUTE TO LT. GEN. GEORGE R. CHRISTMAS, U.S. MARINE CORPS—A MARINE'S MARINE

• Mr. NUNN. Mr. President, I would like to take a few moments today to offer a tribute to Lt. Gen. George R. Christmas, U.S. Marine Corps. General Christmas is currently the Deputy Chief of Staff for Manpower and Reserves Affairs at the Headquarters of the Marine Corps and will be retiring from the Corps in the very near future after more than 34 years of faithful and outstanding service.

General Christmas was commissioned as a second lieutenant in 1962. During the next 34 years, he served in command and staff assignments true to the Marine's Hymn—in every aspect of the Marine Corps:

He has been a student and an instructor;

He has served at the flagpole in the Marine Corps Headquarters as a Special Assistant to the Assistant Commandant of the Marine Corps and thousands of miles from the flagpole as the Director for Operations for the United States Pacific Command.

In peacetime, he has commanded an infantry platoon, a recruit training battalion, an infantry regiment, an expeditionary brigade, a Force Service Support Group, and a Marine Expeditionary Force.

In combat, he commanded an infantry company and participated in the now legendary Battle for Hue City. During this vicious fighting, General Christmas was seriously wounded. He was awarded the Navy Cross for his bravery and actions during this fighting.

In July of 1994, General Christmas assumed his current duties as the Deputy Chief of Staff for Manpower and Reserve Affairs for the Marine Corps.

General Christmas is no stranger to the Armed Services Committee having appeared before the committee on many occasions to help us work through the many challenging issues that have faced the military services in the post-cold war era.

He is, in every sense, a Marine's Marine—an eager student, a dedicated teacher, a superb resources manager, an outstanding leader, a combat warrior, a very talented professional and a true gentleman.

Most importantly, through the years, General Christmas has never lost sight of the importance of the individual Marine to our Nation's combat readiness. His concern for every Marine, for every family member and for every retiree was readily apparent each time the committee has sought his views.

The Marine Corps is a better place, a more ready force, and a greater national asset because Gen. Ron Christmas chose to dedicate his life to wearing the Globe and Anchor.

As Gen. Ron Christmas leaves active service, I would like to express my sincere appreciation and admiration for a job tremendously well done and, on behalf of those who have come to know him and to value his counsel, I would like to offer my very best wishes to him and to his wonderful family for every happiness and success in the future.•

UNANIMOUS-CONSENT AGREEMENT—S. 1219

Mr. GRAMS. Mr. President, I ask unanimous consent that S. 1219 not be considered the pending business.

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

ORDERS FOR WEDNESDAY, JUNE 26, 1996

Mr. GRAMS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:30 a.m. on Wednesday, June 26; further, that immediately following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day, and that the Senate then resume consideration of S. 1745, the DOD authorization bill, and the cloture vote with respect to S. 1745 occur immediately.

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

Mr. GRAMS. Mr. President, I further ask unanimous consent that Senators have until 10 a.m. on Wednesday to file second-degree amendments to the DOD authorization bill.

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

PROGRAM

Mr. GRAMS. Mr. President, for the information of all Senators, there will

be a rollcall vote on the motion to invoke cloture on the DOD authorization bill at 9:30 a.m. Regardless of the outcome of that vote, the Senate is expected to continue consideration of that bill throughout the day on Wednesday with rollcall votes expected. A late-night session is anticipated in order to make substantial progress on the DOD authorization bill.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. GRAMS. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate now stand in adjournment under the previous order.

There being no objection, the Senate, at 8:05 p.m., adjourned until Wednesday, June 26, 1996, at 9:30 a.m.