

their homes or regular places of business in the performance of services for the Commission.

“(k) ADVISORY COMMITTEE.—(1) Not later than 90 days after the date of enactment of this section, the Secretary shall establish an Ecosystem Management Advisory Committee (referred to in this section as the ‘Advisory Committee’) to assist the Commission in preparing and reviewing the report required by subsection (e)(3).

“(2) The Secretary shall appoint 13 members to the Advisory Committee by the date specified in paragraph (1) as follows:

“(A) Two members shall be selected from nominations submitted by tribal organizations located in States that have a significant amount of public lands (as determined by the Secretary).

“(B) Three members shall be officials of a government of a State or political subdivision of a State or a community organization (as determined by the Secretary) selected from nominations from the Governors of States described in subparagraph (A) or from the Western Governors Association.

“(C) Two members shall be representatives of conservation groups who have substantial experience and expertise in public land policies.

“(D) Two members shall be representatives of industrial concerns who have substantial experience and expertise in public land policies.

“(E) Two members shall be representatives of scientific or professional societies who are familiar with the concept of ecosystem management.

“(F) Two members shall be representatives from the legal community with recognized legal expertise in the areas of—

- “(i) constitutional or land use law; and
- “(ii) public land policy.

“(3) The Advisory Committee shall select a Chairman from among the members of the Advisory Committee.

“(4) The Advisory Committee shall hold an initial meeting not later than 30 days after the Commission holds its initial meeting pursuant to subsection (f)(1). Subsequent meetings shall be held at the call of the Chairman.

“(5) The Advisory Committee shall have same authorities granted to the Commission under paragraphs (1) through (4) of subsection (h).

“(6) The members of the Advisory Committee 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 Advisory Committee.

“(l) TERMINATION OF COMMISSION AND ADVISORY COMMITTEE.—The Commission and Advisory Committee shall terminate on the date that is 30 days after the Commission submits a report to the Secretary and to Congress under subsection (e)(3).

“(m) EXEMPTION FROM FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission or to the Advisory Committee.

“(n) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of the Interior \$3,000,000 to carry out this section.”

SEC. 3. CONFORMING AMENDMENTS.

(a) AMENDMENT TO TABLE OF CONTENTS.—The table of contents at the beginning of the Federal Land Policy and Management Act of 1976 is amended by adding at the end of the items relating to title II the following new items:

“Sec. 215. Authority with respect to certain withdrawals.

“Sec. 216. Ecosystem management.

“Sec. 217. Ecosystem Management Commission.”

(b) TECHNICAL AMENDMENT.—Before section 215 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1723) insert the following new heading:

“AUTHORITY WITH RESPECT TO CERTAIN WITHDRAWALS”.

OUTLINE AND SECTION-BY-SECTION ANALYSIS AMENDS TITLE II OF THE FEDERAL LANDS AND POLICY MANAGEMENT ACT OF 1976

I. PRINCIPLES: Set Ecosystem Management principles, including: A recognition of human needs; The need for partnerships and cooperation between public and private interests; The importance of resource stewardship; The importance of public participation; The need for the use of the best available science.

II. COMMISSION: Establish an Ecosystem Management Commission to:

A. Advise the Secretary and Congress concerning policies relating to ecosystem management on public lands;

B. Examine opportunities for and constraints on achieving cooperative and coordinated ecosystem management strategies between the Federal Government, Indian tribes, states, and private landowners.

III. MEMBERSHIP: Membership of the Commission includes the Chairman and Ranking Members from the following Congressional committees:

SENATE: Energy and Natural Resources Committee; Public Lands, National Parks and Forests Subcommittee of the Senate Energy Committee; Appropriations Committee; Interior and Related Agencies Subcommittee of the Appropriations Committee.

HOUSE: Natural Resources Committee; Subcommittee on National Parks, Forests and Public Lands of the Natural Resources Committee; Appropriations Committee; Interior Subcommittee of the Appropriations Committee.

IV. REPORT: The Commission shall submit a report to Congress with recommendations one year after enactment which:

1. Defines “ecosystem management;”
2. Identifies constraints on and opportunities for coordinated ecosystem planning;
3. Examines existing laws and federal agency budgets affecting public lands management to determine whether any changes are necessary to facilitate ecosystem management;
4. Identifies incentives, such as trust funds, to encourage parties to engage in the development of ecosystem management strategies;
5. Identifies, through case studies that represent different regions of the U.S., opportunities for and constraints on ecosystem management.

V. ADVISORY COMMITTEE: An Advisory Committee shall be appointed to assist the Commission not later than 90 days after enactment. Members of the Advisory Committee shall include 13 members appointed by the Secretary of the Interior:

- Two tribal nominees;
- Three nominees from the Western Governors Association;
- Two members of conservation groups;
- Two members from industry with public lands concerns;
- Two members professional societies familiar with the concept of ecosystem management;
- Two members of the legal community.

VI. APPROPRIATIONS: Authorized appropriations are \$3 million.

HEALTH CARE

Mr. HATFIELD. Finally Mr. President, I would like to take this opportunity to remind my colleagues of where we ended the 103d Congress—on an issue near and dear to all of us,—health care. At the end of last session, when it became apparent that comprehensive health care reform would not pass, I joined my colleague Senator GRAHAM of Florida in introducing a health care reform proposal with a different approach—the Health Innovation Partnership Act. Rather than federalizing health care, this bill would encourage the States to innovate and help build the best approaches to addressing our health care problems—a return to federalism.

The purpose of this bill is to give States incentives to innovate in the area of health care by simplifying and expediting the waiver process and providing limited Federal funding to assist them in meeting three Federal goals. These goals are: expanding access, controlling costs, and maintaining quality health care.

I mention this today because I see the Health Innovation Partnership Act as the cornerstone of my flexibility agenda and I intend to join Senator GRAHAM in introducing this bill again by the end of the month. Also included within this bill is another of my major priorities which I will reintroduce—the national fund for health research. With the focus now on other issues, the problems of our health care system have fallen from attention. However, the problems have not gone away. Now more than ever, it is critical for us to lift the roadblocks to State reform and allow States to continue to build the database for appropriate national reform. I will continue to push for reform at every possible opportunity.

Mr. President, let me close my remarks with simple note—anything worth achieving is worth working for. Meaningful policy change is difficult and yet, once accomplished, well worth every ounce of effort. I hope this Congress will nurture a reasoned dialogue about the many policy challenges which face our country. I come from a State with a long tradition of involving its citizens in their Government—as long as I continue to stand as their representative, I will do all that I can to insure that this Congress is one of the most productive in history.

And that is building from the people up rather than trying to impose the will of Congress and the Federal Government down on the people.

By Mr. HATCH (for himself and Mr. KENNEDY):

S. 96. A bill to amend the Public Health Service Act to provide for the conduct of expanded studies and the establishment of innovative programs with respect to traumatic brain injury, and for other purposes; to the Committee on Labor and Human Resources.

THE TRAUMATIC BRAIN INJURY ACT

Mr. HATCH. Mr. President, as we begin the 104th Congress I feel it is imperative that we complete the process of approving the Traumatic Brain Injury Act, S. 725 during the previous Congress. I regret that we were unable to pass this important legislation in the 103d Congress. I have the pleasure of reintroducing this legislation with Senator KENNEDY. Our colleague Representative GREENWOOD is introducing a companion measure on the House side today.

Sustaining a traumatic brain injury can be both catastrophic and devastating. The financial and emotional costs to the individual, family, and community are enormous. Traumatic brain injury is the leading cause of death and disability among Americans under the age of 35. In the State of Utah, for example, the mean affected age is 28, which often is the beginning of an individual's maximum productivity.

There are 8 million Americans who currently suffer from traumatic brain injuries with an annual incidence rate of over 2 million. Over 500,000 individuals require hospitalization for such injuries and resultant medical and surgical complications. The statistics are even more revealing when you consider that every 15 seconds someone receives a head injury in the U.S.; every 5 minutes, one of these people will die and another will become permanently disabled. Of those who survive, each year, approximately 70,000 to 90,000 will endure lifelong debilitating loss of function. An additional 2,000 will exist in a persistent vegetative state.

With the passage of the Traumatic Brain Injury Act will come the authorization for research, not only for the treatment of TBI, but also for prevention and awareness programs which will help decrease the occurrence of traumatic brain injury and improve the long-term outcome.

This measure will authorize the Centers for Disease Control and Prevention to conduct projects to reduce the incidence of traumatic brain injury.

It will provide matching grants to the states through the Health Resources and Services Administration for demonstration projects to improve access to health and other services regarding traumatic brain injury.

The bill will provide for an HHS study evaluating the number of factors relating to traumatic brain injury and for a national consensus conference on traumatic brain injury.

Additionally, the bill will address the causes, consequences, and costs of the sequelae for traumatic brain injury. A comprehensive uniformed reporting system will be developed for hospitals, State and local health-related agencies. Practice guidelines, prevention projects, and outcome studies are all integral parts of the TBI Act.

A survivor of a severe brain injury typically faces 5 to 10 years of intensive services and estimated lifetime costs can exceed \$4 million. The eco-

nomics costs for traumatic brain injury alone approach \$25 billion per year.

Mr. President, this legislation can provide the mechanism for the prevention, treatment and the improvement of the quality of life for those Americans and their families who may sustain such a devastating disability. I ask my colleagues' support in speedily enacting the Traumatic Brain Injury Act.

Mr. KENNEDY. Mr. President. Each year 2 million persons suffer serious head injuries, and nearly one hundred thousand die. Such injuries are the leading cause of death and disability among young Americans in the 15-24 year age group. For survivors, the picture is often grim. Tens of thousands suffer irreversible, debilitating lifelong impairments.

Medical treatment, rehabilitative efforts and disability payments for such injuries are as high as \$25 billion a year. The cost to society is heavy, and emotional and financial burden for families is often unbearable.

In 1988, Congress recommended that the Secretary of Health and Human Services establish an Interagency Head Injury Task Force to identify gaps in research, training, medical management, and rehabilitation. This legislation responds to the prevention, research, and service needs identified by the Task Force.

This bill will promote coordination in the delivery system and assure greater access to services for victims suffering from the disabling consequences of these injuries. By improving the quality of care, we can reduce severely the disabling effects and reduce the heavy toll from these injuries.

The best treatment, however, is still prevention. More effective strategies to avert these injuries are critical. The community education programs established under this bill, will broaden public awareness and encourage prevention.

Finally, other provisions in this legislation will authorize the Centers for Disease Control and Prevention to develop effective strategies for reducing the incidence of traumatic brain injury and to expand biomedical research activities at the National Institutes of Health.

This measure has great potential for saving lives, reducing disabilities and reducing health care costs and I urge my colleagues to support Traumatic Brain Injury Act.

I ask that the text of this bill be included in the RECORD.

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

S. 96

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

SECTION 1. PROGRAMS OF CENTERS FOR DISEASE CONTROL AND PREVENTION.

Part B of title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by inserting after section 317F the following section:

"PREVENTION OF TRAUMATIC BRAIN INJURY

"SEC. 317G. The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may carry out projects to reduce the incidence of traumatic brain injury. Such projects may be carried out by the Secretary directly or through awards of grants or contracts to public or nonprofit private entities. The Secretary may directly or through such awards provide technical assistance with respect to the planning, development, and operation of such projects.

"(b) CERTAIN ACTIVITIES.—Activities under subsection (a) may include—

"(1) the conduct of research into identifying effective strategies for the prevention of traumatic brain injury; and

"(2) the implementation of public information and education programs for the prevention of such injury and for broadening the awareness of the public concerning the public health consequences of such injury.

"(c) COORDINATION OF ACTIVITIES.—The Secretary shall ensure that activities under this section are coordinated as appropriate with other agencies of the Public Health Service that carry out activities regarding traumatic brain injury.

"(d) DEFINITION.—For purposes of this section, the term 'traumatic brain injury' means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning. The Secretary may revise the definition of such term as the Secretary determines necessary."

SEC. 2. PROGRAMS OF NATIONAL INSTITUTES OF HEALTH.

Section 1261 of the Public Health Service Act (42 U.S.C. 300d-61) is amended—

(1) in subsection (d)—

(A) in paragraph (2), by striking "and" after the semicolon at the end;

(B) in paragraph (3), by striking the period and inserting "and"; and

(C) by adding at the end the following paragraph:

"(4) the authority to make awards of grants or contracts to public or nonprofit private entities for the conduct of basic and applied research regarding traumatic brain injury, which research may include—

"(A) the development of new methods and modalities for the more effective diagnosis, measurement of degree of injury, post-injury monitoring and prognostic assessment of head injury for acute, subacute and later phases of care;

"(B) the development, modification and evaluation of therapies that retard, prevent or reverse brain damage after acute head injury, that arrest further deterioration following injury and that provide the restitution of function for individuals with long-term injuries;

"(C) the development of research on a continuum of care from acute care through rehabilitation, designed, to the extent practicable, to integrate rehabilitation and long-term outcome evaluation with acute care research; and

"(D) the development of programs that increase the participation of academic centers of excellence in head injury treatment and rehabilitation research and training"; and

(2) in subsection (h), by adding at the end the following paragraph:

"(4) The term 'traumatic brain injury' means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning. The Secretary may revise the definition of such term as the Secretary determines necessary."

SEC. 3. PROGRAMS OF HEALTH RESOURCES AND SERVICES ADMINISTRATION.

Part E of title XII of the Public Health Service Act (42 U.S.C. 300d-51 et seq.) is amended by adding at the end the following section:

"SEC. 1252. STATE GRANTS FOR DEMONSTRATION PROJECTS REGARDING TRAUMATIC BRAIN INJURY.

"(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to States for the purpose of carrying out demonstration projects to improve access to health and other services regarding traumatic brain injury.

"(b) STATE ADVISORY BOARD.—

"(1) IN GENERAL.—The Secretary may make a grant under subsection (a) only if the State involved agrees to establish an advisory board within the appropriate health department of the State or within another department as designated by the chief executive officer of the State.

"(2) FUNCTIONS.—An advisory board established under paragraph (1) shall advise and make recommendations to the State on ways to improve services coordination regarding traumatic brain injury. Such advisory boards shall encourage citizen participation through the establishment of public hearings and other types of community outreach programs.

"(3) COMPOSITION.—An advisory board established under paragraph (1) shall be composed of—

"(A) representatives of—

"(i) the corresponding State agencies involved;

"(ii) public and nonprofit private health related organizations;

"(iii) other disability advisory or planning groups within the State;

"(iv) members of an organization or foundation representing traumatic brain injury survivors in that State; and

"(v) injury control programs at the State or local level if such programs exist; and

"(B) a substantial number of individuals who are survivors of traumatic brain injury, or the family members of such individuals.

"(c) MATCHING FUNDS.—

"(1) IN GENERAL.—With respect to the costs to be incurred by a State in carrying out the purpose described in subsection (a), the Secretary may make a grant under such subsection only if the State agrees to make available, in cash, non-Federal contributions toward such costs in an amount that is not less than \$1 for each \$2 of Federal funds provided under the grant.

"(2) DETERMINATION OF AMOUNT CONTRIBUTED.—In determining the amount of non-Federal contributions in cash that a State has provided pursuant to paragraph (1), the Secretary may not include any amounts provided to the State by the Federal Government.

"(d) APPLICATION FOR GRANT.—The Secretary may make a grant under subsection (a) only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(e) COORDINATION OF ACTIVITIES.—The Secretary shall ensure that activities under this section are coordinated as appropriate with other agencies of the Public Health Service that carry out activities regarding traumatic brain injury.

"(f) REPORT.—Not later than 2 years after the date of the enactment of this section, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings and results of the

programs established under this section, including measures of outcomes and consumer and surrogate satisfaction.

"(g) DEFINITION.—For purposes of this section, the term "traumatic brain injury" means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning. The Secretary may revise the definition of such term as the Secretary determines necessary.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1995 through 1997."

SEC. 4. STUDY; CONSENSUS CONFERENCE.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary"), acting through the appropriate agencies of the Public Health Service, shall conduct a study for the purpose of carrying out the following with respect to traumatic brain injury:

(I) In collaboration with appropriate State and local health-related agencies—

(A) determine the incidence and prevalence of traumatic brain injury; and

(B) develop a uniform reporting system under which States report incidents of traumatic brain injury, if the Secretary determines that such a system is appropriate.

(2) Identify common therapeutic interventions which are used for the rehabilitation of individuals with such injuries, and shall, subject to the availability of information, include an analysis of—

(A) the effectiveness of each such intervention in improving the functioning of individuals with brain injuries;

(B) the comparative effectiveness of interventions employed in the course of rehabilitation of individuals with brain injuries to achieve the same or similar clinical outcome; and

(C) the adequacy of existing measures of outcomes and knowledge of factors influencing differential outcomes.

(3) Develop practice guidelines for the rehabilitation of traumatic brain injury at such time as appropriate scientific research becomes available.

(2) DATES CERTAIN FOR REPORTS.—

(A) Not later than 18 months after the date of the enactment of this Act, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings made as a result of carrying out paragraph (1)(A).

(B) Not later than 3 years after the date of the enactment of this Act, the Secretary shall submit to the Committees specified in subparagraph (A) a report describing the findings made as a result of carrying out subparagraphs (B) and (C) of paragraph (1).

(b) CONSENSUS CONFERENCE.—The Secretary, acting through the Director of the National Center for Medical Rehabilitation Research within the National Institute for Child Health and Human Development, shall conduct a national consensus conference on managing traumatic brain injury and related rehabilitation concerns.

(c) DEFINITION.—For purposes of this section, the term "traumatic brain injury" means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning. The Secretary may revise the definition of such term as the Secretary determines necessary.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1995 through 1997.

THE TRAUMATIC BRAIN INJURY ACT OF 1994**GOALS OF THE BILL**

1. To expand efforts to identify methods to prevent traumatic brain injury.

2. To expand biomedical research efforts to prevent or minimize the extent, severity and progression of dysfunction as a result of traumatic brain injury.

3. To develop initiatives to improve the quality of care.

SUMMARY OF TRAUMATIC BRAIN INJURY ACT**Prevention of Traumatic Brain Injury**

Authorizes CDC to identify effective strategies for prevention of TBI; and to implement public information and education programs. The Secretary will ensure that the CDC will coordinate their TBI activities with other agencies of the Public Health Service.

Basic and Applied Research at NIH

Authorizes NIH to conduct basic and applied research on limiting primary and secondary mechanical, biochemical, and metabolic injury to the brain and minimize the severity of the injury.

**Traumatic Brain Injury Services
Coordination at HRSA**

Authorizes HRSA to make grants to States for demonstration projects to improve access to health and other services for individuals with traumatic brain injury. Each project would have an advisory board, a patient advocacy and service coordination system, a traumatic brain injury registry and develop standards for the marketing of rehabilitation services to individuals with traumatic brain injury or their family members.

By Mr. INOUE:

S. 97. A bill to amend the Job Training Partnership Act to provide authority for the construction of vocational education and job training centers for Native Hawaiians and Native American Samoans, and for other purposes; to the Committee on Labor and Human Resources.

**THE JOB TRAINING PARTNERSHIP ACT
AMENDMENT ACT OF 1995**

Mr. INOUE. Mr. President, I rise to introduce a bill to provide much needed centers of job training assistance for Native Hawaiians and Native American Samoans. These populations, facing unemployment rates far above the state and national averages, are in desperate need of accessible, effective, and culturally sensitive programs to gain the skills necessary to compete in today's workplace.

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. 97

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

SECTION 1. CONSTRUCTION OF VOCATIONAL EDUCATION AND JOB TRAINING CENTERS FOR NATIVE HAWAIIANS AND NATIVE AMERICAN SAMOANS.

Title IV of the Job Training Partnership Act is amended by inserting after section 401 (29 U.S.C. 1671) the following new section:

"SEC. 401A. CONSTRUCTION OF VOCATIONAL EDUCATION AND JOB TRAINING CENTERS FOR NATIVE HAWAIIANS AND NATIVE AMERICAN SAMOANS.

"(a) DEFINITION.—As used in this section, the term 'Native American Samoan' means a person who is a citizen or national of the United States and who is a lineal descendant of an inhabitant of the Samoan Islands on April 18, 1900. For purposes of this section, Swains Island shall be considered part of the Samoan Islands.

"(b) CONTRACTS.—The Secretary shall enter into contracts with appropriate entities for the construction of education and training centers for Hawaiian Natives and Native American Samoans. Each such center shall provide comprehensive vocational education and employment and training services through programs authorized under other provisions of this Act and the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.)."

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Section 3(c)(2)(A)(i) of the Job Training Partnership Act (29 U.S.C. 1502(c)(2)(A)(i)) is amended by striking "section 401" and inserting "sections 401 and 401A, from which the Secretary shall reserve not less than \$5,000,000 for fiscal year 1996 to carry out section 401A".

By Mr. BRADLEY (for himself, Mr. DASCHLE and Mr. KERRY):

S. 98. A bill to amend the Congressional Budget Act of 1974 to establish a process to identify and control tax expenditures; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

TAX EXPENDITURE AND LEGISLATIVE APPROPRIATIONS LINE ITEM VETO ACT

Mr. BRADLEY. Mr. President, today, on the first day the Senate is convened, I have introduced the Tax Expenditure and Legislative Appropriations Line-Item Veto Act of 1995.

The short explanation of what I am proposing is that the Congress this year enact a line-item veto. Last Congress, I introduced the same bill. We got 53 votes on the floor of the U.S. Senate at that time. It was the highest number of votes ever for a line-item veto. We were in a parliamentary situation where we needed 60 votes, so it did not pass.

Today, I am reintroducing the same piece of legislation in hopes that the Congress will pass the line-item veto this year.

Mr. President, we begin this Congress with two obligations: first, to change the way we do business, and, second, to cut government spending. Reforms that have been bottled up for years in partisan finger-pointing need to be released and must become our first priorities. Both the Congress and White House must learn to say no: no to unnecessary programs, no to those Members who would build monuments to themselves, and a firm no to those lobbyists who would work every angle to slip special provisions into the tax code that benefit the fortunate few and cost every other American millions. For decades, Presidents of both parties

have insisted that the deficit would be lower if they had the power to say no, in the form of the line-item veto.

This legislation, if enacted, would grant the President the power to say no. In sponsoring this legislation, I urge our colleagues in both the Senate and House of Representatives to pass a line-item veto that covers spending in both appropriations and tax bills. Any line-item veto that fails to give the President the ability to prevent additional loopholes from entering the tax code only does half the job.

Although I did not support the line-item veto when I initially joined the Senate, I watched for 12 years as the deficit quintupled, shameless pork-barrel projects persisted in appropriations and tax bills, and our Presidents again and again denied responsibility for the decisions that led to these devastating trends. Therefore, in 1992, I decided that it was time to change the rules.

Rather than simply joining one of the appropriations line-item veto bills then in existence, I felt that we needed to be honest about the fact that for each example of unnecessary, special-interest pork-barrel spending through an appropriations bill, there are similar examples of such spending buried in tax bills. The tax code provides special exceptions from taxes that total over \$400 billion a year, more than the entire federal deficit.

For every \$2.48 million, earmarked in an appropriations bill, to teach civilian marksmanship skills, there is a \$300 million special provision allowing taxpayers to rent their homes for two weeks without having to report any income. For every \$150,000 appropriated for acoustical pest control studies in Oxford, MS, there is a \$2.9 billion special tax exemption for ethanol fuel production. As a member of the Finance Committee, I have seen an almost endless stream of requests for preferential treatment through the tax code, including special depreciation schedules for rental tuxedos, an exemption from fuel excise taxes for crop dusters, and tax credits for clean-fuel vehicles. In singling out these pork-barrel projects, I do not mean to pass judgment on their merits.

Because many of these tax code provisions single out narrow subclasses for benefit, the rest of us must pay more in taxes. Therefore, I have developed an alternative that would authorize the President to veto wasteful spending not just in appropriations bills but also in the tax code.

If the President had the power to excise special interest spending, but only in appropriations, we would simply find the special interest lobbyists who work appropriations turning themselves into tax lobbyists, pushing for the same spending in the Tax Code. Spending is spending whether it comes in the form of a government check, or in the form of a special exception from the tax rates that apply to everyone else. Tax spending does not, as some pretend, simply allow people to keep more of

what they have earned. It gives them a special exception from the rules that oblige everyone to share in the responsibility of our national defense and protecting the young, the aged, and the infirm. The only way to let everyone keep more of what they have earned is to minimize these tax expenditures along with appropriated spending and the burden of the national debt so that we can bring down tax rates fairly, for everyone. Therefore, Mr. President, I urge all of our colleagues, particularly those in leadership positions in the Senate and House of Representatives, to pass a line-item veto bill that includes both appropriations and tax provisions.

Although it is true that the line-item veto would give the President more power than our founders probably envisioned, there is also truth in the conclusion of the National Economic Commission in 1989 that "the balance of power on budget issues has swung too far from the Executive toward the Legislative branch." There is no tool to precisely calibrate this balance of power, but if we have to swing a little too far in one direction or another, at this critical moment, we should lean toward giving the President the power that he, and other Presidents, have said they need to control wasteful spending. We have a right to expect that the President will use this power for the good of all.

I also agree with the more recent economic commission chaired by my colleagues Senators DOMENICI and NUNN that a line-item veto is not in itself deficit reduction. But if the President is willing to use it, it is the appropriate tool to cut a certain kind of wasteful spending—the pork-barrel projects that tend to crop up in appropriations and tax bills. Presidential leadership can eliminate these projects when Congress, for institutional reasons, usually cannot. Individual Senators and Representatives, who must represent their own local interests, find it difficult to challenge their colleagues on behalf of the general interest. The line-item veto will allow the President to juxtapose the narrow special interests with the broad public interest.

Pork-barrel spending on appropriations and taxes is only one of the types of spending that drive up the deficit, and is certainly not as large as the entitlements for broad categories of the population that we are starting to tackle. But until we control these expenditures for the few, we cannot ask for shared sacrifice from the many who benefit from entitlements, or the many who pay taxes.

The particular legislation that I am introducing today is identical to a bill I introduced in the 103d Congress and is modeled on a bill my colleague Senator HOLLINGS has introduced in several Congresses. I want to thank and commend Senator HOLLINGS for working so hard to develop a workable line-item

veto strategy, one that goes beyond political demagoguery to the real question of how to limit spending. This bill will require that each line item in any appropriations bill and any bill affecting revenues be enrolled as a separate bill after it is passed by Congress, so that the President can sign the full bill or single out individual items to sign and veto. It differs from other bills in that it avoids obvious constitutional obstacles and in that it applies to spending through the tax code as well as appropriated spending.

Although I acknowledge that separate enrollment, especially separate enrollment of appropriations provisions, may prove difficult at times, in the face of a debt rapidly approaching \$5 trillion, I do not believe that we have the luxury of shying away from making difficult decisions. If, because of our appropriations process, we are unable to easily disaggregate appropriations into individual spending items for the President's consideration, then, rather than throw out this line-item veto proposal, I believe that we should reconsider how we appropriate the funds that are entrusted to us.

As I noted previously, the legislation that I am proposing would remain in effect for just 2 years. That period should constitute a real test of the idea. First, it will provide enough time for the Federal courts to address any questions about whether this approach is constitutionally sound, or if a constitutional amendment is necessary. Only courts can answer this question, which is in dispute among legal scholars. Second, we should have a formal process to determine whether the line-item veto works as intended: did it contribute to significant deficit reduction? Did the President use it judiciously to cut special-interest spending, or, as some worry, did he use it to blackmail Members of Congress into supporting his own special interest expenditures? Did it alter the balance of power over spending, either restoring the balance or shifting it too far in the other direction?

As the recent elections amply demonstrated, the American people have no more patience for finger-pointing or excuses. We can no longer tolerate a deficit that saps our economic strength while politicians in Washington insist that it's someone else who really has the power to spend or cut spending. This President or any other must have no excuses for failing to lead.

I list Mr. CAMPBELL, Mr. COATS, and Mr. ROBB as original sponsors of this legislation.

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

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

S. 98

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 "Tax Expenditure Control Act of 1995".

SEC. 2. TAX EXPENDITURES INCLUDED IN BUDGET RESOLUTION.

Section 301 of the Congressional Budget Act of 1974 is amended—

(1) in subsection (a)(2) by inserting after "Federal revenues", both places it appears, the following: "and tax expenditures (including income tax expenditures or other equivalent base narrowing tax provisions applying to other Federal taxes)"; and

(2) in subsection (a)(4) by inserting after "budget outlays," the following: "tax expenditures (including income tax expenditures or other equivalent base narrowing tax provisions applying to other Federal taxes)".

SEC. 3. TAX EXPENDITURE ANALYSIS IN REPORT ACCOMPANYING BUDGET RESOLUTION.

Section 301(e)(1) of the Congressional Budget Act of 1974 is amended by inserting after "revenues" the following: "and tax expenditures".

SEC. 4. RECONCILIATION MAY INCLUDE TAX EXPENDITURE CHANGES.

Section 310(a)(2) of the Congressional Budget Act of 1974 is amended by inserting after "revenues" the following: "and tax expenditures".

SEC. 5. CONGRESSIONAL BUDGET OFFICE REPORT.

Section 202(f)(1) of the Congressional Budget Act of 1974 is amended in the matter following subparagraph (B) by striking "and budget outlays" and inserting ", budget outlays, and tax expenditures".

SEC. 6. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

Mr. DASCHLE. Mr. President, my distinguished colleague from New Jersey, Senator BRADLEY, and I are introducing today a bill that I believe should be an important item on our agenda for the 104th Congress.

For nearly a decade now, one of our primary tasks has been to leash the burgeoning budget deficit and keep it under control. One of our more recent efforts in this regard, the Ominous Budget Reconciliation Act of 1993, went a long way toward that goal, setting in motion nearly \$500 billion in spending cuts as well as tax increases on those who could afford it most. In crafting last year's budget, we took further steps to cut unnecessary spending.

But we are by no means out of the woods yet. Deficits are expected to begin rising again in the near future, spurred mainly by increases in health care costs.

The process of reducing the budget deficit is a painstaking one, during which every item of direct spending is scrutinized. Even entitlements have faced the budget ax in recent years, as we have tried to balance the costs and benefits of spending in one area or another.

As part of this process, programs are reviewed by the President in submitting his budget, and cuts are suggested in an array of programs across the board. Thereafter, the Budget Committee prepares its annual budget resolution in which every item of direct spending, including entitlements, is divided into budget function groups.

Spending targets are set for each budget category, with instructions to the committees of jurisdiction to attempt to reach those targets.

The intense scrutiny, however, is reserved for direct spending items. Yet, one of our largest areas of spending in the Federal budget is tax expenditures—exclusions, exemptions, deductions, credits, preferential rates, and deferrals of tax liability. While, at the margin, we can debate exactly what constitutes a tax expenditure, these items drain about \$400 billion from Federal revenues every year.

Make no mistake, I am not advocating that there be massive elimination of tax expenditures, just as I would not suggest cutting discretionary programs and entitlements in half without regard to merit.

What I am saying is that this very large and important part of Federal spending—for, clearly, that is what it is—deserves the same scrutiny as direct spending.

Currently tax expenditures receive only minimal attention on an annual basis. First, the President must submit a list of these expenditures in his annual budget submission to Congress. Second, levels of tax expenditures are included in an annual report released by the Congressional Budget Office. And third, the report accompanying the annual budget resolution must include estimated levels of tax expenditures by major functional category.

The scrutiny stops there.

Nowhere is this information incorporated in the budget process in a meaningful way—a way that spurs action to limit this form of spending. There are no targets for tax expenditures called for in the budget resolution, and there is nothing to force Members to view tax expenditures by budget function, comparing aggregate spending in any given area through both direct spending and tax expenditures.

Frankly, there is no reason to require the President, CBO, or the budget committees to list or estimate levels of tax expenditures if, thereafter, we may simply ignore them.

The bill that Senator BRADLEY and I am introducing today would incorporate consideration of tax expenditures in the budget process in a responsible and more effective way. Essentially, it would subject tax expenditures to the same annual scrutiny that entitlement spending currently receives. That should be the minimum.

The bill would require setting targets for tax expenditures in the annual budget resolution and would require that the total level of tax expenditures be broken down according to functional category in the budget resolution itself. With this information, Congress and the public could compare how much is being spent on a particular budget function both through direct spending and through tax expenditures. These and other changes contained in

the legislation, which has been discussed in detail by my colleague from New Jersey, will help translate awareness into action.

As we tackle other important budget issues in this session of Congress, I urge my colleagues to review our legislation carefully and consider lending their support for its passage.

By Mrs. FEINSTEIN:

S. 99. A bill to provide for the conveyance of lands to certain individuals in Butte County, CA; to the Committee on Energy and Natural Resources.

THE BUTTE COUNTY ACT OF 1995

• Mrs. FEINSTEIN. Mr. President, today I am introducing a bill to resolve a title problem on the Plumas National Forest in Butte County, CA. The bill would provide for the conveyance of approximately 30 acres of land to 13 individuals who have had a cloud on the title of their property as a result of a 1992 Bureau of Land Management survey.

The legislation is identical to S. 399 which I sponsored and H.R. 457 which Congressman WALLY HERGER sponsored in the 103d Congress. The House passed H.R. 457 and the Senate Energy and Natural Resources Committee approved the legislation, but Congress adjourned before we could complete action.

Mr. President, this legislation is essential to resolve a hardship to individuals that was caused by an error on the part of the Federal Government.

The problem stems from 1961 when the Forest Service accepted what now appears to be an incorrect survey of the Plumas National Forest boundary. The surveyor could not locate the original survey corner established in 1869 so he established a new corner. Since then, private landowners used the 1961 corner to establish boundaries and build improvements. In 1992 the Bureau of Land Management conducted a new survey which showed that land previously thought to be outside the boundaries of the Plumas National Forest is actually within the forest boundaries, and thus is Federal property. The property owners relied upon the earlier erroneous survey which they believed to be accurate and have occupied and improved their property in good faith.

I believe the property owners should be granted relief as this legislation provides. The bill authorizes and directs the Secretary of Agriculture to convey without consideration all right, title, and interest in the Federal lands, consisting of less than 30 acres, to the 13 claimants. The bill describes the property in question and the claimants who are entitled to relief. The bill also describes the process to be followed and assigns to the Federal Government the responsibility to provide for a survey to monument and mark the lands to be conveyed.

Mr. President, there is no Federal interest in this property and the Depart-

ment of Agriculture has repeatedly testified favorably on this legislation. Thus, I hope the 104th Congress will more quickly to enact this measure.

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. 99

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

SECTION 1. FINDINGS AND PURPOSE.

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

(1) certain landowners in Butte County, California who own property adjacent to the Plumas National Forest have been adversely affected by certain erroneous surveys;

(2) these landowners have occupied or improved their property in good faith and in reliance on erroneous surveys of their properties that they believed were accurate; and

(3) the 1992 Bureau of Land Management dependent resurvey of the Plumas National Forest will correctly establish accurate boundaries between such forest and private lands.

(b) PURPOSE.—It is the purpose of this Act to authorize and direct the Secretary of Agriculture to convey, without consideration, certain lands in Butte County, California, to persons claiming to have been deprived of title to such lands.

SEC. 2. DEFINITIONS.

For the purpose of this Act—

(1) the term "affected lands" means those Federal lands located in the Plumas National Forest in Butte County, California, in sections 11, 12, 13, and 14, township 21 north, range 5 east, Mount Diablo Meridian, as described by the dependent resurvey by the Bureau of Land Management conducted in 1992, and subsequent Forest Service land line location surveys, including all adjoining parcels where the property line as identified by the 1992 BLM dependent resurvey and National Forest boundary lines before such dependent resurvey are not coincident;

(2) the term "claimant" means an owner of real property in Butte County, California, whose real property adjoins Plumas National Forests lands described in subsection (a), who claims to have been deprived by the United States of title to property as a result of previous erroneous surveys; and

(3) the term "Secretary" means the Secretary of Agriculture.

SEC. 3. CONVEYANCE OF LANDS.

Notwithstanding any other provision of law, the Secretary is authorized and directed to convey, without consideration, all right, title, and interest of the United States in and to affected lands as described in section 2(1), to any claimant or claimants, upon proper application from such claimant or claimants, as provided in section 4.

SEC. 4. TERMS AND CONDITIONS OF CONVEYANCE.

(a) NOTIFICATION.—Not later than 2 years after the date of enactment of this Act, claimants shall notify the Secretary, through the Forest Supervisor of the Plumas National Forest, in writing of their claim to affected lands. Such claim shall be accompanied by—

(1) a description of the affected lands claimed;

(2) information relating to the claim of ownership of such lands; and

(3) such other information as the Secretary may require.

(b) ISSUANCE OF DEED.—(1) Upon a determination by the Secretary that issuance of a

deed for affected lands is consistent with the purpose and requirements of this Act, the Secretary shall issue a quitclaim deed to such claimant for the parcel to be conveyed.

(2) Prior to the issuance of any such deed as provided in paragraph (1), the Secretary shall ensure that—

(A) the parcel or parcels to be conveyed have been surveyed in accordance with the Memorandum of Understanding between the Forest Service and the Bureau of Land Management, dated November 11, 1989;

(B) all new property lines established by such surveys have been monumented and marked; and

(C) all terms and conditions necessary to protect third party and Government Rights-of-Way or other interests are included in the deed.

(3) The Federal Government shall be responsible for all surveys and property line markings necessary to implement this subsection.

(c) NOTIFICATION TO BLM.—The Secretary shall submit to the Secretary of the Interior an authenticated copy of each deed issued pursuant to this Act no later than 30 days after the date such deed is issued.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as necessary to carry out the purposes of this Act.●

By Mr. GLENN:

S. 100. A bill to reduce Federal agency regulatory burdens on the public, improve the quality of agency regulations, increase agency accountability for regulatory actions, provide for the review of agency regulations, and for other purposes; to the Committee on Governmental Affairs.

REGULATORY ACCOUNTABILITY ACT

Mr. GLENN. Mr. President, I rise today to address the issue of regulations and the need to improve regulatory decision-making—to improve their quality and reduce their burdens.

In our system of government, the lawmakers rely on administrative agencies to issue regulations to implement our laws. The rulemaking process is an open one compared to many countries—agencies must consider the views of the public, make their decisions on the basis of a rulemaking record, and be prepared to defend their decisions in court. These are the strengths of our administrative process. Unfortunately, there are also weaknesses. General rulemaking principles have not proven rigorous enough—agencies too often promulgate rules whose costs outweigh the benefits, where the regulated risks are insignificant compared to other societal risks, and where State and local governments or the private sector are unnecessarily burdened with overly detailed red-tape. The list can go on and on.

The problem is not that the Government is trying to fix something that "ain't broke." The Government has been responding to the call of the people to address public issues and concerns. In the area of environmental protection, for example, the American people continue to want Government

to do more to protect our natural environment. The problem is more complicated. The problem is that the Government is not working well enough, it is not delivering on its promises to solve problems efficiently and effectively. The American public and Members of Congress know that we simply are not getting enough results for all the legislation, regulation, and expenditure of taxpayer dollars.

Programmatically, each agency and each congressional committee must examine their policies and programs to determine what works and eliminate what doesn't work. The administration has made impressive strides in this area through the continuing work of the National Performance Review. This effort also will be helped in the coming years as agencies begin performance reporting under the Government Performance and Results Act of 1993, which I co-sponsored with my friend and colleague on the Governmental Affairs Committee, Senator ROTH. This law blinds agencies to performance goals and reporting on results, which will help us answer basic questions about how well Government programs are working. In this new Congress, our committee will continue our bipartisan oversight of the implementation of this important law.

On the process side of the equation, we can and should put into place analytic requirements to guide Federal rulemaking. It may sound simplistic, but most of the complaints about Federal regulation can be addressed just by ensuring that agencies stop and think before regulating. In this Congress, I know that several different approaches are already being considered. Most address single problem areas. I believe that it is our responsibility to design a comprehensive regulatory analysis and review process that is straightforward, understandable by agencies and the public, and can lead to better and fewer regulations. For this purpose, I am today introducing the Regulatory Accountability Act of 1995. I ask unanimous consent that a summary of this legislation be included with my remarks.

This legislation requires Federal agencies, as I have said, to stop and think before regulating. Agencies would have to involve affected members of the public, spell out the need for and desired outcome of a regulatory proposal, analyze its costs and benefits, assess the risks of the behavior or substance proposed for regulation, consider alternatives to the proposed rule, weigh the effects on other governmental action—including State and local governments—and analyze any issues that might affect private property rights under the fifth amendment to the Constitution. These analytic requirements would apply to all proposed regulations, with more in-depth analyses required for major rules.

In addition to the agency requirements, this legislation would place into law a Presidential regulatory review

process to be run by the Office of Management and Budget [OMB]. While President Clinton's regulatory review Executive order has been generally well received, continuing calls for farther reaching controls strongly suggest that Congress put into place a workable regulatory review process to ensure integrity and accountability in rulemaking, and relief from overly burdensome and unnecessary regulations.

Under this act, OMB would oversee all agency regulatory analyses, review agency rules before they are issued, and supervise an annual regulatory planning process that would include the review of existing rules. To ensure accountability for this review process, there would be a 90-day time limit on review—with public notice of extensions, the resolution of disputes at Presidential direction, disclosure of the status of actions undergoing review, and after-the-fact disclosure of regulatory review communications.

Over the years, there has been much controversy about the propriety of Presidential regulatory review. I have always supported such review. But I have opposed its use as a secret backdoor channel for special interests. I believe that my legislation appropriately formalizes the President's responsibility to ensure effective and efficient regulatory decisionmaking and establishes sufficient protections to provide for the integrity of and accountability for those decisions.

These regulatory issues have been a major concern of the Governmental Affairs Committee during the four Congresses in which I was committee Chair. I know that my good friend, Senator ROTH, who is now chairing the committee, shares this commitment and will continue the committee's leadership in this area. I look forward to our committee's work on these issues and trust that we will soon report out legislation and bring the debate back to the floor of the Senate.

I ask unanimous consent that a summary of the legislation be printed in the RECORD.

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

SUMMARY OF THE REGULATORY ACCOUNTABILITY ACT OF 1995

1. AGENCY REGULATORY ANALYSIS (SEC. 4)

For every regulatory action, Federal agencies must consider:

The need for and desired outcome of the rule;

Costs and benefits;
Regulated risks and their relation to other relevant risks;

Alternatives to the proposed action;
Effects on other governmental action (e.g., duplication of other rules, and impact on State and local governments);

Takings impacts on constitutional private property rights.

Major rules (e.g., \$100 million annual economic effect) require more in-depth formal analysis and certification that:

Benefits justify costs;
Regulatory analysis supported by best available scientific and technical information;

Rule will substantially advance protections of public health and safety or the environment.

2. PRESIDENTIAL REGULATORY REVIEW (SEC. 5)

Regulatory review by OMB to:

Oversee agency regulatory analysis;
Review agency proposals before publication (including authority to return proposals for agency reconsideration);

Oversee annual regulatory planning process (including review of existing regulations).

Regulatory review time limit of 90 days, subject to extension for good cause and with public notice. Disagreements among agencies and OMB to be resolved by the President or by a designated reviewing entity (such reviewer would also be subject to the Act, e.g., time limits and public disclosure).

3. PUBLIC PARTICIPATION AND ACCOUNTABILITY (SEC. 6)

Agencies must improve public participation in rulemaking;

Seek involvement of those benefited and burdened by the regulatory action;

Publish summaries of regulatory analyses and regulatory review results in Federal Register notices;

Place regulatory review-related communications in the rulemaking record.

OMB must provide public and agency access to regulatory review information:

Disclose to the public information about the status of regulatory actions undergoing review;

Disclose to the public (no later than the date of publication of the rule) written communications between OMB and the regulatory agency or any person outside of the executive branch, and a record of oral communications between OMB and any person outside of the executive branch.

Disclose to the public (no later than the date of publication of the rule) a written explanation of the review decision;

Disclose to the agency on a timely basis written communications and a record of oral communications between OMB and any person outside of the executive branch, and a written explanation of any review decision.

4. RULES OF CONSTRUCTION (SEC. 7)

Nothing in the Act alters an agency's statutory rulemaking authority or any mandated criteria or deadline for rulemaking.

5. JUDICIAL REVIEW (SEC. 8)

There would be no judicial review of compliance with the Act. If judicial review of a rule is otherwise undertaken, any regulatory analysis and regulatory review information would constitute part of the record undergoing review.

By Mr. LEVIN (for himself, Mr. COHEN, Mr. GLENN, Mr. WELLSTONE, Mr. LAUTENBERG, and Mr. FEINGOLD):

S. 101. A bill to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes; to the Committee on Governmental Affairs.

THE LOBBYING DISCLOSURE ACT OF 1995

• Mr. LEVIN. Mr. President, I introduce the Lobbying Disclosure Act of 1995. Our existing lobbying registration laws have been characterized by the Department of Justice as ineffective, inadequate, and unenforceable; they breed disrespect for the law because they are so widely ignored; they have been a sham and a shambles since they were first enacted almost 50 years ago. At a time when the American public is

increasingly skeptical that their Government really belongs to them, our lobbying registration laws have become a joke, leaving more professional lobbyists unregistered than registered.

The Lobbying Disclosure Act of 1995 would change all of that and ensure that we finally know who is paying how much to whom, to lobby what Federal agencies and congressional committees on what issues. This bill would close the loopholes in existing lobbying registration laws. It would cover all professional lobbyists, whether they are lawyers or nonlawyers, in-house or independent, whether they lobby Congress or the executive branch, and whether their clients are for-profit or non-profit. It would streamline reporting requirements and eliminate unnecessary paperwork. And it would provide, for the first time, effective administration and enforcement of disclosure requirements by an independent office.

Mr. President, this bill would also enhance public confidence by fixing the congressional gift rules. These rules currently permit Members and staff to accept unlimited meals from lobbyists or anybody else. They permit the acceptance of football tickets, baseball tickets, opera tickets, and theater tickets. They permit Members and staff to travel to purely recreational events, such as charitable golf and tennis tournaments, at the expense of special interest groups. To a cynical public, these rules reinforce an image of a Congress more closely tied to the special interests than to the public interest. That isn't good for the Congress and it isn't good for the country.

The bill before us would tighten the gift rules, and it would tighten them dramatically. Under this bill, lobbyists would be prohibited from providing meals, entertainment, travel, or virtually anything else of value to Members of Congress and congressional staff. Acceptance of gifts from others would also be restricted significantly. To give just one example, this bill would prohibit private interests from paying for any recreational expenses, such as green fees, for Members of Congress, whether in Washington or in the course of travel outside Washington. In fact, private interests would be prohibited from paying for congressional travel to any event, the activities of which are substantially recreational in nature. If this bill passes, recreational activities paid for by interest groups will be a thing of the past.

Make no mistake about this: the enactment of this bill would fundamentally change the way business is conducted on Capitol Hill. The proposed rules are not perfect, because these issues are complicated and no rule can anticipate the proper outcome of every individual case. Much is left to the judgment of individual Members and to guidance to be provided by the congressional ethics Committees. However, the proposed rules are strong, they are clear, and I believe they will go a long

way toward rebuilding public confidence in this institution.

Mr. President, we hear again and again that the American people have lost confidence in their elected officials. There is a widespread belief that Government today is too susceptible to the influence of well-connected and well-heeled lobbyists. In one recent poll more than 70 percent of Americans said they believe that our Government is controlled by special interests, rather than the public interest. Part of the gridlock so prevalent in Washington is attributed to special interests and their ability to block needed legislation.

The election of a new congressional majority cannot change that unless real reform measures are actually enacted, and we cannot pretend that we have enacted comprehensive congressional reform until we enact this bill. For 50 years, the lobbying laws have been a patchwork of loopholes and exceptions in need of reform. For 50 years, Congress has failed to overhaul those laws. This Congress can be different, but only if we act where other Congresses have failed to act.

Mr. President, the right to petition the Federal Government is a constitutionally protected right. Lobbying is as much a part of our Government process today as on-the-record rulemakings or public hearings. But we cannot expect the public to have confidence in our actions unless we conduct our business in the sunshine. The public has a right to know, and the public should know, who is being paid how much by whom to lobby on what issues. This bill is designed to meet that objective, while imposing minimal paperwork and the least possible burden on even those who are paid to lobby.

Mr. President, this bill is not intended to, and should not, create any significant new paperwork burdens on the private sector. Indeed, the bill would significantly streamline lobbying disclosure requirements by consolidating filing in a single form and a single location—one-stop shopping—instead of the multiple filings required by current law. It would replace quarterly reports with semiannual reports and it would authorize the development of computer-filing systems and simplified forms.

This bill would substantially reduce paperwork burdens associated with lobbying registration by requiring a single registration by each organization whose employees lobby, instead of separate registrations by each employee-lobbyist—as are required by current law. The names of the employee-lobbyists—and any high-ranking Government position in which they served in the previous 2 years—would simply be listed in the employer's registration forms.

In addition, this bill would simplify reporting of receipts and expenditures by substituting estimates of total, bottom-line lobbying income (by category of dollar value) for the current require-

ment to provide 29 separate lines of financial information with supporting data, most of it meaningless. To further ensure that the statute will not impose new burdens on the private sector, the bill includes specific provisions allowing entities that are already required to account for lobbying expenditures under the Internal Revenue Code to use data collected for the IRS for disclosure purposes as well.

The bill also includes de minimis rules, exempting from registration any individual who spends less than 10 percent of his or her time on lobbying activities and any organization whose lobbying expenditures do not exceed \$5,000 in a semi-annual period. Most small local organizations and entities located outside Washington are likely to be exempt from registration under these provisions, even if their employees make occasional lobbying contacts. Because the lobbying registration requirements in the bill apply separately to local chapters of national organizations if the local chapters are separate legal entities, many such local chapters may be exempt from registration as well.

In short, we have exempted small organizations from registration requirements, even if those organizations have paid employees who lobby, as long as those paid lobbying activities are minimal. We have scrupulously avoided imposing any burden at all on citizens who are not professional lobbyists, but merely contact the Federal Government to express their personal views.

Mr. President, while we want to avoid any unnecessary burdens on the private sector with this legislation, we must ensure that the public gets basic information about who is paying how much to whom to lobby on what issues. Effective public disclosure of lobbying activities can ensure that the public, Federal officials, and other interested parties are aware of the pressures that are brought to bear on public policy by paid lobbyists. Such public awareness should inform the public of the broad array of lobbying efforts on all sides of an issue. In some cases, it may alert other interested parties of the need to provide their own views to decision-makers. It also may encourage lobbyists and their clients to be sensitive to even the appearance of improper influence.

One of the reasons why the public is suspicious and distrustful of the relationship between lobbyists and government officials is the cloak of secrecy that currently covers too many lobbyists and their activities. Current law simply does not ensure even the most basic disclosure. For example, we have learned that:

Fewer than 4,000 of the 13,500 individuals and organizations listed in the book "Washington Representatives" were registered as lobbyists. Three-quarters of the unregistered representatives interviewed by the GAO said that they contact Members of Congress

their staffs, deal with Federal legislation, and seek to influence actions of either Congress or the executive branch.

Only 825 persons were registered as active foreign agents, i.e., persons employed to conduct political activities on behalf of a foreign principal under the Foreign Agents Registration Act. In one case examined by the subcommittee, we found that 42 of 48 lobbyists for foreign manufacturers and their domestic subsidiaries were not registered under FARA.

Lobbyists who do register disclose expenditures as trivial as \$27 lunch bills, \$45 phone bills, \$6 cab fares, and \$16 messenger fees. One lobbyist even disclosed quarterly lobbying payments of \$1.31 to one of its employees. Because of the way these costs are calculated, however, it is impossible to reach any accurate conclusion as to total lobbying expenditures.

Under existing statutes, there is no disclosure requirement when White House and other executive branch officials are lobbied, and only sporadic disclosure of lobbying by lawyers.

If enacted, the Lobbying Disclosure Act would replace existing lobbying disclosure laws with a single, uniform statute, covering the paid lobbying of Congress and the executive branch on behalf of both domestic and foreign persons. The new statute would replace the Federal Regulation of Lobbying Act; the disclosure requirements of the so-called Byrd amendment; the provisions of the Foreign Agents Registration Act (FARA) which apply to private persons and companies; and the HUD disclosure statutes. The provisions of the Byrd amendment prohibiting lobbying with appropriated funds would be left intact, as would the FARA provisions applicable to representatives of foreign governments and political parties.

The bill has three essential features: It would broaden the coverage of existing disclosure statutes to ensure that all professional lobbyists are registered; streamline disclosure requirements to make sure that only meaningful information is disclosed and needless burdens are avoided; and create a new, more effective and equitable system for administering and enforcing these requirements.

On the first point, the bill would require registration of all professional lobbyists, i.e., anyone who is paid to make lobbying contacts with either the legislative or the executive branch of the Federal Government. People who spend less than 10 percent of their time lobbying, and organizations that spend less than \$5,000 on lobbying in a semi-annual period, would not be covered.

The bill would define lobbying contacts to include communications with Members of Congress and their staff, officers and employees in the Executive Office of the President, and ranking officials in other Federal agencies. Activities that don't constitute lobbying—such as communications by public

officials and media organizations; requests for appointments or for the status of an action and other ministerial communications; communications with regard to ongoing judicial or law enforcement proceedings; testimony before congressional committees and public meetings; participation in agency adjudicatory proceedings; the filing of written comments in rulemaking proceedings; and routine negotiations of contracts, grants, loans, and other federal assistance would be exempt from coverage.

On the second point, the bill would significantly streamline lobbying disclosure requirements by consolidating filing in a single form and a single location; replacing quarterly reports with semi-annual reports; and authorizing the development of computer-filing systems and simplified forms. The bill would require a single registration by each organization whose employees lobby, instead of separate registrations by each employee-lobbyist. It would simplify reporting of receipts and expenditures by substituting estimates of total receipts or expenditures (by category of dollar value) for the current requirement to provide a detailed accounting of all receipts and expenditures. The bill would also replace the requirement of FARA and the Byrd Amendment to list each official contacted with a simpler requirement to identify the executive branch agencies, and the Houses and Committees of Congress, that were contacted.

At the same time, the bill would close a loophole in existing law by requiring the disclosure of the identity of coalition members who both pay for and supervise the lobbying activities. The bill would also enhance the effectiveness of public disclosure by requiring the disclosure of any foreign entity which supervises, directs, or controls the client, or which has a direct interest in the outcome of the lobbying activity. Any foreign entity with a 20 percent equitable ownership of a client would have to be disclosed.

Finally, the bill would improve the administration of the lobbying disclosure laws by creating a new Office of Lobbying Registration and Public Disclosure to administer the statute; requiring the issuance of new rules, forms, and procedural regulations after notice and an opportunity for public comment; making guidance and assistance (including published advisory opinions) available to the public for the first time; authorizing the creation of computer systems to enhance public access to filed materials; avoiding intrusive audits or inspections through an informal dispute resolution process; and substituting a system of administrative fines (subject to judicial review) for the existing criminal penalties for non-compliance.

Mr. President, in the last Congress, the Lobbying Disclosure Act was passed by the Senate on a 95-2 vote. The gift portion of the bill was passed on a 95-4 vote. A conference report was

then passed by the House and sent to the Senate for final consideration. Unfortunately, objections by a number of Senators to certain provisions related to grass roots lobbying made it impossible to enact the bill at that time.

That failure, however, cannot change the fact that 95 Members of this body are in record as favoring the enactment of this measure. If we act quickly, we can still have new congressional gift rules in place by the May 31, 1995, deadline provided by the legislation considered by the Senate last year.

The so-called grass roots lobbying provisions in the conference report to S. 349, to which some objected in the last Congress, are no longer in this bill. We have instead returned to the original Senate provisions on these points. In particular, the bill has been revised to make the following changes:

The definition of grass roots communications has been deleted;

The requirement to disclose persons paid to conduct grass roots lobbying communications has been deleted;

The requirement to separately disclose grass roots lobbying expenses has been deleted;

The original Senate provision with regard to the treatment of lobbyists' efforts to stimulate grass roots lobbying in the definition of lobbying activities has been restored;

The requirement to disclose when somebody other than the client pays for the lobbying activities has been deleted;

All references to individual members of a coalition or association as clients have been deleted;

The descriptive language in the religious organizations exemption has been deleted;

The maximum penalty for violations has been reduced from \$200,000 to \$100,000 (as originally reported by the Senate Governmental Affairs Committee); and

Provisions authorizing registrants who are covered by IRS lobbying provisions to use IRS numbers and definitions for the purpose of reporting under the Lobbying Disclosure Act (to avoid double-bookkeeper) have been clarified and strengthened.

Mr. President, I have been working on this legislation for more than 4 years now. The two major elements of the bill have already passed the Senate, in this Congress, on votes of 95-2 and 95-4. This bill has strong support of the President and it has the strong support of the public. The need for reform of our outdated and loophole-ridden lobbying registration and laws and gift rules could not be more clear. We should enact this bill this year. ●

By Mr. GLENN:

S. 102. A bill to amend the Nuclear Non-Proliferation Act of 1978 and the Atomic Energy Act of 1954 to improve the organization and management of the United States nuclear export controls, and for other purposes; to the Committee on Governmental Affairs.

NUCLEAR EXPORT REORGANIZATION ACT

Mr. GLENN. In remarks at the White House on October 18, 1994, President Clinton stated the following:

There is nothing more important to our security and to the world's stability than preventing the spread of nuclear weapons and ballistic missiles.

And I certainly agree with that. That statement echoes the national security goal that was established a half century ago, and yet much of our nuclear proliferation effort is so scattered and so uncoordinated that it too often is ineffective, as I view it. This bill would help correct a lot of that. It is the Nuclear Export Reorganization Act. It deals largely with those areas of dual-use items—those items that may have a regular civilian use but which may be also key to the development of nuclear weapons. We have not monitored these carefully enough, and this act would take care of that, I think, and make a better, more coordinate effort.

By all indications, our Government will in the years ahead have to accomplish a lot more with a lot fewer resources. As the budgetary belt tightens, it becomes all the more vital that we get our priorities straight and that we use these resources much more efficiently and effectively than they have been used in the past. Our civil servants and diplomats who administer our foreign and defense policies need unambiguous guidance as to what needs to be done to advance the national interest.

I am certain that this specific Presidential priority is strongly shared by an overwhelming bipartisan majority in the Congress. I am sure the Congress will be able to work with the President in pursuit of measures to address this dangerous threat to our Nation.

By all indications, there is a lot of work for us all to do. Now that the President has so clearly articulated the challenge that lies ahead, it is important for Congress to have an equally clear statement of what needs to be done to address that challenge. A key question facing the new Congress must be this: is our Government organized today to meet this challenge?

I believe the answer to this question is decidedly, no, especially with respect to the organization of our national system for processing export licenses for what are called nuclear dual-use goods—items that can be used for civilian purposes or for building nuclear weapons.

To illustrate the problem, I will refer to a major report prepared by the Offices of the Inspector General in the Departments of Commerce, Defense, Energy, and State, dated September 1993, and another study prepared at my request by the General Accounting Office and released by the Committee on Governmental Affairs in May 1994.

Mr. President, I ask unanimous consent to insert at the end of my remarks two detailed committee staff summaries of these reports.

Quoting from the report by the four Inspectors General, here is what they had to say about our system for administering nuclear dual-use export controls:

NO ACCOUNTABILITY

The Energy IG found that Energy's recordkeeping was not in compliance with the Export Administration Act and that Energy's degree of compliance with the Nuclear Non-Proliferation Act could not be determined. The IG report found licensing authorities using their own unwritten criteria to make decisions. They found documentation of the grounds of these decisions to be poor to nonexistent.

SEVERE INTERAGENCY COMMUNICATION PROBLEMS

Defense once had to get Customs to block a shipment of goods that had been licensed by Commerce. The Energy IG found that communications between the export control and intelligence shops at Energy were poor—at one point, an outside facilitator had to be brought in to patch up relations. Some key national security offices have no idea what the Commerce Department is approving for export.

LACK OF FOLLOWUP ON LICENSING DECISIONS

The State IG found that considerable disarray exists in the operation of pre-license and post-shipment checks; the system was haphazard and often ineffective; and the program suffered from insufficient historical records and program tracking. Commerce lacks a strategic plan to conduct such checks; its database is erroneous and misleading and contains numerous errors and misrepresentations. The report documents numerous other problems surrounding the lack of followup on licensing decisions.

SKELETON STAFFS

The reports noted that staffing was thin in the respective agencies, despite the high priority that was supposed to be given to nonproliferation issues.

GRIDLOCK ON THE INFORMATION HIGHWAY

When asked what intelligence database was used in Energy's export control office, a supervisor said, himself; he added that Energy had no structured intelligence data base for licensing use. There are inconsistencies—about 25 percent of licenses surveyed—in the databases of Energy and Commerce, which the Energy IG said call into question the integrity of the export licensing process. Disorganized files at State made information on export trends almost impossible to ascertain.

[Source: The Federal Government's Export Licensing Processes for Munitions and Dual-Use Commodities, Final Report, Offices of the Inspector General at the U.S. Departments of Commerce, Defense, Energy, and State, September 1993, available from Office of the Inspector General, Department of Commerce, (202) 482-1243.]

As for the GAO, here is a summary of what they found about U.S. exports of nuclear dual-use goods:

The U.S. issued 336,000 export licenses between FY 1985-92 for nuclear-related dual-use items—valued at \$264 billion; 54,862 licenses (worth over \$29 billion) were approved for exports to 36 countries of proliferation concern; 24,048 of these licenses were approved for goods going to 8 countries that have sought or are now seeking nuclear weapons. Over 1,500 licenses covered items (worth over \$350 million) going specifically to key players in these bomb programs. (FY 1988-92)

U.S. license approvals have covered goods with uses in nuclear weapons development, weapons testing, uranium enrichment, implosion systems development, and weapons detonation.

Commerce approved 87 percent of dual-use licenses going to controlled countries turning down only 1 in a hundred licenses. (FY 1988-92)

Licenses are being required for fewer and fewer goods: the number of licenses for nuclear dual-use goods dropped 81 percent from FY 1987 to 1992.

The most popular item is computer equipment, which made up 86 percent of all U.S. nuclear dual-use exports between FY 1985-92. Citing new liberalized controls, GAO predicts a substantial decline in license requirements for computers.

Commerce has unilaterally approved the export of dual-use items without referral to other agencies—of licenses sent to Energy, 80 percent are not forwarded for further interagency review. Only Energy and Commerce have full access to all nuclear dual-use license applications.

The U.S. often uses foreign nationals to conduct pre-license and post-export licensing activities. On-site inspections, which are rarely done, also tend to focus on less dangerous items. Inspectors typically lack technical expertise. Commerce has not given inspectors "specific guidance" for conducting inspections.

The U.S. does not systematically verify compliance with government-to-government assurances on the use of nuclear-related dual-use items—GAO.

[Source: "Export Licensing Procedures for Dual-Use Items Need to Be Strengthened," Report to Sen. John Glenn, Chairman of the Committee on Governmental Affairs, U.S. Senate, April 1994, GAO/NSIAD-94-119, available from GAO at (212) 512-6000.]

There is precious little in either of these reports to reassure members of Congress that our system for licensing nuclear dual-use items is up to par. At the very least, the system falls far short of reflecting the high priority that the President has determined should be accorded to halting the proliferation of nuclear weapons, a problem that is constantly aggravated by dangerous exports.

As author of the Nuclear Non-Proliferation Act of 1978, I have long been aware that our nuclear export control process was in need of reform. On May 27, 1993, I introduced S. 1055, a bill that contained many of the proposals I am

introducing today in the Nuclear Export Reorganization Act of 1995. It is useful to note that the reports by the Inspectors General and the GAO were prepared well after I introduced my original bill in 1993—the reports nevertheless underscore the obvious need for major reforms in the nuclear dual-use export licensing process.

In summary, the bill I am introducing today—the Nuclear Export Reorganization Act of 1995—includes improvements in export controls and measures to face up to the challenge of the global plutonium economy.

First, as I have said before on several occasions, we must do more to take the profits out of proliferation. Specifically, I believe the President should have clear and unambiguous authority to impose sanctions against companies that engage in illicit sales of nuclear technology and to require new sanctions against countries that traffic specifically in bomb parts or critical bomb design information. The sanctions provisions—which include a ban on government contracting with firms that materially and knowingly assist other nations to acquire the bomb, and additional severe penalties against nations that traffic in bomb parts or critical bomb design information—were enacted last year as an amendment to the State Department authorization bill. My bill today will remove a sunset clause that was added to this sanctions authority in the last Congress.

Second, I am proposing some significant improvements in the export licensing process. My proposal is designed to be responsive both to the legitimate needs of the exporting community for an efficient and effective licensing process and to the compelling interest of all citizens in protecting our national security.

In particular, the export control reforms would accomplish the following:

1. It would vest authority to issue dual-use export licenses in the Commerce Department, while ensuring that key agencies with national security responsibilities have full rights to review license applications and to oppose approvals when they would be contrary to the country's nuclear nonproliferation interests.

2. It would establish the interagency Subgroup on Nuclear Export Coordination—which has existed in regulatory form for about a decade—as a formal statutory entity within the National Security Council and would endow it with a clear structure and mission.

3. It would ensure timely access by relevant agencies to export licensing data and expand information available to the public about dual-use nuclear exports.

4. It would clarify in law the terms for denying export licenses by adopting a standard that is now applied by 26 major nuclear supplier nations, not just the United States. And consistent with this multilateral standard, there are no loopholes or special country ex-

emptions in the legislation I am introducing today.

5. It would encourage the basic goal of developing in the United States a domestic industry capable of competing in international markets to sell energy technologies that do not contribute to nuclear weapons proliferation.

6. It would establish a mechanism by which private U.S. industry can assist the Government in identifying foreign competitors that are engaging in illicit nuclear sales, and by so doing, assist in the implementation of appropriate sanctions.

7. It would encourage private firms to adopt voluntary codes of conduct to regulate sales activities without active Government intervention.

8. It would upgrade the role of the Department of Defense in reviewing and approving proposed U.S. agreement for nuclear cooperation and proposed exports of U.S. nuclear technology.

9. It would define in law for the first time in U.S. history a term that lies at the heart of all our nuclear nonproliferation efforts, namely, a "nuclear explosive device."

10. It would establish in law specific deadlines on the processing of licenses to export dual-use nuclear items.

11. It would establish an Export Control Bulletin to address the needs of exporters for more detailed information both about the evolution of U.S. nuclear regulations and the nature of the global threat of nuclear weapons proliferation.

12. It would provide a means by which potential exporters can obtain advisory opinions from the Subgroup with respect to activities that may subject exporters to possible sanctions under existing nuclear export control laws.

The bill also includes several findings and declarations by the Congress with respect to growing international commercial uses of plutonium, and a requirement for the President to review and modify, as appropriate, a 1981 policy that served to promote such uses. Ever since 1981, America has been turning a blind eye toward the global proliferation and environmental risks from large-scale commercial uses of weapons-usable plutonium in Europe, Russia, and Japan. It is time for that policy to be reviewed and brought into line with the high priority our country is supposed to be giving to the goal of reducing the risks of nuclear weapons proliferation.

CONCLUSION

Bernard Baruch once said over 45 years ago that "we are here to make a choice between the quick and the dead." Today, I can say that we have several new choices to make, each one potentially affecting the future of this planet. We must choose between leadership and acquiescence, between quick profits and the defense of our national security interests, and between the rule of law and the law of the jungle. The security threat we must collectively address—both politically here at

home and in partnership with other nations—is nuclear war. We have an obligation to do all we can to prevent all forms of nuclear weapons proliferation, and—as in the recent cases of South Africa and Brazil—to work to roll back existing bomb programs wherever they may be.

Mr. President, I will have more to say about the proposed legislation in the months ahead and look forward to working with the new congressional majority and the Administration in ensuring its early enactment. These reforms are long overdue. I encourage my colleagues to join me in this effort to revitalize these key elements of our nonproliferation strategy.

I ask unanimous consent that additional material be printed in the RECORD.

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

SUMMARY OF IG REPORT

The Federal Government's Export Licensing Processes for Munitions and Dual-Use Commodities, Final Report, Offices of the Inspector General at the U.S. Departments of Commerce, Defense, Energy, and State, September 1993, available from Office of the Inspector General, Department of Commerce, (202) 482-1243.

NO ACCOUNTABILITY

The Energy IG found that Energy's record-keeping "was not in compliance" with the Export Administration Act and that Energy's "degree of compliance" with the Nuclear Non-Proliferation Act "could not be determined." Neither Energy nor Defense has written procedures for processing licenses or resolving internal disputes over licenses. There is "no reliable audit trail" at Energy on license decisions. Energy officials used unwritten criteria to review cases, such as the official's own views on foreign policy issues; one Energy analyst said "he conducted a mental examination and did not record the thought processes that he used" in making licensing decisions. Energy IG investigators were told that key documents would be "almost impossible" to find due to the "poor organization" of Energy's files. Such documents "could not be produced" when requested by these investigators. Some referral policies are worked out in an informal interagency group that "does not maintain formal records of its meetings or policies." Commerce computer records are "sometimes changed" with no "reliable record of who made these changes and when they were made."

COMMUNICATION PROBLEMS

Defense once had to get Customs to block a shipment of goods that had been licensed by Commerce. The Energy IG found that "communications" between the export control and intelligence shops at Energy "were poor"—at one point, an outside "facilitator" had to be brought in to patch up relations. Commerce's Census Bureau will not share export data with Commerce's export licensing office. Commerce will not show its licensing manual to other agencies. State IG found State's internal license review procedures "scattered" and "an awkward mechanism." Energy refers most of its licenses to the weapons labs with the least intelligence resources, and the fewest of licenses went to the lab (Livermore) with the most resources. Commerce still does not grant full access to its licensing database to other agencies handling nuclear dual-use exports. The Defense

IG found that DoD licensing officers "need to communicate" more with relevant offices in Defense. State gets a total of 3,000 licenses annually from Commerce, while Energy gets about 6,700 referrals (dealing just with nuclear dual-use items).

LACK OF FOLLOW-UP

The State IG found that "considerable disarray exists" in the operation of pre-license and post-shipment checks; the system was "haphazard and often ineffective"; and the program suffered from "insufficient historical records and program tracking." Commerce lacks a "strategic plan" to conduct such checks; its database is "erroneous and misleading" and contains "numerous errors and misrepresentations." Foreign US posts complain about the lack of information to do the checks, which are sometimes performed by telephone because of a lack of funds. Checks are often done using foreign nationals—at times without even a U.S. escort. While Commerce officials complain of a "dwindling budget" and "budget constraints," some checks have been canceled due to "a lack of funds." Foreign US posts either have not seen or read Commerce's guide on "How To" perform such checks. Several posts kept "very disorganized files" and one kept "no files at all." Checks are typically performed by US officials sent abroad to promote US trade (the Foreign Commercial Service). The Commerce IG found a mere "four percent compliance rate" by exporters with conditions placed on licenses and, due to scarce resources, Commerce "was not taking action" to fix the problem.

THIN STAFFS

Respondents told the Energy IG that Energy's export control staff was "awfully thin"—the IG report said Energy's export control office had "only two individuals" experienced in processing cases . . . and one was leaving. The Defense IG found that Defense's nonproliferation office had just two persons working nuclear export issues. An Oak Ridge manager said his office was often staffed by only two persons due to heavy travel demands. For Energy, the IG estimated that the average time analysis had per license was "substantially less than 40 minutes."

GRIDLOCK ON THE INFORMATION HIGHWAY

When asked what intelligence database was used in Energy's export control office, a supervisor said, "himself"; he added that Energy "had no structured intelligence data base" for licensing use. Energy's information system has a field category for intelligence, but it is always marked "no information." Energy's database is cleared to store very limited classified data—Commerce's system is unclassified. There are "inconsistencies" (about 25% of licenses surveyed) in the databases of Energy and Commerce, which the Energy IG said "call into question the integrity of the export licensing process." One lab scientist called licensing information "a gold mine that's not being mined." Defense's database does not log final agency positions on licenses. Neither of the license databases of Energy and Commerce shows whether or not a good was ever shipped; the Energy database does not even show if licenses were finally approved. Disorganized files at State made information on export trends "almost impossible to ascertain."

FOUR U.S. INSPECTORS GENERAL IDENTIFY SERIOUS PROBLEMS IN U.S. DUAL-USE EXPORT CONTROLS

KEY FINDINGS OF

The Federal Government's Export Licensing Processes for Munitions and Dual-Use Commodities, Final Report, Offices of the In-

spector General at the U.S. Departments of Commerce, Defense, Energy, and State, September 1993, available from Office of the Inspector General, Department of Commerce, (202) 482-1243.

[Note:—SNEC=Subgroup on Nuclear Export Coordination; ECOD=Energy's Export Control Operations Division; EIS=Energy's Export Information System; EAA=Export Administration Act; Energy's ECASS=Export Control Automated Support System; NNPA=Nuclear Non-Proliferation Act; EAR=Export Administration Regulations; LANL=Los Alamos National Laboratory; ORNL=Oak Ridge National Laboratory; FORDTIS=Foreign Disclosure and Technical Information System (the Pentagon's export license database); DTSA=Defense Technology Security Administration; DTC=State's Office of Defense Trade Controls.]

LICENSING PROCEDURE AND POLICY

The Energy IG report "found that the ECOD did not have current written procedures for processing export cases . . . [and] that the ECOD did not retain records documenting the bases for its advice, recommendations, or decisions regarding its reviews of export license cases or revisions to lists of controlled commodities and, therefore, was not in compliance with certain provisions of the Export Administration Act . . . and Energy records management directives." The report also "found that the degree of compliance by Energy with the export licensing review criteria contained in the Export Administration Regulations and the Nuclear Non-Proliferation Act of 1978 could not be determined because ECOD did not retain records documenting the bases for its advice and recommendations on export cases." [C-35]

The Defense IG found that "the DTSA License Directorate uses no formal, written criteria to resolve differences between Component positions . . . licensing officers consistently use . . . informal, unwritten criteria . . ." [B-13]

"This interagency review identified numerous areas in the export licensing processes that could be improved." [5]

"Energy's intelligence capability may not be fully utilized in support of export case reviews." [5]

"The number of dual-use license applications has decreased dramatically over the past five years, from 98,233 in 1988 to 24,068 in 1992." [1]

[On interagency license referrals] ". . . Export Administration officials were unable to provide a master file of the various delegations of authority, nor was there a central location that could be checked to confirm their existence." [15] "While the [internal Commerce] operating manual that is used for referral decisions is to incorporate these delegations and informal decisions, it is not reviewed by the other federal agencies, and the other agencies do not participate in its development . . . various officials of the other agencies had differing opinions in certain instances as to whether there was an agreed to referral policy." [15] ". . . it is clear that there is not full accord among the agencies on the referral criteria." [17] ". . . it is obvious that significant differences on referral procedures still exist between the various federal agencies." [17]

Based on statistics for the nine-month period ending September 30, 1992, the average time to process a non-referred application is nine calendar days. The average time to process referred applications is 50 calendar days. This six-week difference . . . puts pressure on the process to avoid referring cases unnecessarily." [15]

"Resolution of referral issues is important to avoid situations such as occurred in October 1992 when Defense found it necessary to request the U.S. Customs Service to stop shipment of a commodity for national security reasons even though the shipment had been licensed by Commerce." [16]

"Our [Energy IG] analysis indicted that Commerce may have improperly referred eight percent . . . of the cases to Energy." [C-13]

The State IG report found that "the State Department receives for review and comment approximately 3,000 export license applications annually from Commerce" [D-8]; in contrast, the Energy IG report found that "Commerce currently refers approximately 6,700 nuclear dual-use export cases annually to Energy for review." [C-6] In its description of the referral process for nuclear licenses, the State IG report said that "License applications involving nuclear technology and technical assistance requests are sent by Commerce to the Bureau [of Oceans and International Environmental and Scientific Affairs at State] as chair of the Subgroup on Nuclear Export Coordination." [D-9] Note: The contrast between the 6,700 nuclear dual-use licenses sent by Commerce to Energy vs. the grand total of 3,000 licenses (not just nuclear) referred to State is not explained in the IG reports.

The State IG "discovered that the scattered referral process [inside State] is an awkward mechanism for processing and tracking dual-use license applications. . . three bureaus maintain their own files, two of which are manual systems and, as a result, tracking referred license applications at State is difficult. Moreover, information on overall export trends is almost impossible to ascertain." [D-12]

"In two other cases, Commerce determined—without consulting other agencies—that an exporter did not need an individual validated license for the shipment of specified commodities to a proscribed destination. Upon learning of the decisions, Defense disputed the shipment of the goods, and the general license determinations were revoked." [16]

The Defense IG found that the Pentagon's Office of Non-Proliferation Policy ". . . has two managers, one action officer for missile technology, two for nuclear issues, and two for chemical and biological issues." [B-7]

"In view of the number [about 6700] of nuclear dual-use export cases that were referred to ECOD annually and the relatively small staff assigned to review them, the average amount of time that would be available for an analyst to review a case is very limited. Not taking into account time off for annual leave, sick leave, training, travel, or other activities, we estimated that a maximum of 40 minutes per case would be available." [C-11] ". . . the ECOD export control analysts had, on the average, a maximum of 40 minutes to review each nuclear dual-use export case. The actual average time spent on a case is probably substantially less than 40 minutes." [C-20]

". . . according to ECOD and Energy national laboratory personnel, the ECOD is awfully thin' in terms of experienced export analysts who can process export cases in an effective and timely fashion. ECOD and laboratory personnel told us that the loss of two of the key export analysts in the ECOD would cause the Department 'severe problems'." [C-20]

The Energy IG report found that: "At the time of our review, only two individuals in ECOD, the Export Control Supervisor and an export control analyst, were experienced in processing export cases. We learned that the Supervisor was subsequently detailed from

ECOD, leaving only one individual experienced in processing cases. We believe that the lack of experienced analysts in ECOD and the lack of current procedures on 'how to' process export cases could possibly lead to errors in the processing of export cases and a longer review cycle for cases referred to Energy." [C-36]

"The Export Control Supervisor [at Energy] also used considerations in his review that had not been formally established at ECOD as criteria for the review of export cases. For example, the Supervisor said that he included available intelligence in his review . . . [and] he also considered foreign policy and national security issues. According to the Supervisor, he had training and expertise in those two areas." [C-12]

"Regarding the Letters Delegating Authority, an ECOD export control analyst said that the ECOD did not have a central file of the letters in the office's administrative files. When asked to provide us copies of the letters from other files in the office, the export control analyst said that the task to retrieve the letters would be 'almost impossible' given the poor organization of the ECOD's files." [C-17]

" . . . an analyst at LANL explained that the Critical Technology Group (IT-3) had only one individual with time available to read all the intelligence information received . . . [an ORNL manager] explained that his office at times was staffed with only two individuals because personnel were required to travel frequently. He added that even when the office was fully staffed, the personnel were not able to process all the available intelligence information." [C-25] Analysts at both LANL and ORNL told Energy IG investigators that they "did not have the necessary resources to analyze all the intelligence information" they received from Energy. [C-25]

The Energy IG found that although "LLNL had the most intelligence resources," of the 500 cases that Energy referred to the labs, 200 went each to ORNL and LANL, and only 12 went to LLNL (with the rest going to other labs). "Although LLNL, we believe, has resources to conduct the most complete intelligence analysis, LLNL received the fewest number of export cases. In contrast, LANL and ORNL received the bulk of the cases referred to the laboratories, but had fewer resources to analyze proliferation intelligence." [C-25]

"An analyst in IN-10 [Energy intelligence office] discussed additional problems in providing intelligence support to AN-30 [license review office]. The analyst said that IN-10's limited resources at Energy Headquarters and broader mission of proliferation analysis prevented IN-10 from being involved specifically with export control analysis." [C-28]

The State IG report found that ". . . problems still exist regarding procedures for coordinating referred dual-use cases from the Commerce Department and the management of the Blue Lantern program for end-use checks . . . Although the Blue Lantern program for prelicense and postshipment end-use checks has improved steadily since its inception in September 1990, considerable disarray exists in its operations at most of the 11 posts visited during the review." [D-2]

INFORMATION/COMMUNICATION PROBLEMS

"When asked upon what intelligence 'data base' the ECOD depended, the ECOD Export Control Supervisor said 'himself.'" The Energy IG investigators further reported that this supervisor "believed that talking with . . . three or four people whom he usually contacted for intelligence 'had no . . . substitute'. Additionally, he said that these contacts were the 'only people whom he trusted' to provide export-related intelligence." [C-27]

"The ECOD Export Control Supervisor . . . [told Energy IG investigators] that ECOD had no structured intelligence data base to use in support of export case reviews. He said that Energy's automated Export Information System (EIS) had a field for intelligence, but the field always reflected "no information" available. He explained that ECOD had no process in place or no dedicated employee to update the intelligence field in the EIS. He also said that the EIS was only authorized to process information classified SECRET and below. Furthermore, he said that most of the intelligence useful to the ECOD for export cases had a higher classification than SECRET, or was subject to limited distribution." [C-27]

"Currently, each agency now has on-line access [to the ECASS] to a limited degree. Each agency's access to the ECASS system varies as to which cases they can view, what information is available, and when they can view it. Consequently, it would seem desirable that in the long term, expanded access to and use of the ECASS system by all involved agencies could enhance the effectiveness of the licensing review process. In addition to providing greater assurance that the most current data is being reviewed, increased access by the agencies can enhance their ability to effectively review applications. For example, it would permit agencies to identify patterns and other trends of exporting which might have a significant bearing on their decisions." [20]

" . . . the databases at Commerce and Energy showed inconsistencies in almost a quarter of the dual-use nuclear export cases in our sample (14 of 60)." [5]

The Defense IG found that "Even through the DTSA had the information available, it did not update the FORDTIS with the final U.S. Government decision on munition and dual-use applications . . . We did not find a final U.S. Government position in any of the FORDTIS files for our sample of 60 dual-use applications." [B-16]

The Defense IG found that "The DTSA licensing officers need to communicate to affected DoD Components the results of unilateral actions taken on applications." [B-18]

According to the Energy IG report, several analysts noted a "lack of cooperation" between the export control and intelligence offices at Energy; according to the report, "the analysts' general consensus was that communications between AN and IN were poor." [C-27]

"We found that, because most of the Energy national laboratories lack access to information available on all export cases reviewed by Energy, Energy may not be receiving the maximum benefit of the technical and analytical capabilities of the laboratories in the review of export cases." [C-21]

The Chief Scientist of the Livermore National Laboratory's Z Division told Commerce IG investigators that export licensing information was a ". . . a gold mine that's not being mined." [C-22]

"The EIS . . . currently does not include information on whether a commodity was approved/disapproved, and if approved, was purchased and shipped." [C-23-24]

The Energy IG report stated that "According to the Director, Office of Information Resources Management, Commerce, the ECASS did not contain information concerning the purchase and shipment of commodities approved for export. The Director said that the Bureau of Census, Commerce, received the 'Shippers Export Declaration' from the U.S. Customs Service, Department of Treasury, which contained purchasing and shipment information. He said that the Bureau of Census, Commerce, however, did not provide this information to the Bureau of Export Admin-

istration, Commerce, which managed the ECASS." [C-31]

The Energy IG investigators stated that they believe ". . . that the lack of information concerning the final disposition of export license applications may limit Energy's ability to provide assessments and analyses . . . the lack of information may limit Energy's ability to provide expert technical and analytical capability to other agencies within the intelligence community and to produce and disseminate foreign intelligence in support of the Department." [C-31]

We found inconsistencies in license application data for the same cases in the separate export licensing data bases maintained by Commerce and Energy. Specifically, we found differences in the data bases for 23 percent (14 of 60 export license cases) of the sample nuclear dual-use export cases that we reviewed." [C-32] The Energy IG report concluded that "we believe that inconsistencies in agency records . . . could be detrimental to the government's position in responding to an appeal of a license application decision or a court challenge of the government's decision. We also believe that differences in the records maintained by the agencies involved in a license application decision call into question the integrity of the export licensing process. We believe that changes in licensing data, which are not passed by Commerce to agencies reviewing license applications, could potentially result in improper referrals and erroneous licensing decisions, as well as lessen the value of any analyses and reports based upon the records." [C-34]

VERIFICATION AND ENFORCEMENT

"Energy does not have the information maintained by Commerce and State regarding the final disposition of export cases referred to Energy." [5]

"Pre-license checks are used to verify end-user information prior to the issuance of a license; post-shipment verifications are used to verify compliance with the terms of a license. Both programs at Commerce lack a strategic plan for carrying out the programs' objectives. We also identified problems with the way the checks are being conducted." [3] "Many of the overseas posts believe they need more information to effectively perform checks and verifications. Finally, the database information for both activities was often erroneous and misleading. As a result, there is no assurance that either the pre-license checks or the post-shipment verifications are as effective as they should be." [A-2] Commerce officials "expressed concern that they did not have the needed resources to fully accomplish" the report's recommendations on improving compliance with conditions on licenses; Commerce officials agreed to seek improvements "within their budget constraints" and "in light of their dwindling budget." [A-2]

"Export Administration's database tracks the progress and status of pre-license checks. Our review found numerous errors and misrepresentations with the pre-license check information contained in the database. This is due to a combination of initial mistakes by Enforcement Support staff and the inability to correct errors once they are identified . . . there is no assurance that statistics and information derived from the database are reliable." [A-16] "For three countries we visited, 64 pre-license checks were requested from January 1, 1992 to September 30, 1992. For 12 (19 percent), the status of the check (favorable, unfavorable, canceled, pending) was misidentified. Several checks that had been canceled and never performed were listed on the printout as 'favorable' . . . The relative high error rate calls into question the reliability of any statistics generated from

this system and provides misleading information for licensing decisions." [A-16] The Commerce IG found that "... canceled checks are counted as completed checks." [A-16]

"Post-shipment verification information maintained in a separate database also contained errors . . . [the cases reviewed by the Commerce IG] represent an error rate of 21 percent." [A-16, 17]

"There is no strategic plan with stated objectives and priorities for conducting random testing within the checks and verification programs. Without such a plan, there is no assurance that the random checks and verifications are obtaining the maximum benefits for the programs. Without stated objectives, the effectiveness of the programs is difficult to measure. In fiscal year 1992, 132 requested pre-license checks were canceled for a variety of reasons, including a lack of funds. There is no assurance that these were low priority cases." [A-14]

"Enforcement Support [at Commerce] published the guide 'How to Conduct Pre-License Checks and Post-Shipment Verifications' in August 1992. However, almost all the posts we visited had either not received it or not read it at the time of our visit . . ." [A-14]

"Six of the 11 posts used foreign . . . nationals (Commerce employees who are not U.S. citizens) to conduct pre-license checks even though Export Administration guidance strongly discourages it. Five of the posts used foreign . . . nationals for post-shipment verifications. The new Export Administration guidance prohibits foreign service nationals from performing these verifications except under extraordinary circumstances." [A-15]

"Five posts conducted pre-license checks by telephone because they lacked funds for on-site visits." [A-15]

"Three posts kept very disorganized files for pre-license checks and post-shipment verifications (all papers were filed in one folder), and one post kept no files at all." [A-15]

"The commercial officers also wanted to know how they could recognize potential or actual improper usage of the particular product they were to review. For example, one of the commercial officers indicated that performing post-shipment verifications on chemicals is very difficult; the barrels shown could be full of water, and the officers would never be able to tell the difference." [A-15]

"The lack of detailed information contained in the cables requesting pre-licensing checks and post-shipment verifications makes the program less effective and results in wasted time and money." [A-16]

"The team found that Commerce does not maintain sufficient documentation to provide a reliable audit trail of the actions taken on applications." [2] ". . . there is no reliable audit trail for the actions taken on the applications." [A-8] [A-14]

"Checks and verifications are usually performed by Commerce's U.S. and Foreign Commercial Service." [A-13] [Note: This enforcement role contrasts with the export promotion role of the FCS as highlighted in the United States Government Manual of 1993/4; according to this manual, the Director General of the FCS ". . . supports overseas trade promotion events; manages a variety of export promotion services and products; promotes U.S. products and services throughout the world market; conducts conferences and seminars in the United States; assists State and private-sector organizations on export financing; and promotes the export of U.S. fish . . ."]

"Individual validated dual-use licenses are frequently issued with conditions that exporters must comply with for the license to be valid . . . Our review of documentation

sent in by exporters disclosed only a four-percent compliance rate with that requirement. In addition, Commerce was not taking any action to contact exporters who failed to submit the required information. Consequently, Commerce officials cannot assure that exporters have complied with conditions placed on licenses." [3] "Furthermore, not all licenses that required follow-up action to monitor compliance with conditions were included in Export Administration's tracking system. As a result, Export Administration's management does not have reasonable assurance that exporters have complied with conditions placed on licenses." [A-2] [and A-10] ". . . Export Administration officials do not have reasonable assurance that exporters have complied with the conditions placed on licenses. Equally troubling is the likelihood that a substantial number of licenses requiring exporter follow up are not even in the tracking system." [A-12]

In response to Commerce IG concerns about the lack of follow-up on license conditions, Commerce licensing officials "expressed concern that they did not have the needed resources to follow up on all conditions as the report suggests inasmuch as 100 percent auditing is extremely difficult and not cost effective." [A-12]

"Although there are currently 36 standard conditions [applied to licenses], only 11 require the exporter to provide information to Export Administration. These 11 conditions are the only ones to appear in the follow-up system . . . [the rest] are not monitored [by Commerce]." [A-10, 11]

The NRC ". . . must be informed about applications for exporting certain nuclear-related commodities to specific countries. Our review [by the Commerce IG] identified two cases that were not processed in accordance with this policy." [A-19]

Of the 3,133 "outstanding licenses" in the "follow-up queue" of licenses requiring monitoring by Commerce, "only 123 (4 percent) of the cases had exporters provided documentation to confirm that they had complied with the license's conditions. In addition, exporters submitted information on 313 cases that were not on the list. This may imply that the follow-up queue should contain substantially more than the 3,133 cases in our print-out." [A-11] The Commerce Operations Branch director "contended that the branch was never officially assigned the responsibility for following up on conditions" attached to licenses. [A-11]

"Export Administration officials agreed that our findings [i.e., Commerce IG's findings on pre-license and post-shipment activities] address an import issue in light of their dwindling budget." [A-17]

Concerning the State Department's Blue Lantern program [verifying the bona fides of customers of goods licensed by State, including nuclear-related items on the Munitions List], the State IG ". . . found that improvement are still needed in program management and implementation, especially in conducting end-use checks. DTC is unable to evaluate the effectiveness of Blue Lantern operations overseas or even to identify all the designated Blue Lantern officials because of insufficient historical records and program tracking. We found that the overseas operations are haphazard and often ineffective, largely because of uncertainty about the role of various post officials and inadequate record keeping . . . DTC was unable to provide us with a current and complete list of Blue Lantern officials in preparation for fieldwork overseas" [D-14, 15]

The State IG found that the State Department (like the Commerce Department) uses foreign nationals to conduct export verification activities. The IG's report found that "Blue Lantern checks at many of the posts

we visited were being conducted inefficiently . . . [U.S. Customs] has generally been delegated the Blue Lantern responsibility. In response to a Blue Lantern request, Customs officials most often relay the request to the foreign government customs officials who would then investigate the transaction and inform U.S. Customs of the result." [D-15]

ACCOUNTABILITY

"ECOD personnel *could not provide us documentation that they followed the written procedures in the EAR, NNPA, and Energy guidelines regarding export licensing activities.*" [C-20]

"While we found no evidence of inappropriate or incorrect recommendations by Energy, the Export Control Operation Division *does not retain records* to show the basis for its advice, recommendations, or decisions or to justify its changes to the lists of controlled commodities. *The division is therefore not in compliance with certain provisions of the Export Administration Act of 1979 . . . and with records management directives from Energy.* As a result, *it was not possible to determine the extent to which Energy used the criteria in the Export Administration Regulations and the Nuclear Non-Proliferation Act of 1978 in making licensing recommendations.* In addition, the Export Control Operation Division *did not have current written procedures* for processing export cases." [5] [Also see C-14]

". . . Energy maintains its records of export cases processed by the ECOD in the Export Information System (EIS). We determined, however, that *the EIS does not contain information concerning the factual or analytical bases for Energy's advice, recommendations, or decisions regarding export cases.* We further found that the ECOD *did not have current written procedures* for processing export cases." [C-18]

The Commerce IG investigators ". . . believe that the records [in Energy's Export Information System (EIS)] lack certain required information. Specifically, the *EIS did not contain information concerning the 'factual and analytical basis' for Energy's 'advice, recommendations or decisions' regarding the export cases.*" [C-15] "An ECOD [Energy] export control analyst said that *he destroyed paper copies of information that he received or wrote pertaining to export cases . . .* He also said that he lacked the time and space to file and retain documents regarding the cases. He said that *technical specifications . . . were examples of paper records that he destroyed.*" [C-16]

We could not conclusively determine if the ECOD export control analysts considered the Part 778.4 factors in their review of export cases. ECOD analysts said that they had no records to document that they applied the Part 778.4 factors to their analyses of export cases in determining the significance of the commodities for nuclear explosive purposes. One ECOD export control analyst said that, although he considered the Part 778.4 factors in processing export cases, *he conducted a mental examination and did not record the thought process that he used in making his determinations.*" [C-18, 19]

"*We also could not determine conclusively if the Energy national laboratories considered the Part 778.4 factors in reviewing export cases . . .* According to an ECOD export control analyst, the laboratories are not required to address the Part 778.4 factors for their technical reviews of export cases . . . Laboratory personnel . . . told us that they use the export factors in Part 778.4 of the EAR to review the cases . . . Personnel at two of the three Energy national laboratories that we visited said that they probably did not retain documentation regarding the bases of the advice and recommendations that they provided to the ECOD on export cases." [C-19]

"We could not conclusively determine if ECOD personnel considered the NNPA criteria in their decisions to refer export cases to the SNEC. Based on a limited review of records in the EIS, we determined that the EIS did not contain records regarding the factual or analytical bases for recommendations to refer export cases to the SNEC. The ECOD Export Control Supervisor said that he made a mental determination whether a case should be referred to the SNEC by applying the criteria cited above . . . He said that no record was generated by the EIS regarding the basis for his referral [to the SNEC] and that he made no paper copy of his analysis." [C-19]

The Commerce IG investigators found that Energy's record-keeping procedure which only requires retention of relevant export licensing records for two months "is not consistent with" the requirements of the Export Administration Act (EAA), which requires Energy to retain the "analytical basis" for its license recommendations. [C-16]

One ECOD [Energy] export control analyst, according to Commerce IG investigators, said that he obtained recommendations on licenses from the national laboratories but that "he did not enter the bases for the laboratories' recommendations" into the Energy license database; after entering the labs' recommendations, the analyst "destroyed any documentation that the laboratories provided" and the analyst "did not retain records" of telephonic responses by the labs. [C-16]

"During an interview with the Director, ECOD [Energy's Export Control Operations Division], we asked for a copy of the Division's Records Inventory and Disposition Schedule. The Director, ECOD, was not aware that ECOD had a Records Inventory and Disposition Schedule." [C-16]

"We asked ECOD personnel to provide specific documents [e.g., memos pertaining to letters delegating review authority, National Security Directive 53 on procedures for processing cases, and the latest revisions of commodity control lists] that, in our opinion, should have been retained in accordance with the provisions of the EAA . . . [several] "could not be produced by ECOD personnel from their records." [C-16]

"We could not determine the degree of compliance by Energy with the export licensing review criteria contained in the Export Administration Regulations (EAR) and the Nuclear Non-Proliferation Act of 1978 (NNPA) because the Export Control Operations Division (ECOD) did not retain records documenting the bases for its advice and recommendations on export cases."

"Agency officials also advised us that some of the referral policy [for interagency reviews of licenses] incorporated in the manual is based on the decisions of an informal interagency working group consisting of representatives of Commerce, Defense, Energy, State, the National Security Agency, and the Arms Control and Disarmament Agency. We were informed that this working group does not maintain formal records of its meetings or policies." [15]

"[Commerce IG found that] Commerce does not maintain sufficient documentation for the export license applications received and for subsequent licensing actions taken. As a result, audit trails for the actions taken on applications are often incomplete." [A-1]

"The team found that Commerce does not maintain sufficient documentation to provide a reliable audit trail of the actions taken on applications." [2] ". . . there is no reliable audit trail for the actions taken on the applications." [A-8]

"The computer record of the application is sometimes changed by Export Administration during the review process . . . While

there may be valid reasons for these changes, the current documentation of the process does not provide a reliable record of who made these changes and when they were made. There is no permanent record of what was originally submitted by the applicant or of daily transactions by Export Administration officials." [A-8]

"The Blue Lantern process at a number of the posts we visited was haphazard and inadequately documented. Blue Lantern officials at three of the posts visited did not keep files or records of their Blue Lantern checks or other program activities. In addition, most of the posts did not have complete sets of the DTC Blue Lantern guidance readily available." [D-16]

WEAKNESSES IN THE LAWS AND REGULATIONS

"While the Export Administration Act gives decision-making authority for dual-use license applications to Commerce and seems to encourage that this be done with limited referral to other agencies, certain sections of the act impact on this authority. At best, the statute is somewhat ambiguous . . . we recommend that the respective roles of the various agencies involved in the dual-use export licensing process be clarified in reauthorizing the Export Administration Act." [6]

". . . there is still disagreement among most of the agencies regarding which applications should be referred for comments. Until this issue is resolved, the agencies will not have adequate assurance that the license review process is working as efficiently and effectively as it should . . . the underlying problem is the unclear and apparently conflicting guidance given to the process by legislative mandates and Presidential directives . . . there is no ongoing process to resolve the differing views on what to refer." [2]

[Commerce should] "Report to the Congress the cases referred to the Sub-Group on Nuclear Export Coordination when the cases are delayed more than 120 days." [A-7]

"Part 778.4 of the EAR does not specifically direct Energy to consider these factors." [C-10] [Note: This pertains to specific nonproliferation-related "factors" that licensing officials are supposed to consider when reviewing applications to export nuclear dual-use goods.] "Part 778.4 does not specifically identify what agency will use the factors in reviewing export cases." [C-18]

". . . we asked each individual in ECOD who we interviewed if ECOD had formal procedures for processing export cases. None of the ECOD personnel replied that ECOD had such procedures . . ." [C-20]

After reviewing deficiencies in Energy's use of intelligence information in reviewing licenses at Energy Headquarters, the Energy IG report concluded that "if AN [Energy's export license review office] is reducing its emphasis on intelligence in reviewing export cases, we believe that AN management should clearly state this policy." [C-29]

SUMMARY OF GAO REPORT

"Export Licensing Procedures for Dual-Use Items Need to Be Strengthened," Report to Sen. John Glenn, Chairman of the Committee on Governmental Affairs, U.S. Senate, April 1994, GAO/NSIAD-94-119, available from GAO at (212) 512-6000.

The U.S. issued 336,000 export licenses between FY 1985-92 for nuclear-related dual-use items—valued at \$264 billion.

54,862 licenses (worth over \$29 billion) were approved for exports to 36 "countries of proliferation concern."

24,048 of these licenses were approved for goods going to 8 countries that have sought or are now seeking nuclear weapons . . . over 1,500 licenses covered items (worth over \$350 million) going specifically to "key players" in these bomb programs. (FY 1988-92)

U.S. license approvals have covered goods with uses in nuclear weapons development, weapons testing, uranium enrichment, implosion systems development, and weapons detonation.

Commerce approved 87% of dual-use licenses going to controlled countries . . . turning down only 1 in a hundred licenses. (FY 1988-92)

Licenses are being required for fewer and fewer goods: the number of licenses for nuclear dual-use goods dropped 81% from FY 1987 to 1992.

The most popular item is computer equipment, which made up 86% of all U.S. nuclear dual-use exports between FY 1985-92. Citing new liberalized controls, GAO predicts "a substantial decline" in license requirements for computers.

Commerce has "unilaterally approved" the export of dual-use items without referral to other agencies—of licenses sent to Energy, 80% are not forwarded for further interagency review. Only Energy and Commerce have full access to all nuclear dual-use license applications.

The U.S. often uses foreign nationals to conduct pre-license and post-export licensing activities. On-site inspections, which are rarely done, also tend to focus on less dangerous items. Inspectors "typically lack technical expertise." Commerce has not given inspectors "specific guidance" for conducting inspections.

The U.S. "does not systematically verify compliance with government-to-government assurances on the use of nuclear-related dual-use items"—GAO.

WEAKNESSES IN U.S. NUCLEAR EXPORT CONTROLS

KEY FINDINGS OF

"Export Licensing Procedures for Dual-Use Items Need to Be Strengthened," Report to Sen. John Glenn, Chairman of the Committee on Governmental Affairs, U.S. Senate, April 1994, GAO/NSIAD-94-119, available from GAO at (212) 512-6000.

SUMMARY: U.S. EXPORTS OF NUCLEAR DUAL-USE GOODS

Total Nuclear Dual-Use items approved in 336,000 licenses issued (in FY 1985-92): \$264 billion.

Items going to *controlled countries* (FY 1985-1992): \$29,046,890,812.

Items going to *sensitive facilities in 8 countries* (FY 1988-1992): \$350,010,337.

In 1,508 licenses approved by the U.S. Government, for items going to: Argentina—\$12.9 million; Brazil—\$109 million; India—\$19.7 million; Iran—\$0.9 million; Iraq—\$4.1 million; Israel—\$193 million; Pakistan—\$2.1 million; and South Africa—\$6.7 million.

SPECIFIC EXAMPLES OF U.S. LICENSE APPROVALS

[Note.—SNEC=Subgroup on Nuclear Export Coordination, an interagency forum for reviewing nuclear dual-use goods; members are State, ACDA, Defense, Energy, Commerce, and the NRC; NRL=Nuclear Referral List, which identifies nuclear dual-use goods that require an export license; PLC="pre-license check" on bona fides of end users; PSV="post-shipment verification" of peaceful end use.]

"In late 1989, the U.S. government approved a license to a military end user in Pakistan for two four-axis grinding machines capable of manufacturing critical nuclear weapons components. According to the Department of Energy's Nuclear Proliferation Watch List, the end user is involved, among other things, in sensitive nuclear activities, such as the design, manufacture, or

testing of nuclear weapons or production of special nuclear materials." [29] "The decision to approve the grinding machines, valued at \$1.5 million, came after the SNEC had recommended denial of less valuable NRL licenses to the same end user . . . The SNEC had recommended denial of these licenses on grounds that there was an unacceptable risk of diversion to nuclear proliferation activities." [29] The license was approved "on the condition that the exporter provide the SNEC with periodic reports of the status of the item; however, according to Commerce officials, no such reports have ever been provided." [29]

"During fiscal years 1988 to 1992, the United States issued 238 licenses for computers to certain Israeli end users linked to the unsafeguarded Israeli nuclear program . . . [including some that] were also more powerful than those used to develop many of the weapons in the U.S. nuclear arsenal." [30] "For 62 of the 238 licenses, the United States received government-to-government assurances against nuclear use . . . although the U.S. government has not verified compliance." [30]

"The U.S. government approved 23 licenses during fiscal years 1988 and 1989 for computer equipment to end users later determined by the United Nations to be involved in Iraq's nuclear weapons program . . . [specifically including] Iraqi state establishments involved in uranium enrichment activities. According to a U.S. government assessment, Iraq may have made use of such computers to perform nuclear weapons design work, as well as to operate machine tools which may have been used in fabricating nuclear weapons, centrifuges, and electromagnetic uranium enrichment components . . . At the time these licenses were approved, only the Iraqi Atomic Energy Commission was identified as a sensitive end user; other Iraqi state establishments were not identified as potentially involved in nuclear weapons activities." [30-31]

"The United States approved 33 licenses to a nuclear research center in India that operates an unsafeguarded reactor and unsafeguarded isotopic separation facilities . . . [according to the CIA director] the center is also involved in thermonuclear weapons design work . . . [The US] also approved six licenses involving NRL items such as computers and equipment for ammonia production for Indian fertilizer factories [that] make heavy water as a by-product. . . ." [31]

Between fiscal years 1988 and 1991, GAO identified "two cases where Commerce approved licenses even though a majority of other SNEC agencies had voted that they be denied." [36-37] The cases involved a flash X-ray system going to an "end user suspected of engaging in proscribed nuclear activities" and a computer "to an end user which at the time was a known diverter." [37]

SCOPE OF U.S. SALES

"During the past several years, the Department of Commerce approved a significant number of nuclear-related dual-use export licenses for countries that pose a proliferation concern—the 36 countries on the Special Country List." [17]

"From fiscal years 1985 to 1992, the United States issued about 336,000 nuclear-related dual-use licenses for exports valued at \$264 billion. Of these, about 55,000 (16 percent) were for items valued at \$29 billion exported to the 36 countries that the United States has identified as posing a potential proliferation concern." [3] "Computers accounted for 86 percent on nuclear-related dual-use licenses to these 36 countries." [3]

"During the 8-year period, Commerce approved 87 percent of such [nuclear-related

dual-use] licenses to Special Country List destinations, denied 1.2 percent, and returned 11.8 percent without action (meaning that the exporter failed to provide sufficient information or withdrew the application, or Commerce determined that the item did not require a validated license)." [18] "This approval rate was only slightly lower than that for all countries—on average, Commerce approved 89.1 percent of nuclear-related dual-use licenses during this period, denied 1.5 percent, and returned 8.9 without action." [18]

"Of the 92 categories of items listed in the Export Administration Regulations since fiscal year 1985 as controlled for nuclear proliferation reasons, 59 were licensed to Special Country List destinations between fiscal years 1985 and 1992. Worldwide, 67 of the 92 NRL items were licensed during this period." [19]

" . . . over 1,500 nuclear-related dual-use licenses were approved by the U.S. government to end users in these countries involved or suspected of being involved in nuclear proliferation activities. Some licenses involved technically significant items or facilities that have been denied licenses in other cases because of the risk of diversion to nuclear proliferation purposes. These approvals, although generally consistent with U.S. policy implementation guidelines, do present a relatively greater risk that U.S. exports could contribute to nuclear weapons proliferation." [24]

[U.S. nuclear-related dual-use goods were approved for export to] . . . end users [that] have been or are suspected to be key players in their countries' nuclear weapons programs." [29] "Although most of the licensing decisions for the eight countries we reviewed were in accord with the goal of minimizing proliferation risk, we did identify a number of licenses that were approved for exports to end users engaged in, or suspected of being engaged in, nuclear weapons proliferation." [27]

" . . . of the 24,048 licenses approved for these eight countries [Argentina, Brazil, India, Iran, Iraq, Israel, Pakistan, and South Africa], 1,508 (6 percent) were for end users involved in or suspected of being involved in nuclear weapons development or the manufacture of special nuclear materials . . . [including] sensitive end users that have played key roles in their countries' nuclear weapons development programs and for which U.S. officials have denied a large number of dual-use licenses." [4] [Also see table on page 28.] "Generally, the end users for these 1,508 licenses were government agencies, research organizations, universities, and defense companies that, while participating in proscribed and/or unsafeguarded nuclear activities, are also engaged in other activities." [28]

"During this period [fiscal years 1988 to 1992], the United States reviewed 27,567 nuclear-related dual-use license applications for the eight countries [Argentina, Brazil, India, Iran, Iraq, Israel, Pakistan, and South Africa] and approved 24,048 or approximately 87 percent . . ." [25] [Note: according to data on page 25, only one percent—one license in a hundred—were officially denied.]

"The volume of licenses of NRL items has declined since fiscal year 1987 . . . License applications for computer exports should further decline in the future because of additional liberalization steps." [17] "The number of NRL licenses worldwide declined 81 percent from fiscal years 1987 to 1992, compared with a 65-percent drop in NRL licenses to Special Country List destinations . . ." [21]

" . . . the liberalization in computer licensing requirements has had the greatest impact [on the drop in licensing requirements];

computers represented 92 percent of the decline in licenses for NRL items to Special Country List destinations and 86 percent of the decline for all countries." [23]

"On October 6, 1993, the Commerce Department published an interim rule further easing licensing requirements for computer exports . . . This new policy will almost certainly result in a substantial decline in the number of computer license applications. We estimate that if these policy changes had been in effect in fiscal year 1992, there would have been approximately 86 percent fewer license applications for computer exports to countries on the Special Country List." [23]

"Computers account for the largest share of nuclear-related dual-use licenses. Between fiscal years 1985 and 1992, 86 percent of such licenses approved to Special Country List destinations involved computers and computer-related equipment, compared with 77 percent for all countries." [18]

"The NRL items most commonly licensed have a variety of applications for nuclear weapons development, including weapons testing, uranium enrichment (isotopic separation), implosion systems development, and weapons detonation. According to Energy officials, these items are in greater demand than the rest of the NRL because they have wide civilian applications." [20] "In contrast, NRL items with relatively few nonnuclear uses were approved in small numbers or not at all, especially to Special Country List destinations." [20]

LICENSING PROCEDURES AND POLICIES

"The Commerce Department did not always refer nuclear-related dual-use license applications to the Department of Energy as required by regulations. From fiscal years 1988 to 1992, *Commerce unilaterally approved the export of computers and other nuclear-related items to countries of proliferation concern*, even though these licenses should have been referred to Energy. Commerce also approved without Energy consultation numerous licenses for other items going to end users engaged in nuclear weapons activities, despite regulations requiring referral of such licenses." [4]

"[From fiscal years 1988 to 1992], *Energy did not forward to the Subgroup on Nuclear Export Coordination about 80 percent of the licenses it received from Commerce for end users of nuclear proliferation concern* . . . [including goods] intended for end users suspected of developing nuclear explosives or special nuclear materials." [4-5] "We found that the Commerce Department did not always send to Energy all those licenses requiring referral and that Energy recommended approval of a majority of licenses for end users engaged in nuclear weapons activities without subjecting them to interagency review." [33]

"From fiscal years 1988 to 1992, Commerce decided without Energy consultation about 50 percent of the 34,281 nuclear-related dual-use license applications to Special Country List destinations. Of the licenses Commerce referred, *Energy made recommendations to Commerce on about 93 percent without subjecting them to interagency review.*" [36]

From October 1987 to May 1992, "Commerce approved about 130 licenses for NRL items going to Special Country List destinations without obtaining Energy review, even though no Energy delegations of authority applied." [37] "In addition to the NRL licenses, Commerce approved without Energy review nearly 1,500 licenses for non-NRL items going to end users on Energy's Watch List, even though regulations require Energy review of non-NRL licenses involving nuclear end users." [37] "*Of these licenses, about 500 were for sensitive end users.*" [37]

... Defense and Arms Control and Disarmament Agency representatives to the Subgroup identified a number of licenses that they believed warranted interagency review but were not placed on the Subgroup's agenda." [5] [See also p. 33.] "Defense and ACDA officials stated that not all nuclear-related dual-use licenses that could be of concern to various SNEC agencies are being referred to the SNEC. In addition, Defense and ACDA officials said they have only a limited ability to hold Energy accountable for its licensing recommendations because they lack access to licensing information." [40] "They believe Energy has a policy perspective that could lead it to recommend approval of some licenses that Defense and ACDA want denied." [40]

Of the licenses between March 1991 and July 1992 that involved interagency disagreements, "Defense and ACDA voted at the SNEC for denial 63 and 50 percent of the time, respectively, while Energy voted for denial 47 percent of the time, Commerce 13 percent, and State 8 percent." [40] *Energy and Commerce* "... are the only agencies with access to all nuclear-related dual-use license applications." [41] Other agencies are "limited in their ability to hold Commerce and Energy accountable for their licensing decisions because they rarely are given information on licenses decided without interagency review." [41]

Energy cites "resource constraints" as a reason why it does not regularly notify the SNEC about licenses the Department has approved—"Energy has not provided the NSEC with information on licenses approved without SNEC review since October 1991." [41]

From fiscal years 1988 to 1992, "Energy referred to the SNEC only 26 percent of the license applications it received from Commerce for end users listed as sensitive on its Nuclear Proliferation Watch List. Of the licenses not referred by Energy, 79 percent were ultimately approved, less than 1 percent were denied, and the remainder were generally returned without action." [39]

... [SNEC agencies] are limited in their ability to influence which licenses Energy selects for interagency review and are unable to hold Commerce and Energy accountable for their review decisions because they lack consistent access to licensing information." [5]

In February 1992, Defense proposed in the SNEC that Energy should refer to the SNEC all licenses involving goods controlled under the Nuclear Suppliers Group guidelines going to certain countries not in the Group; the SNEC, however, did not accept this proposal, due to opposition from Commerce, State, and Energy. Defense also proposed that Energy share with the SNEC information on all approved licenses that were not reviewed by the SNEC—but SNEC rejected this proposal as well. [41]

Commerce opposes ACDA's proposal to refer to the SNEC all licenses that Commerce refers to Energy. [41]

... in certain circumstances licenses will be approved for Special Country List destinations even if the end user is involved in proscribed or unsafeguarded nuclear activities ... [25]

"In some instances, decisions to approve licenses for sensitive end users were also influenced by special country considerations—for example, the close bilateral relationship between the United States and Israel." [28]

VERIFICATION AND ENFORCEMENT ISSUES

"During fiscal years 1991 and 1992, Commerce selected a number of cases for inspection involving items of low technical significance ... approximately 63 percent of nuclear-related prelicense checks in the eight countries of proliferation concern ... were [for items] of lesser proliferation concern ... about 39 percent of nuclear-re-

lated pre-license checks in the eight countries were conducted for end users that had already been identified by the Department of Energy as posing a nuclear proliferation concern." [5]

"GAO ... found that (1) U.S. embassy officials who perform the pre-license checks and post-shipment verifications typically lack technical expertise in how nuclear-related dual-use items could be diverted; (2) Commerce's requests for inspections frequently omitted vital information, such as the reason for the inspection or licensing conditions; and (3) embassy officials frequently sent foreign ... nationals to conduct inspections of their own countries' facilities." [5-6]

"The U.S. government does not systematically verify compliance with government-to-government assurances on the use of nuclear-related dual-use items ... Thus, the U.S. government cannot be certain that exports licensed with government-to-government assurances are being used for their intended purposes." [6]

"Only a small proportion of the nuclear-related dual-use licenses referred to the Department of Energy have been subjected to PLCs and PSVs. During fiscal years 1991 and 1992, Commerce conducted PLCs for 221 (2.6 percent) of the 8,370 nuclear-related dual-use licenses referred to Energy." [44] "Over 60 percent of these inspections related to computers." [45]

"A total of 47 of these PLCs and PSVs involved end users on the Department of Energy's Watch List, and 35 of these had favorable results." [46]

Between fiscal years 1991 and 1992, seven licenses were approved despite unfavorable PLCs; of these two involved end users on the Watch List. [46-47]

A Commerce official told GAO that the department did not have specific criteria for conducting PLCs and PSVs involving nuclear dual-use goods. [47] Current guidelines apply more generally to all export controlled items. "Without this focus," GAO found, "Commerce cannot be certain that the licenses presenting the greatest nuclear proliferation risk are selected for inspection." [47] The selection criteria for conducting PLCs and PSVs do not highlight the most sensitive nuclear-related dual-use items "or even distinguish the relative importance of items having uses in nuclear, chemical, or biological weapons, or with military or missile technology applications." [48] GAO found that Commerce "has developed specific guidance for conducting nuclear-related dual-use inspections." [49]

GAO found that "about 39 percent of nuclear-related PLCs [designed to check the bona fide of end users] in the eight countries of proliferation concern were performed on Department of Energy Watch List end users." [49]

Problems in specific cases:

Pakistan:—In March 1988, "the U.S. embassy in Pakistan conducted a PLC for the proposed export of a computer to an end user located on the premises of a military facility in Pakistan. Although embassy officials did not visit the end user, citing time and budget constraints, the reply cable stated that the end user was a reliable recipient of U.S. technology. A subsequent PLC conducted during fiscal year 1991 reported the same finding for an oscilloscope export. The Energy Watch List, however, indicates that the military facility is involved in sensitive nuclear activities." [50]

Iraq:—May 1989, "the U.S. embassy in Iraq conducted a PLC for the proposed export of a machine tool to Bader General Establishment. Inspectors toured the facility and viewed the plant where the machine tool would be used. The reply cable stated that

Bader General Establishment was a reliable recipient of U.S. technology. However, after the Persian Gulf War, U.N. inspectors revealed that the facility was a primary contributor to Iraq's nuclear weapons program." [50]

Israel:—In December, "the U.S. embassy in Israel conducted a PLC at a government commission for a proposed export to an end user involved in Israel's unsafeguarded nuclear program. *The inspecting official, an Israeli national, interviewed the commission's public relations official as well as a representative of the end user.* The U.S. embassy subsequently recommended approval of the application based on the results of the PLC." [50] GAO also found that "According to U.S. officials at the U.S. embassy in Israel, a foreign service national who was a former employee of the Israeli Foreign Service has been primarily responsible for conducting inspections. Officials said that until the beginning of 1992, this individual conducted the majority of inspections without an accompanying U.S. official." [52] "One laboratory official noted that 15 licenses were approved for exports of fibrous material to Israel in fiscal year 1991. However, no PLCs were conducted on license applications involving this item." [48]

India:—In another example, "26 licenses were approved for corrosion-resistant sensing elements to India in fiscal year 1992. However, only three PLCs were conducted on these license applications." [48]

GAO found that "at the U.S. consulate in Hong Kong, a foreign service national has been responsible for performing, without direct supervision, all nuclear-related dual-use inspections for the past 17 years." [52]

A recent Commerce Department guideline concerning the use of foreign nationals in the conduct of inspections "leaves the decision on who should perform the inspections to the discretion of the posts." [52]

GAO found that inspecting officials "lack technical expertise in how nuclear-related dual-use items may be diverted"; Commerce's requests for inspections "omit vital information"; foreign nationals "conduct many inspections"; "some inspection reports do not provide an assessment of the end user's reliability"; and "U.S. embassy and consulate officials may have difficulty gaining access to end-user facilities." GAO found that "without such expertise and training, it is difficult for them [inspectors] to effectively detect potential or actual attempts to divert these items to a nuclear weapons program." [51] GAO also found that "Embassy officials do not always report on the reliability of end users as required by Commerce." [52]

GAO found that "Embassy officials in some countries have difficulty obtaining immediate access to foreign facilities or cannot obtain access at all because the host government is sensitive about inspections infringing on its sovereignty." GAO cited India and Germany as two such countries.

According to GAO, "At several posts, including Hong Kong, India, Pakistan, Germany, and Israel, foreign service nationals were conducting nuclear-related dual-use inspections." [52] in some cases, these foreign nationals were not even accompanied by U.S. embassy officials. GAO found.

GAO found that "there are no formal criteria for determining when to seek an end-use assurance ...". [54]

"According to State, Defense, and ACDA officials, the U.S. government does not systematically verify compliance with these [government-to-government] assurances because they are diplomatically negotiated agreements intended to carry the weight of an official commitment by a foreign government. Thus, it cannot be certain that the licensed exports are being used only for their intended purposes." [53]

According to U.S. officials, there is no evidence of cases where end-use assurances have been violated; however, officials also said there is no systematic effort to verify compliance with such assurances because they constitute an official commitment by a foreign government. According to State Department officials, most end-use assurances have no provisions for verifying compliance." [55]

GAO found that Israel and South Africa accounted for over 88 percent of all government-to-government assurances obtained during fiscal years 1988 to 1992 that prohibited specified nuclear end uses. [Table on page 54] "For Israel, the majority of nuclear assurances involved military end users. The United States obtains end-use assurances for certain exports to Israeli military end users in lieu of conducting inspections of these end users." [55]

By Mr. D'AMATO:

S. 104. A bill to establish the position of Coordinator for Counter-Terrorism within the office of the Secretary of State; to the Committee on Foreign Relations.

THE COORDINATOR FOR COUNTER-TERRORISM
POSITION ACT OF 1995

• Mr. D'AMATO. Mr. President, I introduce a bill to permanently establish by statute the position of the Coordinator of Counter-Terrorism within the office of the Secretary of State. If the State Department had its way it would downgrade the day-to-day responsibilities of the office, from an Assistant Secretary level, to one among several Deputy Assistant Secretaries under a new Assistant Secretary responsible for narcotics and international crime as well as terrorism. I am pleased that my colleague from New York, Representative BEN GILMAN will be introducing identical legislation in the House of Representatives.

Under my amendment, the Coordinator shall have the rank of "Ambassador-at-Large," a position that will require Senate confirmation, thereby giving the office an enhanced position in its relations with the other federal agencies that fight terrorism, and equal rank with similar officials of other nations.

Last year, the administration proposed to downgrade the position—a decision that was wrong then and is still wrong today, for a number of important reasons. Let me explain.

First, now is not the time to lower our guard against terrorism. Nearly 2 years ago, terrorism struck our shores when terrorists bombed the World Trade Center and planned additional bombings. Acts of terrorism have not lessened, but gotten more dangerous. We need look no farther than the heinous bombings in Buenos Aires, Panama, Tel Aviv, and the continuing Hamas campaign to disrupt the ongoing peace process, to see that the worldwide threat of terrorism is not receding but expanding.

Second, downgrading the position sends a message that we are not serious about fighting terrorism and that we don't consider it a priority. What will the terrorists think if we downgrade an office designed to thwart their

attacks on American targets? I think they will become emboldened. This move cannot have a positive effect on our counter-terrorism efforts.

Third, downgrading the Counter-Terrorism office and placing it under a larger, more cumbersome portfolio that includes drugs and international crime, means that counter-terrorism will have a lower priority. The State Department contends that terrorism is explicitly tied to drug trafficking. This is a overly broad generalization and not a fact.

Finally, downgrading the position makes it harder for the Coordinator to organize a coherent counter-terrorism policy because he or she will not be able to deal effectively with the other members of the Federal bureaucracy in the fight against terrorism.

Mr. President, I would like to point out that according to the Congressional Research Service, between 1968 and 1993, including the attack on the World Trade Center, 769 Americans died in terrorist acts, worldwide. Moreover, in the World Trade Center bombing of February 26, 1993, in which six people died, over 1,000 others were injured. Losses incurred in that bombing surpassed \$1 billion. As we all know, the terrorists planned more elaborate and dangerous operations. Fortunately, they were caught before more damage could be done.

Is now the time to put fight against terrorism on the backburner? Is now the time to tell the world that we don't consider terrorism important? I don't think so. Nor do I think that we, as a nation, can tell the families of these 769 people that the death of their loved ones are going to be forgotten. I don't think that anyone in this Chamber would want to tell them that we should relent in our fight against terrorism either. But, if we allow the administration plan to downgrade the Counter-Terrorism position to go forward, we will be doing just that.

The 1990 Report of the President's Commission on Aviation Security and Terrorism, following the bombing of Pan Am Flight 103, called for the creation of such a position. Interestingly, four former counter-terrorism and international narcotics control officials, in a letter to me begged, "Don't gut our counter-terrorism capability."

In another letter to me, Lisa and Ilsa Klinghoffer, daughters of Leon Klinghoffer who was murdered by terrorist on the *Achille Lauro* in October 1985, urged that a separate and independent office be kept at the State Department as "the most effective implementation of the administration's counter-terrorism policies and initiatives."

If we are going to be serious about the fight against terrorism, we must have the right resources. One of those resources is an Ambassador-at-Large for Counter-Terrorism. This Ambassador will act as the sole voice and have direct access to the Secretary of State and will coordinate our nation's fight

against this scourge that we must stand up to, and that we must defeat.

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. 104

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

SECTION 1. COORDINATOR FOR COUNTER-TERRORISM.

(a) ESTABLISHMENT.—There shall be within the office of the Secretary of State a Coordinator for Counter-Terrorism (hereafter in this section referred to as the "Coordinator") who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—(1) The Coordinator shall perform such duties and exercise such power as the Secretary of State shall prescribe.

(2) The Coordinator shall have as his principal duty the overall supervision (including policy oversight of resources) of international counterterrorism activities. The Coordinator shall be the principal advisor to the Secretary of State on international counterterrorism matters. The Coordinator shall be the principal counterterrorism official within the senior management of the Department of State and report directly to the Secretary of State.

(c) RANK AND STATUS.—The Coordinator shall have the rank and status of Ambassador-at-Large. The Coordinator shall be compensated at the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5314 of title 5, United States Code, or, if the Coordinator is appointed from the Foreign Service, the annual rate of pay which the individual last received under the Foreign Service Schedule, whichever is greater.

(d) DIPLOMATIC PROTOCOL.—For purposes of diplomatic protocol among officers of the Department of State, the Coordinator shall take precedence after the Secretary of State, the Deputy Secretary of State, and the Under Secretaries of State and shall take precedence among the Assistant Secretaries of State in the order prescribed by the Secretary of State.●

By Mr. DASCHLE (for himself,
Mr. CONRAD, Mr. DORGAN, Mrs.
KASSEBAUM, and Mr. BAUCUS):

S. 105. A bill to amend the Internal Revenue Code of 1986 to provide that certain cash rentals of farmland will not cause recapture of special estate tax valuation; to the Committee on Finance.

THE SPECIAL USE VALUATION FOR FAMILY
FARMS ACT OF 1995

Mr. DASCHLE. Mr. President, since 1988, I have studied the effects on family farmers of a provision in the estate tax law—section 2032A. While section 2032A may seem a minor provision to some, it is critically important to family-run farms. A problem with respect to the Internal Revenue Service's interpretation of this provision has been festering for a number of years and threatens to force the sale of many family farms.

Section 2032A, which bases the estate tax applicable to a family farm on its

use as a farm, rather than on its market value, reflects the intent of Congress to help families keep their farms. A family that has worked hard to maintain a farm should not have to sell it to a third party solely to pay stiff estate taxes resulting from increases in the value of the land. Under section 2032A, inheriting family members are required to continue farming the property for at least 15 years, in order to avoid having the IRS "recapture" the tax savings.

At the time section 2032A was enacted, it was common practice for one or more family members to cash lease the farm from the other members of the family. This practice made sense where one family member was more involved than the other family members in the day-to-day farming of the land. Typically, however, the other family members would continue to be at risk as to the value of the farm and to participate in decisions affecting the farm's operation. Cash leasing among family members remained a common practice after the enactment of section 2032A. An inheriting child would cash lease from his or her siblings, with no reason to suspect from the statute or otherwise that the cash leasing arrangement might jeopardize the farm's qualification for special use valuation.

Based at least in part on some language that I am told was included in a Joint Committee on Taxation publication in early 1982, the Internal Revenue Service has taken the position that cash leasing among family members will disqualify the farm for special use valuation. The matter has since been the subject of numerous audits and some litigation, though potentially hundreds of family farmers may yet be unaware of the change of events. Cases continue to arise under this provision.

In 1988, Congress provided partial clarification of this issue for surviving spouses who cash lease to their children. Due to revenue concerns, however, no clarification was made of the situation where surviving children cash lease among themselves.

My concern is that many families in which inheriting children or other family members have cash leased to each other may not even be aware of the IRS's position on this issue. At some time in the future, they are going to be audited and find themselves liable for enormous amounts in taxes, interest and penalties. For those who cash leased in the late 1970s, this could be devastating because the taxes they owe are based on the inflated land values that existed at that time.

A case that arose in my State of South Dakota illustrates the unfairness and devastating impact of the IRS interpretation of section 2032A. Janet Kretschmar, who lives with her husband, Craig, in Cresbard, SD, inherited her mother's farm along with her two sisters in 1980. Because the property would continue to be farmed by the family members, estate taxes were paid

on it pursuant to section 2032A, saving over \$50,000 in estate tax.

Janet and Craig continued to farm the land and have primary responsibility for its day-to-day operation. They set up a simple and straightforward arrangement with the other two sisters whereby Janet and Craig would lease the sisters' interests from them.

Seven years later, the IRS told the Kretschmars that the cash lease arrangement had disqualified the property for special use valuation and that they owed \$54,000 to the IRS. According to the IRS, this amount represented estate tax that was being "recaptured" as a result of the disqualification. This came as an enormous surprise to the Kretschmars, as they had never been notified of the change in interpretation of the law and had no reason to believe that their arrangement would no longer be held valid by the IRS for purposes of qualifying for special use valuation. The fact is that, if they had known this, they would have organized their affairs in one of several other acceptable, though more complicated, ways.

For many years, I have sought inclusion in tax legislation of a provision that would clarify that cash leasing among family members will not disqualify the property for special use valuation. In 1992, such a provision was successfully included in H.R. 11, the Revenue Act of 1992 and passed by Congress. Unfortunately, H.R. 11 was subsequently vetoed.

Today, I am introducing a bill the language of which is identical to the section 2032A measure that was passed in the Revenue Act of 1992. I am joined in this effort by my two colleagues from North Dakota, Senators DORGAN and CONRAD, whose background and expertise on tax issues are well known, as well as by my distinguished colleagues Senators KASSEBAUM and BAUCUS.

I must emphasize that there may be many other cases in other agricultural states where families are cash leasing the family farm among each other unaware that the IRS could come knocking at their door at any minute. I urge my colleagues in the Senate who may have such cases in their State to work with us and support this important clarification of the law.

I intend to request the Joint Committee on Taxation to estimate the revenue impact of this proposal. At an appropriate time thereafter, I will recommend any necessary offsets over a 10-year period as required by the Budget Act.

Mr. President, I ask that the full text of the bill be printed in the RECORD.

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

S. 105

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

SECTION 1. CERTAIN CASH RENTALS OF FARM-LAND NOT TO CAUSE RECAPTURE OF SPECIAL ESTATE TAX VALUATION.

(a) IN GENERAL.—Subsection (c) of section 2032A of the Internal Revenue Code of 1986 (relating to tax treatment of dispositions and failures to use for qualified use) is amended by adding at the end the following new paragraph:

"(8) CERTAIN CASH RENTAL NOT TO CAUSE RECAPTURE.—For purposes of this subsection, a qualified heir shall not be treated as failing to use property in a qualified use solely because such heir rents such property on a net cash basis to a member of the decedent's family, but only if, during the period of the lease, such member of the decedent's family uses such property in a qualified use."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to rentals occurring after December 31, 1976.

By Mr. DASCHLE:

S. 106. A bill to amend the Internal Revenue Code of 1986 to increase the standard mileage rate deduction for charitable use of passenger automobiles; to the Committee on Finance.

THE DEDUCTION FOR CHARITABLE USE OF PASSENGER AUTOMOBILES ACT OF 1995

Mr. DASCHLE. Mr. President, today I am introducing legislation that addresses a small, but important, concern regarding the deduction of mileage expenses by individuals who volunteer their services to help carry out the activities of charitable organizations.

Many individuals who volunteer for charitable organizations incur out-of-pocket expenses that are not reimbursed by the charity. One such expense occurs where an individual uses his or her own car to carry out charitable purpose activities. Examples of this are when an individual provides transportation to a hospital for veterans, delivers meals to the homeless or elderly on behalf of a charity, or transports children to scouting and other youth activities.

In 1984, Congress set a standard mileage expense deduction rate of 12 cents per mile for individuals who use their vehicles to carry out the tax-exempt goals of charitable organizations. The express purpose of the deduction was to support the efforts of volunteers, who do not receive any charitable deduction for the value of their contributed services, and to take into account the additional out-of-pocket costs of operation of a vehicle in doing so.

At the time that Congress codified the standard charitable mileage deduction at 12 cents per mile, the standard deduction for mileage expenses incurred in connection with one's trade or business was 20.5 cents for the first 15,000 miles and 11 cents for each mile thereafter. Since that time, the U.S. Department of the Treasury, through the Internal Revenue Service, has increased the standard mileage rate for business travel expenses to 28 cents per mile for unlimited mileage.

Unfortunately, due to an anomaly in the tax code, the Secretary of the Treasury does not have the authority to make corresponding increases in the

standard mileage rate for charitable use of one's vehicle. Thus, the standard charitable mileage rate remains today at 12 cents per mile.

The legislation I am introducing, which is identical to bills I have introduced in previous Congresses on this matter, would address this inconsistency in two ways. First, it would increase the standard charitable mileage expense deduction rate to 16 cents per mile. This would restore the ratio that existed in 1984 between the charitable mileage rate and the business mileage rate.

Second, the legislation would give the Secretary of the Treasury the authority to make subsequent increases in the charitable mileage rate without further permission from Congress, just as it currently does with the mileage rate for business use of a vehicle. The intent of this provision of the legislation is to ensure that, as increases are made in the future to the standard business mileage rate, the charitable mileage deduction will be increased, as well, so as to maintain the ratio that existed between these two mileage rates in 1984.

In 1993, the Joint Committee on Taxation estimated the cost of this proposal at \$327 million over a five-year period. This amount is not insignificant despite the merits of this measure. Therefore, at an appropriate time, I intend to recommend offsets for the proposal over a ten-year period as required by the Budget Act.

Mr. President, many charitable organizations today are being forced to take on a greater burden than ever before, due to cut-backs, especially in the 1980s, in federal programs for veterans, the elderly and other groups in need. As a result, these organizations must increasingly rely on volunteer assistance to provide the services that are central to their tax-exempt purposes. If we can do no more, at the very least we in Congress should ensure that helpful measures remaining in the law are not allowed to erode.

On behalf of volunteers of every stripe, I urge my colleagues to support this legislation.

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

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

S. 106

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

SECTION 1. INCREASE IN STANDARD MILEAGE RATE EXPENSE DEDUCTION FOR CHARITABLE USE OF PASSENGER AUTOMOBILE.

(a) IN GENERAL. Subsection (i) of section 170 of the Internal Revenue Code of 1986 (relating to standard mileage rate for use of passenger automobile) is amended to read as follows:

“(i) STANDARD MILEAGE RATE FOR USE OF PASSENGER AUTOMOBILE.—

“(1) GENERAL RULE.—Except as provided in paragraph (2), for purposes of computing the

deduction under this section for use of passenger automobile, the standard mileage rate shall be 16 cents per mile.

“(2) TAXABLE YEARS BEGINNING AFTER 1993.—Not later than December 15 of 1995, and each subsequent calendar year, the Secretary may prescribe an increase in the standard mileage rate allowed under this section with respect to taxable years beginning in the succeeding calendar year.”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1994.

By Mr. DASCHLE:

S. 107. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for travel expenses of certain loggers; to the Committee on Finance.

THE TRAVEL EXPENSE DEDUCTION FOR CERTAIN LOGGERS ACT OF 1995

Mr. DASCHLE. Mr. President, today I am introducing legislation in my continuing effort to address what I feel is an unfair ruling by the Internal Revenue Service that severely affects a certain segment of American workers. It is a situation where pure tax policy simply is not practical in its application to everyday life.

In my state of South Dakota, the Black Hills National Forest spreads over some 6,000 square miles. Many of my colleagues may be familiar with it.

In this forest, there is a thriving logging industry that employs many South Dakotans. The logging companies that have operations there would not be able to do their business without the assistance of those who cut the logs and haul or “skid” them to the trucks on which they are carried to the mill. These workers—known as “cutters” and “skidders,” and the contractors who employ them, are collectively referred to as “loggers.”

For a logger, traveling to work every day is very different from the experience of the average commuter. Loggers often travel as much as a couple of hours one way to the site where cutting is taking place. This may involve driving along miles of unpaved forest roads. It is impossible for them to live closer to their work site, not only because of its location, but also because that site may change from month to month. In addition, loggers must have vehicles that are capable of traversing rough forest terrain.

Despite the number of miles the loggers must travel to work each day and the rough terrain, the IRS has said that their expenses of traveling from home to the work site and back again are non-deductible commuting expenses. This is true regardless of the location of the work site within the forest or its distance from the individual logger's home. For, according to the IRS, the entire 6,000-square-mile forest is the loggers' “tax home” or “regular place of business” for purposes of deducting mileage expenses.

Despite the IRS's reasons for taking this position, the effect of the rule on loggers in the Black Hills is unfair. It imposes a hardship on them and fails to recognize the special circumstances

of their jobs. True, other taxpayers are not permitted to deduct commuting mileage expenses. But other taxpayers generally are not forced to travel such long distances to and from work each day or to drive along dirt forest roads. Indeed, several loggers who challenged the IRS on this issue initially won their cases, only to be overturned on appeal.

To rectify this situation, I introduced legislation in the 102d and 103d Congresses that would have allowed loggers, in the Black Hills or elsewhere, to deduct their mileage expenses incurred while traveling between their homes and the cutting site, so long as the mileage is legitimately related to their business. Although that measure was not included in tax legislation last year primarily due to revenue concerns, in the 102d Congress a provision requiring the U.S. Department of the Treasury to study the issue was passed in H.R. 11, the Revenue Act of 1992, which ultimately was vetoed.

Today I am reintroducing the bill that I introduced previously allowing loggers to deduct their mileage expenses incurred while traveling between their homes and the cutting site. I urge my colleagues, particularly those who have loggers in their state, to take a close look at it. To some, this may seem a small matter in the scheme of what we do here in the Senate, but it would restore a measure of fairness to loggers who currently are subject to the IRS's whims.

Finally, I recognize that there will be some cost associated with this measure, and, at the appropriate time, I intend to recommend offsets to cover the cost of the measure over a 10-year period as required by the Budget Act.

Mr. President, I ask that the full text of the bill be printed in the RECORD.

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

S. 107

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

SECTION 1. DEDUCTION FOR TRAVEL EXPENSES OF CERTAIN LOGGERS.

(a) IN GENERAL.—Section 162 of the Internal Revenue Code of 1986 (relating to trade or business expenses) is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

“(o) SPECIAL TRAVEL EXPENSE RULES FOR LOGGERS.—

“(1) IN GENERAL.—Notwithstanding subsection (a)(2) and section 262, in the case of an individual, there shall be allowed as a deduction under this section an amount equal to the travel expenses of such individual in connection with the trade or business of logging (including the miles to and from such individual's home).

“(2) TRADE OR BUSINESS OF LOGGING.—For purpose of this section, the term ‘trade or business of logging’ means the trade or business of the cutting and skidding of timber.”

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1994.

By Mr. DASCHLE (for himself and Mr. JEFFORDS):

S. 108. A bill to amend the Internal Revenue Code of 1986 to allow the energy investment credit for solar energy and geothermal property against the entire regular tax and the alternative minimum tax; to the Committee on Finance.

THE PROMOTING SOLAR AND GEOTHERMAL TECHNOLOGIES ACT OF 1995

Mr. DASCHLE. Mr. President, a successful national energy policy requires that we shift our reliance away from finite fossil fuels toward the infinite supply of renewable alternative technologies.

To that end, in the 102d Congress I introduced legislation that would have extended for 5 years the business energy tax credits set forth in section 46 of the Internal Revenue Code for investments in solar and geothermal energy facilities. At the time, those credits were scheduled to expire at the end of 1992. In addition, I introduced a bill that would have allowed the credits to be taken against the alternative minimum tax or "AMT" for those businesses subject to its provisions.

After much hard work, a provision making the solar and geothermal energy tax credits permanent was incorporated into the Energy Policy Act enacted into law last year. The proposal to allow the credits against the AMT, however, was not included in that legislation. Therefore, today I am re-introducing the bill that would permit businesses subject to the AMT to take advantage of the credits for investment in solar and geothermal energy facilities. I am joined by my distinguished colleague from Vermont, Senator JEFFORDS.

These energy credits represent a small but important contribution to developing a broader, more sensible, and more reliable national energy strategy. To be sure, we must be careful of enacting provisions that threaten to erode the alternative minimum tax, but there are situations in which other policies should override this concern. In my view, the promotion of renewable energy sources is just such a situation.

The promotion of renewable energy sources is more important now than ever before. This was demonstrated in the recent past by the events in the Persian Gulf. We should have learned from those events that we cannot continue to ignore our increasing dependence on imported oil. The world's oil supply will run out. Nothing can change that. To the extent that we foster and encourage the development of solar, geothermal and other new technologies, we can reduce our reliance on imported oil.

The need to slow the detrimental effects on our environment of traditional sources of energy is as important as energy supply and security. Renewable energy sources are the answer to this need. I have often spoken on the merits of alcohol fuels in this regard. Solar

and geothermal energy have similar potential for the environment. For example, in the solar mode of operation, solar technology has no combustion-related emissions at all. Even when using back-up fossil fuel to assure reliability, present generation solar technology produces far less carbon dioxide than natural gas, the cleanest fossil fuel alternative. Geothermal plants also emit substantially less carbon dioxide than gas, oil, or coal-fired plants for the same electrical output.

Recent investment in solar and geothermal technologies is just beginning to yield potential return in the form of energy security and an improved environment. These technologies are not yet at the point, however, where they are commercially viable. The tax credits provide the margin needed to keep renewable projects in operation. It would be counterproductive not to extend the credits to those businesses falling under the AMT, in view of our national investment to date and our desire to lessen our dependence on imported oil.

Finally, in the 103d Congress, the Joint Committee on Taxation estimated the cost of this measure at \$212 million over 5 years. At the appropriate time, I intend to recommend offsets for the cost of the proposal over a 10-year period as required by the Budget Act.

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

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

S. 108

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

SECTION 1. CHANGES RELATING TO ENERGY CREDIT.

(a) ENERGY CREDIT ALLOWABLE AGAINST ENTIRE REGULAR TAX AND ALTERNATIVE MINIMUM TAX.—

(1) Subsection (c) of section 38 of the Internal Revenue Code of 1986 (relating to limitation based on amount of tax) is amended by redesignating paragraph (3) as paragraph (4) and adding after paragraph (2) the following new paragraph:

“(3) SPECIAL RULES FOR ENERGY CREDIT.—

“(A) IN GENERAL.—In the case of a C corporation—

“(i) this section and section 39 shall be applied separately with respect to the energy credit, and

“(ii) in applying paragraph (1) to such credit—

“(I) subparagraph (A) of paragraph (1) shall not apply, and

“(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the energy credit).

“(B) ENERGY CREDIT.—For purposes of this paragraph and paragraph (2), the term ‘energy credit’ means the credit allowable under subsection (a) by reason of section 48(a).”

(2) Subclause (II) of section 38(c)(2)(A)(ii) of such Code is amended by inserting “or the energy credit” after “employment credit”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1994.

By Mr. DASCHLE (for himself, Mr. CONRAD, Mr. DORGAN, Mr. PRESSLER, Mr. GRASSLEY, Mr. BAUCUS, Mr. BURNS and Mr. HARKIN):

S. 109. A bill to amend the Internal Revenue Code of 1986 relating to the treatment of livestock sold on account of weather-related conditions; to the Committee on Finance.

THE TAX TREATMENT OF INCOME FROM INVOLUNTARY CONVERSION OF LIVESTOCK ACT OF 1995

Mr. DASCHLE. Mr. President, today I am introducing legislation to provide equitable treatment under the tax law for farmers and ranchers who are forced to sell their livestock prematurely due to extreme weather conditions. I am joined in this effort by Senators CONRAD, DORGAN, PRESSLER, GRASSLEY, BAUCUS, BURNS and HARKIN.

A couple summers ago, Midwestern States suffered severe floods, which devastated lives and property along these states rivers and shorelines. President Clinton responded quickly by providing disaster assistance, \$2.5 billion, including \$1 billion for agriculture, in emergency aid to flooded areas in the Midwest.

In addition to receiving disaster payments, many farmers were able to take advantage of provisions in the Internal Revenue Code designed primarily to spread out the impact of taxes on farmers in these situations. Ironically, however, while farmers who lose their crops due to floods are covered under these provisions, farmers who must involuntarily sell livestock due to flood conditions are not.

Normally, a taxpayer who uses the cash method of accounting, as most farmers do, must report income in the year in which he or she actually receives the income. The Tax Code, however, outlines certain exceptions to this rule where disaster conditions generate income to the farmer that otherwise would not have been received at that time. For example, one exception allows farmers who receive insurance proceeds or disaster payments when crops are destroyed or damaged due to drought, flood or any other natural disaster to include those proceeds in income in the year following the disaster, if that is when the income from the crops otherwise would have been received.

Two other provisions deal with involuntary conversion of livestock. The first provision enables livestock producers who are forced to sell herds due to drought conditions to defer tax on any gain from these sales by reinvesting the proceeds in similar property within a 2-year period. The second provision allows livestock producers who choose not to reinvest in similar property to elect to include proceeds from the sale of the livestock in taxable income in the year following the sale.

For no apparent reason, the two provisions dealing with livestock do not

mention the situation where livestock is involuntarily sold due to flooding. Thus, floods and flood conditions do not trigger the benefits of those provisions. Yet, many livestock producers during the recent floods had no choice but to sell livestock because floods had destroyed crops needed to feed the livestock, fences for containing livestock were washed out, or other similar circumstances had occurred.

Our proposal would expand the availability of the existing livestock tax provisions to include involuntary conversions of livestock due to flooding and other weather-related conditions. This would conform the treatment of crops and livestock in this respect.

A provision similar to our bill was passed by Congress as part of the Revenue Act of 1992. Unfortunately, that legislation was subsequently vetoed.

Let me emphasize that the tax provisions we are dealing with here affect the timing of tax payments, not forgiveness of tax liability. Nonetheless, I intend to request the Joint Committee on Taxation to prepare an estimate of the cost of this measure. At the appropriate time after that estimate is completed, I will recommend offsets over a 10-year period as required by the Budget Act.

We should not shut out some farmers—livestock producers—from the disaster-related provisions of the Tax Code simply because the natural disaster involved was a flood, instead of a drought. That just doesn't make sense, and I urge my colleagues to give this bill favorable consideration.

Mr. President, I ask 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. 109

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

SECTION 1. TREATMENT OF LIVESTOCK SOLD ON ACCOUNT OF WEATHER-RELATED CONDITIONS.

(a) DEFERRAL OF INCOME INCLUSION.—Subsection (e) of section 451 of the Internal Revenue Code of 1986 (relating to special rules for proceeds from livestock sold on account of drought) is amended—

(1) by striking "drought conditions, and that these drought conditions" in paragraph (1) and inserting "drought, flood, or other weather-related conditions, and that such conditions"; and

(2) by inserting ", FLOOD, OR OTHER WEATHER-RELATED CONDITIONS" after "DROUGHT" in the subsection heading.

(b) INVOLUNTARY CONVERSIONS.—Subsection (e) of section 1033 of such code (relating to livestock sold on account of drought) is amended—

(1) by inserting ", flood, or other weather-related conditions" before the period at the end thereof; and

(2) by inserting ", FLOOD, OR OTHER WEATHER-RELATED CONDITIONS" AFTER "DROUGHT" in the subsection heading.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and exchanges after December 31, 1994.

By Mr. DASCHLE (for himself,
Mr. GRASSLEY, Mr. HARKIN, Mr.

BREAUX, Mr. BAUCUS, Mr. PRESSLER, Mr. CONRAD, Mr. BURNS, and Mr. DORGAN):

S. 110. A bill to amend the Internal Revenue Code of 1986 to provide that a taxpayer may elect to include in income crop insurance proceeds and disaster payments in the year of the disaster or in the following year; to the Committee on Finance.

THE TAX TREATMENT OF CROP DISASTER ASSISTANCE ACT OF 1995

Mr. DASCHLE. Mr. President, I am introducing legislation today to address unnecessary inflexibility in a Tax Code provision that affects farmers who receive crop disaster assistance. I am joined by my distinguished colleagues Senators GRASSLEY, HARKIN, BREAUX, BAUCUS, PRESSLER, CONRAD, BURNS, and DORGAN.

Last year, a number of my colleagues in the Senate and I, as well as many members of the House of Representatives, introduced similar legislation to address a concern arising out of disaster payments received after the 1993 floods in the Midwest. While it may be too late to rectify this problem for some of the farmers who received those payments, this legislation would provide them the option to go back and amend their 1993 returns. Moreover, the measure is prospective, as it is nonetheless important to ensure fairness to farmers who suffer crop damage as result of future disasters.

The legislation would make a permanent change to the Tax Code and impact farmers who receive disaster payments as a result of losses sustained from natural disasters. Due to any number of factors, farmers may not receive disaster assistance payments until the year following the disaster. This may have serious tax consequences for them if they normally would have recognized the income from the crops that were destroyed in the year of the disaster. Receipt of the disaster payment in the following year may prevent them from reporting it as income on the previous year's return. This, in turn, will result in a "bunching" of income in the later year, possibly pushing them into a higher tax bracket than would otherwise be the case. It may also cause them to lose the benefit of personnel exemptions and certain nonbusiness itemized deductions.

Ironically, Internal Revenue Code section 451(d) permits a farmer who happened to receive his disaster payment in, for example, 1993 to defer recognition of that income for tax purposes until 1994, if that is the year in which he otherwise would have recognized the income from the crops that were destroyed. But it does not allow a farmer who did not actually receive the payment until 1994 to recognize the payment as income on his 1993 return if that is when he normally would have received the income.

The legislation we are introducing today would simply permit section 451(d) to operate in either direction, so

long as the farmer recognizes the disaster payment in the year in which he would otherwise have recognized the income from the crops that were destroyed.

Let me emphasize again that the change made by this legislation would apply to future disasters and disaster payments, not just those arising out of the 1993 flooding. Last year, the Joint Committee on Taxation estimated the cost of this proposal at \$9 million over a 6-year period. At the appropriate time, I intend to recommend offsets covering the cost over a 10-year period as required by the Budget Act.

Mr. President, there really is no reason why the Tax Code should allow flexibility for farmers who want to recognize disaster payments in the year following the disaster, but not for those who receive their payments in the latter year and want to recognize them as income in the year of the disaster. In either case, the farmer would be required to show that he would have received the income from the destroyed crops in the year he is choosing to report the disaster assistance income. Without this two way rule, we will be imposing significant financial burdens on the very people we seek to help in passing disaster assistance legislation.

I would also like to make clear that no one is pointing fingers here. The fact is that this situation can arise circumstantially, without fault on anyone's part. The timing of the disaster, the volume of applicants for disaster assistance, and many other factors could result in farmers receiving disaster assistance payments the year after the disaster. This situation was bound to arise sooner or later, and it makes sense to correct it as soon as possible for those who are affected.

It is my intention to pursue passage of this measure at the earliest opportunity this year. I hope my colleagues will join me by supporting it.

Mr. President, I ask that a copy of this legislation be printed in the RECORD.

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

S. 110

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

SECTION 1. SPECIAL RULE FOR CROP INSURANCE PROCEEDS AND DISASTER PAYMENTS.

(a) IN GENERAL.—Section 451(d) of the Internal Revenue Code of 1986 (relating to special rule for crop insurance proceeds and disaster payments) is amended to read as follows:

"(d) SPECIAL RULE FOR CROP INSURANCE PROCEEDS AND DISASTER PAYMENTS.—

"(1) GENERAL RULE.—In the case of any payment described in paragraph (2), a taxpayer reporting on the cash receipts and disbursements method of accounting—

"(A) may elect to treat any such payment received in the taxable year of destruction or damage of crops as having been received in the following taxable year if the taxpayer establishes that, under the taxpayer's practice,

income from such crops involved would have been reported in a following taxable year, or

“(B) may elect to treat any such payment received in a taxable year following the taxable year of the destruction or damage of crops as having been received in the taxable year of destruction or damage, if the taxpayer establishes that, under the taxpayer’s practice, income from such crops involved would have been reported in the taxable year of destruction or damage.

“(2) PAYMENTS DESCRIBED.—For purposes of this subsection, a payment is described in this paragraph if such payment—

“(A) is insurance proceeds received on account of destruction or damage to crops, or

“(B) is disaster assistance received under any Federal law as a result of—

“(i) destruction or damage to crops caused by drought, flood, or other natural disaster, or

“(ii) inability to plant crops because of such a disaster.”

(b) EFFECTIVE DATE.—The amendment made by this section applies to payments received after December 31, 1992, as a result of destruction or damage occurring after such date.

By Mr. DASCHLE (for himself, Mr. BREAUX, Mr. CAMPBELL, Mr. GLENN, Mr. HARKIN, Mr. JOHNSTON, and Mr. PRYOR):

S. 111. A bill to amend the Internal Revenue Code of 1986 to make permanent, and to increase to 100 percent, the deduction of self-employed individuals for health insurance costs; to the Committee on Finance.

THE TAX TREATMENT OF SELF-EMPLOYED HEALTH INSURANCE COSTS ACT OF 1995

Mr. DASCHLE. Mr. President, I have long been aware of an inequity imposed on small businesses in our Federal Tax Code. Our tax system discriminates against small businesses by denying the self-employed a full deduction for the expenses they incur to obtain health insurance for themselves and their families.

Corporations may deduct 100 percent of the costs of providing health insurance for their employees, but the self-employed, whether they operate as sole proprietorships or as partnerships, have been permitted to deduct only 25 percent of the cost of health insurance for themselves and their families. Furthermore, the 25 percent deduction has been extended on a piecemeal basis only and last expired on December 31, 1993. Unless we reinstate the deduction, the self-employed, most of whom are hard-working middle-income taxpayers, will have to shoulder the full cost of their health insurance or forgo health insurance altogether.

The importance of the deduction has grown substantially in recent years due to tremendous increases in health care costs generally. The annual double-digit increases in health care costs have far outstripped the rate of inflation and led to similar increases in the cost of health insurance. Corporations, which frequently are in a better position to absorb cost increases, may fully deduct the higher insurance expenses, while the self-employed must pay these costs with after-tax dollars. In some

cases, this may mean forfeiting health insurance altogether.

Last year, Congress attempted to pass comprehensive health care legislation which could have resolved this inequity on a permanent basis. Many of us deeply regretted the failure of health care reform efforts last year. The self-employed health insurance deduction was one of the many casualties of that failure.

I remain committed to passing a health reform bill and hope my colleagues in the majority will join me in this effort. But, regardless of the success of that effort, I think it is time we put the self-employed on an equal footing with corporations.

I am reintroducing today legislation I have offered in past Congresses that would establish a full 100 percent deduction for health insurance costs paid by the self-employed. In addition, this legislation, which is identical to the bills I introduced previously, would make the deduction permanent, as it is for corporations. If this bill is enacted, the self-employed no longer will have to worry each year that their deduction for health insurance costs may be completely eliminated.

My distinguished colleagues Senators BREAUX, CAMPBELL, GLENN, HARKIN, JOHNSTON, and PRYOR have joined me in introducing this legislation.

The cost of this measure is not insignificant, and I intend to work with my colleagues in the Senate who favor extension and expansion of the deduction to find an appropriate and adequate offset elsewhere in the budget to cover the cost of this measure over the 10-year period required under the Budget Act.

Of course, consideration of this measure should in no way diminish the importance of or divert our attention away from the ultimate goal of reforming our health care system. Only through such reforms can we hope to rein in skyrocketing health care costs and provide health security to families that currently cannot afford insurance or live in fear of losing their coverage.

I encourage my colleagues to cosponsor the legislation I am introducing today. In so doing, they not only will help restore fairness to the Tax Code with respect to small businesses, but they also will be supporting substantial tax relief for a large group of middle-income Americans.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

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

S. 111

SECTION 1. HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) DEDUCTION MADE PERMANENT.—

(1) IN GENERAL.—Section 162(l) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-em-

ployed individuals) is amended by striking paragraph (6).

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1993.

(b) INCREASE IN AMOUNT OF DEDUCTION.—

(1) IN GENERAL.—Paragraph (1) of section 162(l) of such Code is amended by striking “25 percent of”.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 1994.

By Mr. DASCHLE (for himself, Mr. GRASSLEY, Mr. HARKIN, Mr. CONRAD, and Mr. DORGAN):

S. 112. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain amounts received by a cooperative telephone company; to the Committee on Finance.

THE TAX TREATMENT OF TELEPHONE COOPERATIVES ACT OF 1995

Mr. DASCHLE. Mr. President, today I am introducing legislation that reaffirms the intent of the U.S. Congress, originally expressed in 1916, to grant tax-exempt status to telephone cooperatives. This exemption is now set forth in section 501(c)(12) of the Internal Revenue Code.

I am joined by my distinguished colleagues Senators GRASSLEY, HARKIN, CONRAD, and DORGAN.

This legislation is identical to a bill I introduced in the 103d Congress and to a measure that was included in the Revenue Act of 1992, which ultimately was vetoed.

Congress has always understood that tax exemption is necessary to ensure that reliable, universal telephone service is available in rural America at a cost that is affordable to the rural consumer. Telephone cooperative are non-profit entities that provide this service where it might otherwise not exist due to the high cost of reaching remote, sparsely populated areas.

The facilities of a telephone cooperative are used to provide both local and long distance communications services. Perhaps the most important of these for rural users is long distance. Without these services, both local and long distance, people in rural areas could not communicate with their own neighbors, much less with the world. While telephone cooperative comprise only a small fraction of the U.S. telephone industry—about 1 percent—their services are vitally important to those who must rely upon them.

Under Internal Revenue Code section 501(c)(12), a telephone cooperative qualifies for tax exemption only if at least 85 percent of its gross income consists of amounts collected from members for the sole purpose of meeting losses and expenses. Thus, the bulk of the revenues must be related to providing services needed by members of the cooperative, that is, rural consumers. No more than 15 percent of the cooperative’s gross income may come from non-member sources, such as property rentals or interest earned on funds on deposit in a bank. For purposes of the 85 percent test, certain

categories of income are deemed neither member nor non-member income and are excluded from the calculation. The reason for the 85 percent test is to ensure that cooperatives do not abuse their tax-exempt status.

A Technical Advise Memorandum [TAM] released by the Internal Revenue Service a few years ago threatens to change the way telephone cooperatives characterize certain expenses for purposes of the 85 percent test. If the rationale set forth in the TAM is applied to all telephone cooperatives, the majority could lose their tax-exempt status.

Specifically, the IRS now appears to take the position that all fees received by telephone cooperatives from long-distance companies for use of the local lines must be excluded from the 85 percent test and that fees received for billing and collection services performed by cooperatives on behalf of long-distance companies constitute non-member income to the cooperative.

The legislation I am introducing today would clarify that access revenues paid by long distance companies to telephone cooperatives are to be counted as member revenues, so long as they are related to long distance calls paid for by members of the cooperative. In addition, the legislation would indicate that billing and collection fees are to be excluded entirely from the 85 percent test calculation.

Mr. President, it is not secret that mere distance is the single most important obstacle to rural development. In the telecommunications industry today, we have the ability to bridge distances more effectively than ever before. Technology in this area has advanced at an incredible pace. But, maintaining and upgrading the rural telecommunications infrastructure is an exceedingly expensive proposition, and we must do all we can to encourage this development.

Ensuring that telephone cooperatives may retain their legitimate tax-exempt status is one vital step we can take. I believe that providing access to customers for long distance calls and billing and collecting for those calls on behalf of the cooperative's members and the long distance companies are indisputably part of the exempt function of providing telephone service, especially to rural communities. The nature and function of telephone cooperatives have not materially changed since 1916, and neither should the formula upon which they rely to obtain tax-exempt status.

In the 103d Congress, the Joint Committee on Taxation estimated the cost of this legislation to be \$59 million over a 5-year period. At the appropriate time, I will recommend appropriate offsets to cover the cost of this measure over the 10-year period required under the Budget Act.

Mr. President, I ask 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. 112

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

SECTION 1. TREATMENT OF CERTAIN AMOUNTS RECEIVED BY A COOPERATIVE TELEPHONE COMPANY.

(a) NONMEMBER INCOME.—

(1) IN GENERAL.—Paragraph (12) of section 501(c) of the Internal Revenue Code of 1986 (relating to list of exempt organizations) is amended by adding at the end the following new subparagraph:

“(E) In the case of a mutual or cooperative telephone company (hereafter in this subparagraph referred to as the ‘cooperative’), 50 percent of the income received or accrued directly or indirectly from a nonmember telephone company for the performance of communication services by the cooperative shall be treated for purposes of subparagraph (A) as collected from members of the cooperative for the sole purpose of meeting the losses and expenses of the cooperative.”

(2) CERTAIN BILLING AND COLLECTION SERVICE FEES NOT TAKEN INTO ACCOUNT.—Subparagraph (B) of section 501(c)(12) of such Code is amended by striking “or” at the end of clause (iii), by striking the period at the end of clause (iv) and inserting “, or”, and by adding at the end the following new clause:

“(v) from billing and collection services performed for a nonmember telephone company.”

(3) CONFORMING AMENDMENT.—Clause (i) of section 501(c)(12)(B) of such Code is amended by inserting before the comma at the end thereof “, other than income described in subparagraph (E)”.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts received or accrued after December 31, 1994.

(5) NO INFERENCE AS TO UNRELATED BUSINESS INCOME TREATMENT OF BILLING AND COLLECTION SERVICE FEES.—Nothing in the amendments made by this subsection shall be construed to indicate the proper treatment of billing and collection service fees under part III of subchapter F of chapter 1 of the Internal Revenue Code of 1986 (relating to taxation of business income of certain exempt organizations).

(b) TREATMENT OF CERTAIN INVESTMENT INCOME OF MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—

(1) IN GENERAL.—Paragraph (12) of section 501(c) of such Code (relating to list of exempt organizations) is amended by adding at the end the following new subparagraph:

“(F) In the case of a mutual or cooperative telephone company, subparagraph (A) shall be applied without taking into account reserve income (as defined in section 512(d)(2)) if such income, when added to other income not collected from members for the sole purpose of meeting losses and expenses, does not exceed 35 percent of the company's total income. For the purposes of the preceding sentence, income referred to in subparagraph (B) shall not be taken into account.”

(2) PORTION OF INVESTMENT INCOME SUBJECT TO UNRELATED BUSINESS INCOME TAX.—Section 512 of such Code is amended by adding at the end the following new subsection:

“(d) INVESTMENT INCOME OF CERTAIN MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—

“(1) IN GENERAL.—In determining the unrelated business taxable income of a mutual or cooperative telephone company described in section 501(c)(12)—

“(A) there shall be included, as an item of gross income derived from an unrelated trade or business, reserve income to the extent such reserve income, when added to other income not collected from members for the sole purpose of meeting losses and ex-

penses, exceeds 15 percent of the company's total income, and

“(B) there shall be allowed all deductions directly connected with the portion of the reserve income which is so included.

For purposes of the preceding sentence, income referred to in section 501(c)(12)(B) shall not be taken into account.

“(2) RESERVE INCOME.—For purposes of paragraph (1), the term ‘reserve income’ means income—

“(A) which would (but for this subsection) be excluded under subsection (b), and

“(B) which is derived from assets set aside for the repair or replacement of telephone system facilities of such company.”

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts received or accrued after December 31, 1994.

By Mr. DASCHLE:

S. 113. A bill to amend the Internal Revenue Code of 1986 to allow Indian tribes to receive charitable contributions of inventory; to the Committee on Finance.

THE CHARITABLE CONTRIBUTIONS OF INVENTORY TO INDIAN TRIBES

Mr. DASCHLE. Mr. President, I am introducing legislation that would expand the current inventory charitable donation rule to include Indian tribes. This proposal is short and simple.

Under current law, companies may obtain a special charitable donation tax deduction under Internal Revenue Code Section 170(e)(3) for contributing their excess inventory to “the ill, the needy, or infants.” While not limited to any particular type of company or inventory, this deduction commonly is used by food processing companies whose excess food inventories otherwise would spoil. Indian tribes have had difficulty obtaining these donations, however, because of an ambiguity in the law as to whether or not donating companies may deduct donations to organizations on Indian reservations.

The current language in Section 170(e)(3) requires charitable donations of excess inventory to be made to organizations that are described in Section 501(c)(3) of the Code and exempt from taxation under Section 501(a). While Indian tribes are exempt from taxation, they are not among the organizations described in Section 501(c)(3). Accordingly, it is not clear that a direct donation of excess inventory to an Indian tribe would qualify for the charitable donation deduction under Section 170(e)(3).

Ironically, the Indian Tribal Government Tax Status Act found in Section 7871 provides that an Indian tribal government shall be treated as a state for purposes of determining tax deductibility of charitable contributions made pursuant to Section 170. Unfortunately, the Act does not expressly extend to donations made under Section 170(e)(3) because that provision technically does not include states as eligible donees, either.

Mr. President, it is well documented that Native Americans, like other citizens, may meet the qualifications for this special charitable donation. No one would argue that it is not within the intent of Section 170(e)(3) to allow contributions to Native American organizations to qualify for the special charitable donation deduction in that section of the code. The bill I am introducing today simply would allow those contributions to qualify for the deduction. By allowing companies to make qualified contributions to Indian tribes under Section 170(e)(3), the bill would clearly further the intended purpose of both Internal Revenue Code Section 170(e)(3) and the Indian Tribal Government Tax Status Act.

The appropriateness of the measure is exhibited by the fact that it was included in the Revenue Act of 1992 (H.R. 11.), which, unfortunately, was vetoed. Moreover, at the time it was passed, the measure was supported on policy grounds by the Joint Committee on Taxation and Finance Committee staffs. Finally, in 1994, the Joint Committee on Taxation estimated that the proposal would have only a negligible effect on Treasury Receipts.

I strongly encourage my colleagues to take a close look at this bill and consider supporting this worthy and reasonable measure.

Mr President, I 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. 113

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

SECTION 1. CHARITABLE CONTRIBUTIONS OF INVENTORY TO INDIAN TRIBES.

(a) IN GENERAL.—Section 170(e)(3) of the Internal Revenue Code of 1986 (relating to a special rule for certain contributions of inventory or other property) is amended by adding at the end the following new subparagraph:

“(D) SPECIAL RULE FOR INDIAN TRIBES.—

“(i) IN GENERAL.—An Indian tribe (as defined in section 7871(c)(3)(E)(ii)) shall be treated as an organization eligible to be a donee under subparagraph (A).

“(ii) USE OF PROPERTY.—For purposes of subparagraph (A)(i), if the use of the property donated is related to the exercise of an essential governmental function of the Indian tribal government, such use shall be treated as related to the purpose or function constituting the basis for the organization's exemption.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1994.

By Mrs. BOXER:

S. 114. A bill to authorize the Securities and Exchange Commission to require greater disclosure by municipalities that issue securities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE MUNICIPAL SECURITIES DISCLOSURE ACT OF 1995

Mrs. BOXER. Mr. President, I am introducing today The Municipal Securi-

ties Disclosure Act of 1995. This bill would give the Securities and Exchange Commission [SEC] the authority to require registration and disclosure by municipalities that issue securities. This bill will ensure that municipal securities investors are provided with more complete and comprehensive information about municipal issuers and their interests and obligations. The recent events in Orange County underscore the importance of providing municipal bond purchasers with this complete and comprehensive information.

Municipal securities are currently exempt from the registration and disclosure requirements of the Securities Act of 1933 and the Exchange Act of 1934. Because of these regulatory exemptions, disclosure by issuers of municipal securities is voluntary. The quality and scope of information that is provided to municipal securities investors depends on the judgment of the issuing municipality. As a result, the information provided by municipalities varies enormously in extent and detail—from municipalities that provide comprehensive documents revealing information about the issuer, its revenue sources, the use of the funds raised, and the characteristics of the bonds being issued, to those that offer only limited and sketchy information.

Municipal issuers are also not subject to any continuing disclosure requirements. As circumstances change or situations arise, municipalities are under no obligation to disclose the information to the market. Again, this limits the ability of investors to acquire necessary information to allow them to make intelligent and informed investment decisions.

Complete and comprehensive disclosure is especially important for individual and smaller investors, who now represent a large and growing segment of municipal bond owners. Banks, insurance companies and other institutions once were the primary holders of municipal bonds. Today, households—both directly and through mutual funds—account for the largest ownership share of any investor group in the market. The growing importance of individuals in this market and their inevitable reliance on the recommendations of municipal dealers underscores the need for broad and detailed information so that these investors can make sound judgments about their municipal securities purchases.

Complete and comprehensive disclosure is also important as new and more complex forms of municipal securities become more common. Investors in these more complex instruments need continuing and complete information in order to monitor and manage their interests in these securities.

Corporations must register with the SEC and comply with a range of disclosure obligations. They must disclose detailed information about the company's business, management, debts and assets. A company must disclose infor-

mation about its other securities and information about legal proceedings in which it may be involved. A company must also meet standards for accuracy in reporting of financial data. The company's books must be submitted to independent accountants and this information must be supplied in the formal registration filed with the SEC. This registration and disclosure regime serves investors by ensuring that the information on which they are relying to make their investment decision is accurate and comprehensive and complete.

To protect investors and ensure a sound municipal securities system, municipal issuers must be subject to a similar disclosure regime. Comprehensive and accurate disclosure by issuers on an initial and ongoing basis is critical to investors in assessing prices at the offering, in making decisions as to which bonds to buy, and in deciding when to get out.

The recent events on Orange County are an illustration of the kinds of disclosure problems that a municipal securities investor faces. It is unclear whether purchasers of bonds issued by Orange County or other governmental entities who had invested in the Orange County investment fund knew of the fact that the Orange County investment fund was experiencing serious losses. It is not clear whether they knew of the fund's investments in complex derivatives. It is not clear whether the risks of the funds' highly leveraged investment strategy were disclosed. What is clear is that the SEC was not given the opportunity to review offerings before sale to the public in order to raise appropriate questions or solicit more information.

The Municipal Securities Disclosure Act of 1995 would give the SEC the flexibility and authority to require registration by municipal issuers and disclosure of relevant information. This legislation does not dictate what municipalities must disclose, but rather, it grants the SEC the power to be employed with the proper and appropriate scope.

The goal is more information. More information about the issuers of municipal securities will allow investors to better evaluate the value of their securities and the possible risks. More information will mean that regulators can better ensure a safe and sound municipal securities market.

I ask unanimous consent that the bill be printed in the RECORD.

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

S. 114

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 “Municipal Securities Disclosure Act of 1995”.

SEC. 2. MUNICIPAL SECURITIES TREATMENT UNDER SECURITIES EXCHANGE ACT OF 1934.

(a) EXEMPTION AUTHORITY.—Section 15B of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4) is amended by striking subsection (d) and inserting the following:

“(d) The Commission may, by rule or regulation, and subject to such terms and conditions as may be prescribed in accordance with those rules and regulations, add municipal securities to the classes of securities exempted from the application of any provision of this title, if the Commission finds that the enforcement of such provision with respect to such securities is not necessary in the public interest and for the protection of investors.”.

(b) AMENDMENT TO DEFINITION OF “EXEMPTED SECURITY”.—Section 3(a)(12) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(12)) is amended—

- (1) in subparagraph (A)—
 - (A) by striking clause (ii); and
 - (B) by redesignating clauses (iii) through (v) as clauses (ii) through (iv), respectively; and
- (2) in subparagraph (B)—
 - (A) by striking “(i)”; and
 - (B) by striking clause (ii).

SEC. 3. MUNICIPAL SECURITIES TREATMENT UNDER SECURITIES ACT OF 1933.

(a) REPEAL OF EXEMPTION FOR MUNICIPAL SECURITIES.—Section 3(a)(2) of the Securities Act of 1933 (15 U.S.C. 77c(a)(2)) is amended in the first sentence—

(1) by striking “or any Territory thereof, or by the District of Columbia, or by any State of the United States, or by any political subdivision of a State or Territory, or by any public instrumentality of one or more States or Territories”; and

(2) by striking “or any security which is an industrial” and all that follows through “does not apply to such security”.

(b) COMMISSION AUTHORITY TO EXEMPT.—Section 3 of the Securities Act of 1933 (15 U.S.C. 77c) is amended by adding at the end the following new subsection:

“(d) EXEMPTION AUTHORITY.—The Commission may, by rule or regulation, and subject to such terms and conditions as may be prescribed in accordance with those rules and regulations, add to the securities exempted as provided in this section, any class of securities issued by a State of the United States or by any political subdivision of a State or by any Territory of the United States or political subdivision of a Territory or by any public instrumentality of one or more States or Territories, if the Commission finds that the enforcement of this title with respect to such securities is not necessary in the public interest and for the protection of investors.”.

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall become effective 6 months after the date of enactment of this Act.

SEC. 5. FUNDING.

There are authorized to be appropriated to the Securities and Exchange Commission such sums as may be necessary to carry out this Act and the amendments made by this Act.

By Mr. WARNER (for himself and Mr. ROBB):

S. 115. A bill to authorize the Secretary of the Interior to acquire and to convey certain lands or interests in lands to improve the management, protection, and administration of Colonial National Historical Park, and for other purposes; to the Committee on Energy and Natural Resources.

THE COLONIAL PARKWAY ACT OF 1995

Mr. WARNER. Mr. President, today I rise to reintroduce legislation which would authorize the Secretary of the Interior to acquire and to convey certain lands or interests in lands to improve the management, protection, and administration of the Colonial National Historical Park. While this bill passed the Senate in the 102d Congress and passed the House in the 103d Congress, it was not considered by the Senate prior to the October adjournment.

This bill would authorize the Secretary of the Interior to convey land or interests in land and sewer lines, buildings, and equipment used for sewer system purposes to the County of York, VA, and to authorize the necessary funding to rehabilitate the Moore House sewer system to meet current Federal standards.

The necessity for this legislation is evident based on the growing needs of the county and the limitations of the National Park Service's ability to continue to provide sewer services to the local community.

In 1948 and 1956 Congress passed legislation which directed the National Park Service to design and construct sewer systems to serve Federal and non-Federal properties in the area of Yorktown, VA. In 1956, the National Park Service acquired easements from the Board of Supervisors of York County and the town trustees of the Town of York. At that time York County was a rural area with limited financing and population. Now York County has a fully functioning Department of Environmental Services which operates sewer systems throughout York County.

York County has the personnel, the expertise, and the equipment to better administer, maintain, and operate the sewer system than National Park Service staff. Negotiations to transfer the Yorktown and Moore House systems have been ongoing since the 1970's when York County took over operation of the Yorktown system through written agreement between York County and the National Park Service and a grant of approximately \$73,500 to improve the Yorktown system.

The purpose of this legislation is to fulfill the commitments made between the Park Service and York County to provide for the full transfer of ownership to York County.

Mr. President, this legislation would also authorize the acquisition of a small parcel of land along the Colonial Parkway near Jamestown which is needed to protect the scenic integrity of the parkway. This area has the narrowest right-of-way of any portion of the parkway; the park boundary in this area is only 100 feet from the centerline of the parkway.

The proposed acquisition would include one row of lots adjoining the parkway in a rapidly developing residential subdivision known as Page Landing. Development of those lots would have a severe impact on the scenic qualities of the Colonial Parkway.

In order to deter development of Page Landing, the Conservation Fund has acquired the 20-acre parcel along the Colonial National Parkway from the developer to prevent the imminent construction on these lots. The Park Service identified this property as a high priority and the Conservation Fund would like to transfer the land to the National Park Service.

The Colonial Parkway was authorized by Congress as part of Colonial National Historical Park in the 1930's to connect Jamestown, Williamsburg, and Yorktown with a scenic limited-access motor road. According to the 1938 Act of Congress, the parkway corridor is to be an average of 500 feet in width, and in most areas the roadway was built in the middle of this corridor. In the area between Mill Creek and Neck 'O Land Road, however, the parkway was built closer to the northern boundary to avoid wetlands, placing the roadway very close to the adjoining private property in that location.

This is the only area along the parkway where the National Park Service owns only 100 feet back from the centerline of the road. The National Park Service owns 250 feet or more from the centerline in all other areas of the 23-mile parkway in James City County and York County. The existing 100 feet is not sufficient to provide proper landscaping and screening from development on the adjacent property, especially during portions of the year when leaves are off the shrubs and trees.

Mr. President, to ensure that the Colonial Parkway meets the same high scenic standards of the rest of the parkway it is imperative that this land should be purchased.

By Mr. WELLSTONE:

S. 116. A bill to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate primary and general election campaigns, to prohibit participation in Federal elections by multicandidate political committees, to establish a \$100 limit on individual contributions to candidates, and for other purposes; to the Committee on Governmental Affairs.

SENATE FAIR ELECTIONS AND GRASSROOTS DEMOCRACY ACT

By Mr. WELLSTONE (for himself and Mr. FEINGOLD):

S.117. A bill to amend rule XXXV of the Standing Rules of the Senate; to the Committee on Rules and Administration.

Mr. WELLSTONE. Mr. President, as the 104th Congress begins today, I am reintroducing two key pieces of reform legislation that I had pushed hard to enact during the last Congress. The first is a bill which I believe should serve as a benchmark for profound and far-reaching reform of the way we finance our election campaigns here in Congress. According to the Federal

Election Commission, House and Senate candidates spent a record \$589.5 million on their 1994 campaigns through November 28. Final totals for the 1994 elections will be available next month, and are expected to be much higher. This out-of-control spending must be controlled, and thorough reform of our campaign laws is the only way to do it. The second initiative I am introducing is my bill to ban gifts, meals, lobbyist-sponsored vacation travel, and other perks to Members of Congress and staffers, which was killed at the end of last year by a Republican-led filibuster. I intend to work with Senator LEVIN and others to make sure that the lobbying and gift ban bill is enacted into law as a part of the Congressional Accountability Act to be considered by the Senate later this week.

This year's election returns sent a signal to Congress loud and clear: Americans want us to clean up the political system, and rid it of the influence of special interests. They know that these huge amounts of money and special interest perks have an effect on the decisionmaking process here in Washington, because they give special access and undue influence to those who are well-heeled and well-positioned to lobby Members of Congress directly. They continue to have grave and justifiable concerns about the rules under which we finance campaigns, and are demanding that we do something to radically reform this system. My campaign reform bill is an attempt to finally address that concern.

I have been frustrated that for so many years real campaign reform has been killed in this body by those who prefer the status quo. Last year, even the modest reform package that had been agreed to, which was less far-reaching than my bill, was killed by a Republican filibuster in the final days of the session. Tough, sweeping reforms are needed if we are to begin to restore the confidence of Americans in the legislative process. We ought to enact it this year.

In addition to real campaign reform, another means of special interest influence must be curbed, and that is the giving of gifts, lobbyist-sponsored vacation travel, and other perks to Members of Congress by lobbyists and others. That is why I am re-introducing today tough, comprehensive gift ban legislation similar to the bill I coauthored last year which was killed by Republican objections raised against S. 349, the underlying lobby disclosure bill to which it was attached. These objections were baseless; a frenzied campaign of lies, distortions, and misrepresentations about the impact of the bill on grassroots organizations who hire lobbyists to lobby Congress; some call these people astroturf lobbyists, to distinguish them from true grassroots political organizations. This campaign was generated by the House Republican leadership and rightwing radio talk show hosts, and was widely condemned

by reporters and others who had followed closely the details of the debate.

This bill would help to significantly change the Washington culture of special interest perks, favors, meals, travel, and gifts being provided to Members of Congress. These bills combined, and other similar reform initiatives such as that offered by the minority leader to extend coverage of certain Federal laws to Congress, are the kind of tough, comprehensive congressional reform that Americans have been demanding for years.

I intend to work with my colleagues in the coming days to ensure that gift reform legislation is enacted as soon as possible. There is no doubt that these kinds of gifts and other favors from lobbyists have contributed to Americans' deepening distrust of government. They give the appearance of special access and influence, eroding public confidence in Congress as an institution and in each Member individually as a representative of his or her constituents. This bill imposes a sweeping ban on gifts, meals, entertainment, and lobbyist-sponsored vacation travel, and imposes tough new restrictions on nonlobbyists. Its provisions should be passed this week, if necessary over the objections of those would-be reformers who have talked so much about reform out of one side of their mouths, while opposing it out of the other.

It is not by chance that the so-called Contract with America contains not a word about real reforms like these that would clean up the way Washington works. I noticed to my surprise that the majority leader said this past Sunday on one of the talk shows that he would make an effort to kill any lobbying and gift reform amendments to the Congressional Accountability Act. I say I was surprised because it was only a couple of months ago that he and 36 or 37 of his Republican colleagues had introduced a virtually identical gift ban bill, Senate Resolution 274, when they saw that the tough, comprehensive, Democratically sponsored bill that had come out of a bipartisan House-Senate conference included the gift ban provisions for which we had pushed so hard.

Whatever the ostensible Republican arguments were against the underlying lobby registration bill, one thing is clear—the gift provisions which I have long fought for should now have the support of virtually every Member of this body, since almost all of us have already voted for these same restrictions. In fact, as I said, Majority Leader DOLE, Senators MCCONNELL, STEVENS, and 35 others on the now majority side cosponsored virtually identical gift provisions during the last days of the 103d Congress, in an attempt to inculcate themselves politically from media criticism for opposing the lobby ban/gift reform bill. This year, I will be fighting to get these new rules enacted as soon as possible, including on the Congressional coverage bill. There is

no reason for further delay or obstruction on gift and lobby reform. When Americans are clamoring for real change which reduces the influence of special interests, it would be bitterly ironic if we voted to exempt ourselves from conflict-of-interest gift rules under which the executive branch has lived for years—especially in a reform bill that extends coverage of many Federal laws to Congress. There is no way to justify that kind of exemption. That is why we must include the gift ban in the congressional coverage bill.

The same kind of Republican opposition to and obstruction of the reform agenda could also be seen on campaign finance reform. Last year, after long and hard-fought battles in both the House and Senate, our Republican colleagues killed a compromise proposal that had been made by the Democratic House-Senate leadership, refusing even to allow a formal House-Senate conference to meet and discuss the measure.

While I had hoped for even more far-reaching reforms than were contained in that compromise proposal, I was frustrated and angry that, again, those who had presented themselves to the American people as reformers of the political system were able to block real reform in the form of campaign finance reform legislation—and to get away with it. Let us make one thing crystal clear: more than any of the institutional changes being proposed—some cosmetic, some real—in congressional caucuses, committees, congressional staff, and the like, efforts to combat special interest influence in the form of real campaign finance and lobby reform are what would really change the way business is done here in Washington.

But these reforms are being resisted by the Republican congressional leadership; in fact they apparently will be opposed. They will refuse to accept these immediate steps to limit the influence of wealthy special interests in the legislative process. This year, while the new majority leader and others in the House Republican leadership have made it clear that campaign finance reform is not on their agenda for this Congress, I want to make it equally clear that it will be at the top of the Democratic agenda. They have said political reform is off the table. I am going to ensure it gets back on the table—and stays there.

That is why today I am re-introducing the Senate Fair Elections and Grassroots Democracy Act of 1995, legislation which I believe should serve as a benchmark for true campaign finance reform for U.S. Senate campaigns.

As I worked on this bill, I had one goal in mind: to develop legislation designed to address the central ethical issue of politics in our time—the way in which big money special interests have come to dominate governmental decisionmaking. Last year's election continued the trend of vast amounts of

money being poured into congressional campaigns from special interests.

Perhaps nowhere can the connection between moneyed special interests and the legislative process be demonstrated more starkly than in the widely reported upon threats by the new House leadership to the corporate PAC's and other wealthy special interests here in Washington: pony up now before the elections with your huge contributions, or you will be iced out of the legislative process. For those PAC directors who refused to contribute to Republican coffers, there was a promise of two long, cold years. That, Mr. President, perhaps more than any other single recent event, reveals the breathtaking hypocrisy of these so-called reformers. That the incoming House leadership would publicly threaten PAC directors and others with retribution or retaliation through the law-making process is unprecedented, and signals how far down the road of special interest control we have come. And how desperately the system cries out for reform.

And what should be our measure of true reform? The essential standard of a truly representative democracy is this: every person should count as one, and no more than one. I believe my bill squarely meets that standard. For years, Americans have pressed for a complete overhaul of the way we finance and conduct Federal elections—not a set of modest, incremental changes. People feel ripped off by our political system, unrepresented, angry, and frustrated by gridlock. They are demanding change, we have promised change, and I intend to do whatever I can to ensure that the Senate delivers on that promise.

They know that without real campaign reform, attempts to restructure America's health care system, create jobs and rebuild our cities, reduce defense spending, and solve other pressing problems will remain frustrated by the pressures of special interest, big-money politics. And they know that too often, their families get outbid in the bidding wars over Federal tax breaks that we seem to be about to embark upon, with virtually all of the tax benefits going to wealthy individuals with large stock portfolios, and wealthy corporations.

The American people have demanded fundamental political reform, and they deserve nothing less. If we in the Congress are to earn back the trust of the American people, we must enact sweeping reform now.

The Senate Fair Elections and Grassroots Democracy Act provides for individual limits of \$100 on contributions to Senate candidates, a total ban on Political Action Committee [PAC] contributions, lower spending limits than in last year's S. 3 based on State voting-age population, a 90 percent reduction in the amount wealthy candidates can contribute to their own campaigns, to eliminate the problem of candidates spending millions of their own money to buy seats in Congress, a prohibition

on soft money, plus free broadcast time, reduced mail rates for eligible candidates, and prohibitions of contributions from certain lobbyists—all within a comprehensive system of voluntary public financing of primary and general Senate campaigns patterned after the Presidential system. I believe these elements are key to true reform.

This is the best time in two decades for fundamental reform, despite Republican attempts to sweep these much-needed changes under the rug. We must restore the basic democratic principle of one person, one vote by enacting true campaign reform, and ban outright the practice of Members of Congress being lavished with gifts and other perks and special favors from lobbyists. I urge my colleagues to support these bills. I ask unanimous consent that summaries of my comprehensive campaign finance reform bill, and of the lobbyist gift ban provisions from last year's conference report after which my bill is patterned, be printed in the RECORD at the end of my statement, and in addition, that a copy of a letter from Fred Werthiemer, executive director of Common Cause, to all Members of the Senate urging the prompt passage of these important reforms in both the House and the Senate be printed because I think it speaks to all of us about the need for strong campaign reform and lobbyist gift ban legislation. I ask further unanimous consent that a copy of my gift rule amendment, and the copy of my gift ban bill be printed in the RECORD following my statement.

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

S. 116

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

SECTION 1. SHORT TITLE; AMENDMENT OF CAMPAIGN ACT; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Senate Fair Elections and Grassroots Democracy Act of 1995".

(b) AMENDMENT OF FECA.—When used in this Act, the term "FECA" means the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.).

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; amendment of Campaign Act; table of contents.

Sec. 2. Findings and declarations of the Senate.

TITLE I—CONTROL OF CONGRESSIONAL CAMPAIGN SPENDING

Subtitle A—Senate Election Campaign Spending Limits and Benefits

Sec. 101. Senate spending limits and benefits.

Sec. 102. Ban on activities of political action committees in Federal elections.

Sec. 103. Reporting requirements.

Sec. 104. Disclosure by noneligible candidates.

Sec. 105. Free broadcast time.

Subtitle B—General Provisions

Sec. 131. Extension of reduced third-class mailing rates to eligible Senate committees.

Sec. 132. Reporting requirements for certain independent expenditures.

Sec. 133. Campaign advertising amendments.

Sec. 134. Definitions.

Sec. 135. Provisions relating to franked mass mailings.

TITLE II—INDEPENDENT EXPENDITURES

Sec. 201. Clarification of definitions relating to independent expenditures.

TITLE III—EXPENDITURES

Subtitle A—Personal Loans; Credit

Sec. 301. Personal contributions and loans.

Sec. 302. Extensions of credit.

Subtitle B—Provisions Relating to Soft Money of Political Parties

Sec. 311. Contributions to political party committees for grassroots Federal election campaign activities.

Sec. 312. Provisions relating to national, State, and local party committees.

Sec. 313. Restrictions on fundraising by candidates and officeholders.

Sec. 314. Reporting requirements.

Sec. 315. Limitations on combined political activities of political committees of political parties.

TITLE IV—CONTRIBUTIONS

Sec. 401. Reduction of contribution limits.

Sec. 402. Contributions through intermediaries and conduits; prohibition of certain contributions by lobbyists.

Sec. 403. Contributions by dependents not of voting age.

Sec. 404. Contributions to candidates from State and local committees of political parties to be aggregated.

Sec. 405. Limited exclusion of advances by campaign workers from the definition of the term "contribution".

TITLE V—REPORTING REQUIREMENTS

Sec. 501. Change in certain reporting from a calendar year basis to an election cycle basis.

Sec. 502. Personal and consulting services.

Sec. 503. Reduction in threshold for reporting of certain information by persons other than political committees.

Sec. 504. Computerized indices of contributions.

TITLE VI—PRESIDENTIAL DEBATES

Sec. 601. Findings and purposes.

Sec. 602. Presidential and vice presidential candidate debates.

TITLE VII—MISCELLANEOUS

Sec. 701. Prohibition of leadership committees.

Sec. 702. Polling data contributed to candidates.

TITLE VIII—EFFECTIVE DATES; AUTHORIZATIONS

Sec. 801. Effective date.

Sec. 802. Sense of the Senate regarding funding of Senate Election Campaign Fund.

Sec. 803. Severability.

Sec. 804. Expedited review of constitutional issues.

SEC. 2. FINDINGS AND DECLARATIONS OF THE SENATE.

(a) NECESSITY FOR SPENDING LIMITS.—The Senate finds and declares that—

(1) the current system of campaign finance has led to public perceptions that political contributions and their solicitation have unduly influenced the official conduct of elected officials;

(2) permitting candidates for Federal office to raise and spend unlimited amounts of

money constitutes a fundamental flaw in the current system of campaign finance; it has undermined public respect for the Congress as an institution and has given large private contributors undue influence with respect to public policymaking by the Congress;

(3) the failure to limit campaign expenditures has driven up the cost of election campaigns and made it difficult for qualified candidates without personal fortunes or access to large contributors to mount competitive congressional campaigns;

(4) the failure to limit campaign expenditures has caused individuals elected to the Senate to spend an increasing proportion of their time in office as elected officials raising funds, interfering with the ability of the Senate to carry out its constitutional responsibilities;

(5) the failure to limit campaign expenditures has damaged the Senate as an institution, due to the time lost to raising funds for campaigns;

(6) to prevent the appearance of corruption and to restore public trust in the Senate as an institution, it is necessary to limit campaign expenditures, through a system that provides substantial public benefits to candidates who agree to limit campaign expenditures; and

(7) serious and thoroughgoing reform of Federal election law that imposes strict new rules on spending and contributions would—

(A) help eliminate access to wealth as a determinant of a citizen's influence in the political process;

(B) help to restore meaning to the principle of "one person, one vote";

(C) produce more competitive Federal elections; and

(D) halt and reverse the escalating cost of Federal elections.

(b) **NECESSITY FOR PROHIBITION OF POLITICAL ACTION COMMITTEES.**—The Senate finds and declares that—

(1) contributions by political action committees to individual candidates have created the perception that candidates are beholden to special interests, and leave candidates open to charges of corruption;

(2) contributions by political action committees to individual candidates have undermined the Senate as an institution; and

(3) to prevent the appearance of corruption and to restore public trust in the Senate as an institution, it is necessary to ban participation by political action committees in Federal elections.

(c) **NECESSITY FOR ATTRIBUTING COOPERATIVE EXPENDITURES TO CANDIDATES.**—The Senate finds and declares that—

(1) public confidence and trust in the system of campaign finance would be undermined should any candidate be able to circumvent a system of caps on expenditures through cooperative expenditures with outside individuals, groups, or organizations;

(2) cooperative expenditures by candidates with outside individuals, groups, or organizations would severely undermine the effectiveness of caps on campaign expenditures, unless they are included within such caps; and

(3) to maintain the integrity of the system of campaign finance, expenditures by any individual, group, or organization that have been made in cooperation with any candidate, authorized committee, or agent of any candidate must be attributed to that candidate's cap on campaign expenditures.

(d) **NECESSITY FOR PROVIDING SUBSTANTIAL PUBLIC FINANCING FOR SENATE ELECTIONS.**—The Senate finds and declares that the replacement of private campaign contributions with partial or complete public financing for Senate elections would enhance American democracy by eliminating real and potential conflicts of interest and increasing the ac-

countability of Members of Congress, thereby helping to restore public confidence in the fairness of the electoral and policymaking processes.

TITLE I—CONTROL OF CONGRESSIONAL CAMPAIGN SPENDING

Subtitle A—Senate Election Campaign Spending Limits and Benefits

SEC. 101. SENATE SPENDING LIMITS AND BENEFITS.

(a) **IN GENERAL.**—FECA is amended by adding at the end the following new title:

TITLE I—CONTROL OF CONGRESSIONAL CAMPAIGN SPENDING

Subtitle A—Senate Election Campaign Expenditure Limits and Benefits

SEC. 101. SENATE EXPENDITURE LIMITS AND BENEFITS.

(a) **IN GENERAL.**—FECA is amended by adding at the end the following new title:

"TITLE V—EXPENDITURE LIMITS AND BENEFITS FOR SENATE ELECTION CAMPAIGNS

"SEC. 501. ELIGIBILITY.

"(a) **IN GENERAL.**—For purposes of this title, a candidate is an eligible Senate candidate if—

"(1) the candidate and the candidate's authorized committees meet the threshold contribution and ballot access requirements of subsection (b);

"(2) the candidate and the candidate's authorized committees do not make expenditures from personal funds in an amount that exceeds the personal funds expenditure limit except as permitted under section 502(e);

"(3) the candidate and the candidate's authorized committees do not make expenditures in excess of the primary election expenditure limit, the runoff election expenditure limit, or the general election expenditure limit except as permitted under section 502(e);

"(4) the candidate and the candidate's authorized committees—

"(A) do not accept contributions for the primary or runoff election in an amount that exceed the primary election expenditure limit or the runoff election expenditure limit except as permitted under section 503(e); and

"(B) do not accept contributions for the general election except as permitted under section 503(e); and

"(5) the candidate's authorized committees do not accept contributions from multicandidate political committees for the primary election or runoff election in an amount that exceeds the primary election multicandidate political committee contribution limit or the runoff election multicandidate political committee contribution limit that may be in effect in accordance with section 502(f);

"(6)(A) with respect to a primary election, at least one other candidate has qualified for the same primary election ballot under the law of the candidate's State;

"(B) with respect to a general election, at least one other candidate has qualified for the same general election ballot under the law of the candidate's State;

"(7) the candidate and the candidate's authorized committees do not accept any contribution in violation of section 315;

"(8) the candidate and the candidate's authorized committees deposit all payments received under this title in an account insured by the Federal Deposit Insurance Corporation from which funds may be withdrawn by check or similar means of payment to third parties;

"(9) the candidate and the candidate's authorized committees furnish campaign records, evidence of contributions, and other appropriate information to the Commission;

"(10) the candidate and the candidate's authorized committees cooperate in the case of

any examination and audit by the Commission under section 505;

"(11) the candidate and the candidate's authorized committees comply with all of the requirements of this Act that apply to eligible candidates; and

"(12) the candidate, not later than 7 days after becoming a candidate, files with the Commission a declaration that the candidate and the candidate's authorized committees have complied with and will continue to comply with all of the requirements of this Act that apply to eligible Senate candidates and their authorized committees.

"(b) **THRESHOLD CONTRIBUTION AND BALLOT ACCESS REQUIREMENTS.**—

(1) **IN GENERAL.**—The requirements of this subsection are met if—

"(A) the candidate and the candidate's authorized committees have received allowable contributions during the applicable period in an amount at least equal to 5 percent of the general election expenditure limit from contributors at least 60 percent of whom are residents of the candidate's State; and

"(B) the candidate has qualified for the ballot for a primary election, runoff election, or general election, respectively, under State law.

"(2) **DEFINITIONS.**—For purposes of this section—

"(A) the term 'allowable contributions'—

"(i) means contributions that are made as gifts of money by an individual pursuant to a written instrument identifying the individual as the contributor; and

"(ii) does not include—

"(I) contributions made directly or indirectly through an intermediary or conduit that are treated as being made by the intermediary or conduit under section 315(a)(8)(B); or

"(II) contributions from any individual during the applicable period to the extent that such contributions exceed \$100; and

"(B) the term 'applicable period' means—

"(i) with respect to a candidate who is or who is seeking to become a candidate in a general election, the period beginning on January 1 of the calendar year preceding the calendar year of the general election and ending on the date on which a candidate submits a first request to receive benefits under section 503; or

"(ii) with respect to a candidate who is or who is seeking to become a candidate in a special election, the period beginning on the date the vacancy occurs in the office for which the election is held and ending on the date of the general election.

"SEC. 502. EXPENDITURE AND CONTRIBUTION LIMITS.

"(a) **PERSONAL FUNDS EXPENDITURE LIMIT.**—

"(1) **IN GENERAL.**—The personal funds expenditure limit applicable to an eligible Senate candidate is an aggregate amount of expenditures equal to \$25,000 made during an election cycle by an eligible Senate candidate and the candidate's authorized committees from the sources described in paragraph (2).

"(2) **SOURCES.**—A source is described in this paragraph if it is—

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

"(B) personal debt incurred by the candidate and members of the candidate's immediate family.

"(b) **PRIMARY ELECTION EXPENDITURE LIMIT.**—The primary election expenditure limit applicable to an eligible Senate candidate is an amount equal to the lesser of—

"(1) 67 percent of the general election expenditure limit; or

“(2) \$2,500,000.

“(C) RUNOFF ELECTION EXPENDITURE LIMIT.—The expenditure limit applicable to an eligible Senate candidate is 20 percent of the general election expenditure limit.

“(d) GENERAL ELECTION EXPENDITURE LIMIT.—

“(1) IN GENERAL.—The general election expenditure limit applicable to an eligible Senate candidate is an amount equal to the lesser of—

“(A) \$4,500,000; or

“(B) the greater of—

“(i) \$775,000; or

“(ii) \$325,500, plus—

“(I) 30 cents multiplied by the voting age population not in excess of 4,000,000; and

“(II) 25 cents multiplied by the voting age population in excess of 4,000,000.

“(2) STATE WITH ONE TELEVISION TRANSMITTER.—In the case of an eligible Senate candidate in a State that has no more than 1 transmitter for a commercial Very High Frequency (VHF) television station licensed to operate in the State, paragraph (1)(B)(ii) shall be applied by substituting—

“(A) ‘60 cents’ for ‘30 cents’ in subclause (I); and

“(B) ‘50 cents’ for ‘25 cents’ in subclause (II).

“(e) EXCEPTIONS.—

“(1) LEGAL AND ACCOUNTING COMPLIANCE FUND.—(A) An eligible Senate candidate and the candidate’s authorized committees may accept contributions and make expenditures without regard to the primary election expenditure limit, runoff expenditure limit, or general election expenditure limit for the purpose of maintaining a legal and accounting compliance fund meeting the requirements of subparagraph (B), out of which fund qualified legal and accounting expenditures may be made.

“(B) A legal and accounting compliance fund meets the requirements of this subparagraph if—

“(i) the only amounts transferred to the fund are amounts received in accordance with the limitations, prohibitions, and reporting requirements of this Act;

“(ii) the aggregate amounts transferred to, and expenditures made from, the fund do not exceed the sum of—

“(I) the lesser of—

“(aa) 10 percent of the general election expenditure limit for the general election for which the fund was established; or

“(bb) \$300,000, plus—

“(II) the amount determined under subparagraph (D); and

“(iii) no funds received by the candidate pursuant to section 503(a)(3) are transferred to the fund.

“(C) For purposes of this paragraph, the term ‘qualified legal and accounting expenditure’ means the following:

“(i) An expenditure for costs of a legal or accounting service provided in connection with—

“(I) any administrative or court proceeding initiated pursuant to this Act during the election cycle for the primary election, runoff election, or general election; or

“(II) the preparation of any documents or reports required by this Act or the Commission.

“(ii) An expenditure for a legal or accounting service provided in connection with the primary election, runoff election, or general election for which the legal and accounting compliance fund was established to ensure compliance with this Act with respect to the election cycle for the primary election, runoff election, or general election.

“(D)(i) If, after a general election, a candidate determines that the qualified legal and accounting expenditures will exceed the limitation under subparagraph (B)(ii)(I), the

candidate may petition the Commission by filing with the Secretary of the Senate a request for an increase in such limitation. The Commission shall authorize an increase in such limitation in the amount (if any) by which the Commission determines the qualified legal and accounting expenditures exceed that limitation. The Commission’s determination shall be subject to judicial review under section 507.

“(ii) Except as provided in section 315, any contribution received or expenditure made pursuant to this paragraph shall not be taken into account for any contribution or expenditure limit applicable to the candidate under this title.

“(E)(i) A candidate shall terminate a legal and accounting compliance fund as of the earlier of—

“(I) the date of the first primary election for the office following the general election for the office for which the fund was established; or

“(II) the date specified by the candidate.

“(ii) Any amount remaining in a legal and accounting compliance fund as of the date determined under clause (i) shall be transferred—

“(I) to a legal and accounting compliance fund for the election cycle for the next primary election, runoff election, or general election; or

“(II) to the Senate Election Campaign Fund.

“(2) PAYMENT OF TAXES.—An eligible Senate candidate and the candidate’s authorized committees may accept contributions and make expenditures without regard to the primary election expenditure limit, runoff expenditure limit, or general election expenditure limit for the purpose of funding and making expenditures for Federal, State, or local income taxes with respect to the candidate’s authorized committees.

“(3) INDEPENDENT EXPENDITURE AMOUNT AND EXCESS EXPENDITURE AMOUNT.—An eligible Senate candidate who receives payment of an independent expenditure amount under section 503(b)(1)(B) or an excess expenditure amount under section 503(b)(1)(C) may make expenditures from such payments to defray expenditures for the primary election, runoff election, or general election, respectively, without regard to the primary election expenditure limit, runoff election expenditure limit, or general election expenditure limit.

“(4) UNMATCHED EXCESS EXPENDITURES.—(A) An eligible Senate candidate and the candidate’s authorized committees may accept contributions and make expenditures without regard to the personal funds expenditure limit, primary election expenditure limit, runoff election expenditure limit, or general election expenditure limit if any one of the eligible Senate candidate’s opponents who is not an eligible Senate candidate raises aggregate contributions or makes or becomes obligated to make aggregate expenditures that exceed 200 percent of the primary election expenditure limit, runoff expenditure limit, or general election expenditure limit, respectively, applicable to the eligible Senate candidate.

“(B) An eligible Senate candidate and the candidate’s authorized committees may accept contributions without regard to the primary election expenditure limit, runoff expenditure limit, or general election expenditure limit in anticipation of their being needed for the purpose of making expenditures under subparagraph (A) if—

“(i) any opposing candidate in the primary election, runoff election, or general election who is not an eligible Senate candidate raises aggregate contributions or makes or becomes obligated to make aggregate expenditures for the primary election, runoff election, or general election that exceed 75

percent of the primary election expenditure limit, runoff election expenditure limit, or general election expenditure limit applicable to the candidate; or

“(ii) any opposing candidate in the general election who is the nominee of a major party is not an eligible Senate candidate.

“(C) The amount of the contributions that may be accepted and expenditures that may be made by reason of subparagraphs (A) and (B) shall not exceed 100 percent of the primary election expenditure limit, runoff election expenditure limit, or general election expenditure limit, respectively.

“(f) MULTICANDIDATE POLITICAL COMMITTEE CONTRIBUTION LIMITS.—

“(1) MULTICANDIDATE POLITICAL COMMITTEE PRIMARY ELECTION CONTRIBUTION LIMIT.—The multicandidate political committee primary election contribution limit applicable to an eligible Senate candidate is an amount equal to 10 percent of the primary election spending limit.

“(2) MULTICANDIDATE POLITICAL COMMITTEE RUNOFF ELECTION CONTRIBUTION LIMIT.—The multicandidate political committee runoff election contribution limit applicable to an eligible Senate candidate is an amount equal to 10 percent of the runoff election spending limit.

“(3) PERIODS WHEN PROVISIONS ARE IN EFFECT.—This subsection and other provisions in this title relating to multicandidate political committees shall be of no effect except during any period in which the prohibition under section 324 is not in effect.

“(g) INDEXING.—The \$2,500,000 amount under subsection (b)(2) and the amount otherwise determined under subsection (d)(1) shall be increased as of the beginning of each calendar year based on the increase in the price index determined under section 315(c), except that, for purposes of those provisions, the base period shall be calendar year 1995.

“(h) EXPENDITURES.—For purposes of this title, the term ‘expenditure’ has the meaning stated in section 301(9), except that in determining any expenditures made by, or on behalf of, a candidate or a candidate’s authorized committees, section 301(9)(B) shall be applied without regard to clause (ii) or (vi) thereof.

“SEC. 503. BENEFITS.

“(a) IN GENERAL.—An eligible Senate candidate shall be entitled to—

“(1) free broadcast time under title VI;

“(2) the mailing rates provided in section 3626(e) of title 39, United States Code; and

“(3) payments in the amounts determined under subsection (b).

“(b) AMOUNT OF PAYMENTS.—

“(1) IN GENERAL.—For purposes of subsection (a)(3), the amounts determined under this subsection are—

“(A) the public financing amount;

“(B) the independent expenditure amount; and

“(C) the excess expenditure amount.

“(2) PUBLIC FINANCING AMOUNT.—For purposes of paragraph (1), the public financing amount is—

“(A) in the case of an eligible Senate candidate who is a major party candidate—

“(i) during the primary election period, an amount equal to the amount of contributions received during that period from individuals residing in the candidate’s State (other than the candidate and members of the candidate’s immediate family) in the aggregate amount of \$100 or less, up to 50 percent of the primary election spending limit;

“(ii) during the runoff election period, an amount equal to the amount of contributions received during that period from individuals residing in the candidate’s State (other than the candidate and members of

the candidate's immediate family) in the aggregate amount of \$100 or less, up to 50 percent of the runoff election spending limit, less the amount of any unexpended campaign funds from the primary election, which the candidate shall transfer to the runoff election; and

"(iii) during the general election period, an amount equal to the general election expenditure limit applicable to the candidate, less the amount of any unexpended campaign funds from the primary election or runoff election, which the candidate shall transfer to the general election; and

"(B) in the case of an eligible Senate candidate who is not a major party candidate—

"(i) during the primary election period, an amount equal to the amount of contributions received during that period from individuals residing in the candidate's State (other than the candidate and members of the candidate's immediate family) in the aggregate amount of \$100 or less, up to 50 percent of the primary election expenditure limit;

"(ii) during the runoff election period, an amount equal to the amount of contributions received during that period from individuals residing in the candidate's State (other than the candidate and members of the candidate's immediate family) in the aggregate amount of \$100 or less, up to 50 percent of the runoff election expenditure limit, less the amount of any unexpended campaign funds from the primary election, which the candidate shall transfer to the runoff election; and

"(iii) during the general election period, an amount equal to the amount of contributions received during that period from individuals residing in the candidate's State (other than the candidate and members of the candidate's immediate family) in the aggregate amount of \$100 or less, up to 50 percent of the general election expenditure limit, less the amount of any unexpended campaign funds from the primary election or runoff election, which the candidate shall transfer to the general election.

"(3) INDEPENDENT EXPENDITURE AMOUNT.—For purposes of paragraph (1), the independent expenditure amount is the total amount of independent expenditures made, or obligated to be made, during the primary election period, runoff election period, or general election period, respectively, by 1 or more persons in opposition to, or on behalf of an opponent of, an eligible Senate candidate that are required to be reported by such persons under section 304(c) with respect to each such period, respectively, and are certified by the Commission under section 304(c).

"(4) EXCESS EXPENDITURE AMOUNT.—For purposes of paragraph (1), the excess expenditure amount is the amount determined as follows:

"(A) In the case of an eligible Senate candidate of an eligible Senate candidate of major party who has an opponent in the primary election, runoff election, or general election, respectively, who receives contributions, or makes (or obligates to make) expenditures, for such election in excess of the primary election expenditure limit, the runoff election expenditure limit, or the general election expenditure limit, respectively, an amount equal to the sum of—

"(i) if the excess is not greater than 133½ percent of the primary election expenditure limit, the runoff election expenditure limit, or the general election expenditure limit, respectively, an amount equal to one-third of such limit applicable to the eligible Senate candidate for the election; plus

"(ii) if the excess equals or exceeds 133½ percent but is less than 166½ percent of such limit, an amount equal to one-third of such limit; plus

"(iii) if the excess equals or exceeds 166½ percent of such limit, an amount equal to one-third of such limit.

"(B) In the case of an eligible Senate candidate who is not a candidate of a major party who has an opponent in the primary election, runoff election, or general election, respectively, who receives contributions, or makes (or obligates to make) expenditures, for such election in excess of the primary election expenditure limit, the runoff election expenditure limit, or the general election expenditure limit, respectively, an amount equal to 50 percent of the amount of the excess of the contributions received or expenditures made or obligated to be made by an opponent over the primary election expenditure limit, the runoff election expenditure limit, or the general election expenditure limit, respectively, but not exceeding the amount of contributions received by the eligible Senate candidate during the primary election period, runoff election period, or general election period, respectively, from individuals residing in the candidate's State (other than the candidate and members of the candidate's immediate family) in the aggregate amount of \$100 or less, up to 50 percent of the excess primary election expenditure limit, the runoff election expenditure limit, or the general excess expenditure limit, respectively.

"(C) USE OF PAYMENTS.—

"(1) PERMITTED USE.—Payments received by an eligible Senate candidate under subsection (a)(3) shall be used to defray expenditures incurred with respect to the general election primary election period, runoff election period, and period for the candidate.

"(2) PROHIBITED USE.—Payments received by an eligible Senate candidate under subsection (a)(3) shall not be used—

"(A) except as provided in subparagraph (D), to make any payments, directly or indirectly, to such candidate or to any member of the immediate family of the candidate;

"(B) to make any expenditure other than expenditures to further the primary election, runoff election, or general election of the candidate;

"(C) to make any expenditures that constitute a violation of any law of the United States or of the State in which the expenditure is made; or

"(D) subject to section 315(i), to repay any loan to any person except to the extent the proceeds of such loan were used to further the primary election, runoff election, or general election of the candidate.

"SEC. 504. CERTIFICATION BY COMMISSION.

"(a) IN GENERAL.—

"(1) IN GENERAL.—The Commission shall certify to any candidate that meets the eligibility requirements of section 501 that the candidate is an eligible Senate candidate entitled to benefits under this title. The Commission shall revoke such a certification if it determines that a candidate fails to continue to meet those requirements.

"(2) REQUESTS TO RECEIVE BENEFITS.—(A) A candidate to whom a certification has been issued may from time to time file with the Commission a request to receive benefits under section 503.

"(B) A request under subparagraph (A) shall—

"(i) contain such information and be made in accordance with such procedures as the Commission may provide by regulation; and

"(ii) contain a verification signed by the candidate and the treasurer of the principal campaign committee of the candidate stating that the information furnished in support of the request, to the best of their knowledge, is correct and fully satisfies the requirements of this title.

"(C) Not later than 3 business days after a candidate files a request under subparagraph

(A), the Commission shall certify to the Secretary of the Treasury the amount of benefits to which the candidate is entitled.

"(b) DETERMINATIONS BY COMMISSION.—All determinations (including certifications under subsection (a)) made by the Commission under this title shall be final and conclusive, except to the extent that they are subject to examination and audit by the Commission under section 505 and judicial review under section 507.

"SEC. 505. EXAMINATION AND AUDITS; REPAYMENTS; CIVIL PENALTIES.

"(a) EXAMINATION AND AUDITS.—

"(1) RANDOM AUDITS.—After each general election, the Commission shall conduct an examination and audit of the campaign accounts of 10 percent of all candidates for the office of United States Senator to determine, among other things, whether such candidates have complied with the expenditure limits and conditions of eligibility of this title, and other requirements of this Act. Such candidates shall be designated by the Commission through the use of an appropriate statistical method of random selection. If the Commission selects a candidate, the Commission shall examine and audit the campaign accounts of all other candidates in the general election for the office the selected candidate is seeking.

"(2) REASON TO INVESTIGATE.—The Commission may conduct an examination and audit of the campaign accounts of any candidate in a general election for the office of United States Senator if the Commission determines that there exists reason to investigate whether the candidate may have violated any provision of this title.

"(b) EXCESS PAYMENTS; REVOCATION OF STATUS.—

"(1) EXCESS PAYMENTS.—If the Commission determines that payments were made to an eligible Senate candidate under this title in excess of the aggregate amounts to which such candidate was entitled, the Commission shall so notify such candidate, and such candidate shall pay an amount equal to the excess.

"(2) REVOCATION OF STATUS.—If the Commission revokes the certification of a candidate as an eligible Senate candidate under section 504(a)(1), the Commission shall notify the candidate, and the candidate shall pay an amount equal to the payments received under this title.

"(c) MISUSE OF BENEFITS.—If the Commission determines that any amount of any benefit made available to an eligible Senate candidate under this title was not used as provided for in this title, the Commission shall so notify such candidate and such candidate shall pay the amount of such benefit.

"(d) EXCESS EXPENDITURES.—If the Commission determines that any eligible Senate candidate who has received benefits under this title has made expenditures (except as permitted under section 502(e)) that in the aggregate exceed—

"(1) the primary election expenditure limit;

"(2) the runoff election expenditure limit; or

"(3) the general election expenditure limit, the Commission shall so notify the candidate and the candidate shall pay an amount equal to the amount of the excess expenditures.

"(e) CIVIL PENALTIES FOR EXCESS EXPENDITURES AND CONTRIBUTIONS.—

"(1) IN GENERAL.—If the Commission determines that a candidate has committed a violation described in subsection (c), the Commission may assess a civil penalty against the candidate in an amount not greater than 200 percent of the amount involved.

"(2) LOW AMOUNT OF EXCESS EXPENDITURES.—An eligible Senate candidate who makes expenditures that exceed the primary

election expenditure limit, runoff election expenditure, or general election expenditure limit by 2.5 percent or less shall pay an amount equal to the amount of the excess expenditures.

“(3) MEDIUM AMOUNT OF EXCESS EXPENDITURES.—An eligible Senate candidate who makes expenditures that exceed the primary election expenditure limit, runoff election expenditure, or general election expenditure limit by more than 2.5 percent and less than 5 percent shall pay an amount equal to 3 times the amount of the excess expenditures.

“(4) LARGE AMOUNT OF EXCESS EXPENDITURES.—Any eligible Senate candidate who makes expenditures that exceed the primary election expenditure limit, runoff election expenditure, or general election expenditure limit by 5 percent or more shall pay an amount equal to 3 times the amount of the excess expenditures plus a civil penalty in an amount determined by the Commission.

“(f) UNEXPENDED FUNDS.— Any amount received by an eligible Senate candidate under this title may be retained for a period not exceeding 120 days after the date of the primary election, runoff election, or general election for the liquidation of all obligations to pay expenditures for the primary election, runoff election, or general election incurred during the primary election period, runoff election period, or general election period. At the end of such 120-day period, any unexpended funds received under this title, except those that are transferred as required by section 503(b)(2) (A) (ii) or (iii) or (B) (ii) or (iii), shall be promptly repaid.

“(g) LIMIT ON PERIOD FOR NOTIFICATION.— No notification shall be made by the Commission under this section with respect to an election more than 3 years after the date of such election.

“(h) DEPOSITS.—The Secretary of the Treasury shall deposit all payments received under this section into the Senate Election Campaign Fund.

“SEC. 506. CRIMINAL PENALTIES.

“(a) ACCEPTANCE OR USE OF BENEFITS EXPENDITURES IN EXCESS OF LIMITS.—

“(1) OFFENSE.—No person shall knowingly and willfully—

“(A) accept benefits under this title in excess of the aggregate benefits to which the candidate on whose behalf such benefits are accepted is entitled;

“(B) use such benefits for any purpose not provided for in this title; or

“(C) make expenditures in excess of—

“(i) the primary election expenditure limit;

“(ii) the runoff election expenditure limit; or

“(iii) the general election expenditure limit,

except as permitted under section 502(e).

“(2) PENALTY.—A person who violates paragraph (1) shall be fined not more than \$25,000, imprisoned not more than 5 years, or both. An officer, employee, or agent of a political committee who knowingly consents to any expenditure in violation of paragraph (1) shall be fined not more than \$25,000, imprisoned not more than 5 years, or both.

“(b) USE OF BENEFITS.—

“(1) OFFENSE.—It is unlawful for a person who receives any benefit under this title, or to whom any portion of any such benefit is transferred, knowingly and willfully to use, or to authorize the use of, the benefit or such portion other than in the manner provided in this title.

“(2) PENALTY.—A person who violates paragraph (1) shall be fined not more than \$10,000, imprisoned not more than 5 years, or both.

“(c) FALSE INFORMATION.—

“(1) OFFENSE.—It is unlawful for a person knowingly and willfully—

“(A) to furnish any false, fictitious, or fraudulent evidence, books, or information (including any certification, verification, notice, or report) to the Commission under this title, or to include in any evidence, books, or information so furnished any misrepresentation of a material fact, or to falsify or conceal any evidence, books, or information relevant to a certification by the Commission or an examination and audit by the Commission under this title; or

“(B) to fail to furnish to the Commission any records, books, or information requested by it for purposes of this title.

“(2) PENALTY.—A person who violates paragraph (1) shall be fined not more than \$10,000, imprisoned not more than 5 years, or both.

“(d) KICKBACKS AND ILLEGAL PAYMENTS.—

“(1) OFFENSE.—It is unlawful for a person knowingly and willfully to give or to accept any kickback or any illegal payment in connection with any benefits received under this title by an eligible Senate candidate.

“(2) PENALTY.—(A) A person who violates paragraph (1) shall be fined not more than \$10,000, imprisoned not more than 5 years, or both.

“(B) In addition to the penalty provided by subparagraph (A), a person who accepts any kickback or illegal benefit in connection with any benefits received by an eligible Senate candidate pursuant to the provisions of this title, or received by the authorized committees of such a candidate, shall pay to the Secretary, for deposit into the Senate Election Campaign Fund, an amount equal to 125 percent of the kickback or benefit received.

“SEC. 507. JUDICIAL REVIEW.

“(a) JUDICIAL REVIEW.—Any agency action by the Commission made under the provisions of this title shall be subject to review by the United States Court of Appeals for the District of Columbia Circuit upon petition filed in such court within 30 days after the agency action by the Commission for which review is sought. It shall be the duty of the Court of Appeals to expeditiously take action on all petitions filed pursuant to this title.

“(b) APPLICATION OF TITLE 5.—Chapter 7 of title 5, United States Code, shall apply to judicial review of any agency action by the Commission.

“(c) AGENCY ACTION.—For purposes of this section, the term ‘agency action’ has the meaning stated in section 551(13) of title 5, United States Code.

“SEC. 508. PARTICIPATION BY COMMISSION IN JUDICIAL PROCEEDINGS.

“(a) APPEARANCES.—The Commission may appear in and defend against any action instituted under this section and under section 507 either by attorneys employed in its office or by counsel whom it may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title.

“(b) INSTITUTION OF ACTIONS.—The Commission may, through attorneys and counsel described in subsection (a), institute actions in the district courts of the United States to seek recovery of any amounts determined under this title to be payable to the Secretary.

“(c) INJUNCTIVE RELIEF.—The Commission may, through attorneys and counsel described in subsection (a), petition the courts of the United States for such injunctive relief as is appropriate in order to implement any provision of this title.

“(d) APPEALS.—The Commission may, on behalf of the United States, appeal from, and

to petition the Supreme Court for certiorari to review, judgments, or decrees entered with respect to actions in which it appears pursuant to the authority provided in this section.

“SEC. 509. REPORTS TO CONGRESS; REGULATIONS.

“(a) REPORTS.—The Commission shall, as soon as practicable after each election, submit a full report to the Senate setting forth—

“(1) the expenditures (shown in such detail as the Commission determines appropriate) made by each eligible Senate candidate and the authorized committees of such candidate;

“(2) the amounts certified by the Commission under section 504 as benefits available to each eligible Senate candidate;

“(3) the amount of repayments, if any, required under section 505 and the reasons for each repayment required; and

“(4) the balance in the Senate Election Campaign Fund, and the balance in any account maintained the Fund.

Each report submitted pursuant to this section shall be printed as a Senate document.

“(b) REGULATIONS.—The Commission may prescribe regulations, conduct such examinations and investigations, and require the keeping and submission of such books, records, and information, as it deems necessary to carry out its functions and duties under this title.

“(c) STATEMENT TO SENATE.—Thirty days before prescribing a regulation under subsection (b), the Commission shall transmit to the Senate a statement setting forth the proposed regulation and containing a detailed explanation and justification of the regulation.

“SEC. 510. PAYMENTS RELATING TO ELIGIBLE CANDIDATES.

“(a) ESTABLISHMENT OF CAMPAIGN FUND.—

“(1) IN GENERAL.—There is established on the books of the Treasury of the United States a special fund to be known as the ‘Senate Election Campaign Fund’.

“(2) APPROPRIATIONS.—(A) There are appropriated to the Fund for each fiscal year, out of amounts in the general fund of the Treasury not otherwise appropriated, amounts equal to—

“(i) any contributions by persons which are specifically designated as being made to the Fund;

“(ii) amounts collected under section 505(h); and

“(iii) any other amounts that may be appropriated to or deposited into the Fund under this title.

“(B) The Secretary of the Treasury shall, from time to time, transfer to the Fund an amount not in excess of the amounts described in subparagraph (A).

“(C) Amounts in the Fund shall remain available without fiscal year limitation.

“(3) AVAILABILITY.—Amounts in the Fund shall be available only for the purposes of—

“(A) making payments required under this title; and

“(B) making expenditures in connection with the administration of the Fund.

“(4) ACCOUNTS.—The Secretary shall maintain such accounts in the Fund as may be required by this title or which the Secretary determines to be necessary to carry out the provisions of this title.

“(b) PAYMENTS UPON CERTIFICATION.—Upon receipt of a certification from the Commission under section 504, the Secretary shall promptly pay the amount certified by the Commission to the candidate out of the Senate Election Campaign Fund.

“SEC. 511. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to the Commission such sums as are necessary for the purpose of carrying out its functions under this title.”.

(b) **EFFECTIVE DATES.**—(1) Except as provided in this subsection, the amendment made by subsection (a) shall apply to elections occurring after December 31, 1995.

(2) For purposes of any expenditure or contribution limit imposed by the amendment made by subsection (a)—

(A) no expenditure made before January 1, 1994, shall be taken into account, except that there shall be taken into account any such expenditure for goods or services to be provided after such date; and

(B) all cash, cash items, and Government securities on hand as of January 1, 1994, shall be taken into account in determining whether the contribution limit is met, except that there shall not be taken into account amounts used during the 60-day period beginning on January 1, 1994, to pay for expenditures which were incurred (but unpaid) before such date.

(c) **EFFECT OF INVALIDITY ON OTHER PROVISIONS OF ACT.**—If section 501, 502, or 503 of title V of FECA (as added by this section), or any part thereof, is held to be invalid, all provisions of, and amendments made by, this Act shall be treated as invalid.

SEC. 102. BAN ON ACTIVITIES OF POLITICAL ACTION COMMITTEES IN FEDERAL ELECTIONS.

(a) **IN GENERAL.**—Title III of FECA (2 U.S.C. 301 et seq.) is amended by adding at the end the following new section:

“BAN ON FEDERAL ELECTION ACTIVITIES BY POLITICAL ACTION COMMITTEES

“SEC. 324. (a) Notwithstanding any other provision of this Act, no person other than an individual or a political committee may make contributions, solicit or receive contributions, or make expenditures for the purpose of influencing an election for Federal office.

“(b) In the case of individuals who are executive or administrative personnel of an employer—

“(1) no contributions may be made by such individuals—

“(A) to any political committees established and maintained by any political party; or

“(B) to any candidate for election to the office of United States Senator or the candidate’s authorized committees,

unless such individuals certify that such contributions are not being made at the direction of, or otherwise controlled or influenced by, the employer; and

“(2) the aggregate amount of such contributions by all such individuals in any calendar year shall not exceed—

“(A) \$20,000 in the case of such political committees; and

“(B) \$5,000 in the case of any such candidate and the candidate’s authorized committees.”.

(b) **DEFINITION OF POLITICAL COMMITTEE.**—(1) Paragraph (4) of section 301 of FECA (2 U.S.C. 431(4)) is amended to read as follows:

“(4) The term ‘political committee’ means—

“(A) the principal campaign committee of a candidate;

“(B) any national or State committee of a political party; and

“(C) any local committee of a political party which—

“(i) receives contributions aggregating in excess of \$5,000 during a calendar year;

“(ii) makes payments exempted from the definition of contribution or expenditure under paragraph (8) or (9) aggregating in excess of \$5,000 during a calendar year; or

“(iii) makes contributions or expenditures aggregating in excess of \$1,000 during a calendar year.”

(2) Section 316(b)(2) of FECA (2 U.S.C. 441b(b)(2)) is amended by striking subparagraph (C).

(c) **CANDIDATE’S COMMITTEES.**—Section 315(a) of FECA (2 U.S.C. 441a(a)) is amended by adding at the end the following new paragraph:

“(9) For the purposes of the limitations provided by paragraphs (1) and (2), any political committee which is established or financed or maintained or controlled by any candidate or Federal officeholder shall be deemed to be an authorized committee of such candidate or officeholder.”.

(d) **RULES APPLICABLE WHEN BAN NOT IN EFFECT.**—For purposes of the Federal Election Campaign Act of 1971, during any period beginning after the effective date in which the prohibition under section 324 of such Act (as added by subsection (a)) is not in effect—

(1) the amendments made by subsections (a), (b), and (c) shall not be in effect;

(2) in the case of a candidate for election, or nomination for election, to the United States Senate (and such candidate’s authorized committees), section 315(a)(2)(A) of FECA (2 U.S.C. 441a(a)(2)(A)) shall be applied by substituting “\$250” for “\$5,000”; and

(3) it shall be unlawful for a multicandidate political committee to make a contribution to a candidate for election, or nomination for election, to the United States Senate (or an authorized committee) to the extent that the making of the contribution will cause the amount of contributions received by the candidate and the candidate’s authorized committees from multicandidate political committees to exceed the lesser of—

(A) \$825,000; or

(B) the greater of—

(i) \$375,000; or

(ii) 20 percent of the sum of the general election expenditure limit under section 502(b) of FECA plus the primary election spending limit under section 502(d)(1)(A) of FECA (without regard to whether the candidate is an eligible Senate candidate (as defined in section 301(19)) of FECA).

In the case of an election cycle in which there is a runoff election, the limit determined under paragraph (3) shall be increased by an amount equal to 20 percent of the runoff election expenditure limit under section 501(d)(1)(A) of FECA (without regard to whether the candidate is such an eligible candidate). The \$825,000 and \$375,000 amounts in paragraph (3) shall be increased as of the beginning of each calendar year based on the increase in the price index determined under section 315(c) of FECA, except that for purposes of paragraph (3), the base period shall be the calendar year in which the first general election after the date of the enactment of paragraph (3) occurs. A candidate or authorized committee that receives a contribution from a multicandidate political committee in excess of the amount allowed under paragraph (3) shall return the amount of such excess contribution to the contributor.

(e) **EFFECTIVE DATES.**—(1) Except as provided in paragraph (2), the amendments made by this section shall apply to elections (and the election cycles relating thereto) occurring after December 31, 1995.

(2) In applying the amendments made by this section, there shall not be taken into account—

(A) contributions made or received on or before the date of the enactment of this Act; or

(B) contributions made to, or received by, a candidate after such date, to the extent

such contributions are not greater than the excess (if any) of—

(i) such contributions received by any opponent of the candidate on or before such date, over

(ii) such contributions received by the candidate on or before such date.

SEC. 103. REPORTING REQUIREMENTS.

Title III of FECA is amended by adding after section 304 the following new section:

“REPORTING REQUIREMENTS FOR SENATE CANDIDATES

“SEC. 304A. (a) **CANDIDATE OTHER THAN ELIGIBLE SENATE CANDIDATE.**—(1) Each candidate for the office of United States Senator who does not file a certification with the Secretary of the Senate under section 501(c) shall file with the Secretary of the Senate a declaration as to whether such candidate intends to make expenditures for the general election in excess of the general election expenditure limit applicable to an eligible Senate candidate under section 502(b). Such declaration shall be filed at the time provided in section 501(c)(2).

“(2) Any candidate for the United States Senate who qualifies for the ballot for a general election—

“(A) who is not an eligible Senate candidate under section 501; and

“(B) who either raises aggregate contributions, or makes or obligates to make aggregate expenditures, for the general election which exceed 75 percent of the general election expenditure limit applicable to an eligible Senate candidate under section 502(b),

shall file a report with the Secretary of the Senate within 1 business day after such contributions have been raised or such expenditures have been made or obligated to be made (or, if later, within 1 business day after the date of qualification for the general election ballot), setting forth the candidate’s total contributions and total expenditures for such election as of such date. Thereafter, such candidate shall file additional reports (until such contributions or expenditures exceed 200 percent of such limit) with the Secretary of the Senate within 1 business day after each time additional contributions are raised, or expenditures are made or are obligated to be made, which in the aggregate exceed an amount equal to 10 percent of such limit and after the total contributions or expenditures exceed 133 $\frac{1}{3}$ %, 166 $\frac{2}{3}$ %, and 200 percent of such limit.

“(3) The Commission—

“(A) shall, within 2 business days of receipt of a declaration or report under paragraph (1) or (2), notify each eligible Senate candidate in the election involved about such declaration or report; and

“(B) if an opposing candidate has raised aggregate contributions, or made or has obligated to make aggregate expenditures, in excess of the applicable general election expenditure limit under section 502(b), shall certify, pursuant to the provisions of subsection (d), such eligibility for payment of any amount to which such eligible Senate candidate is entitled under section 503(a).

“(4) Notwithstanding the reporting requirements under this subsection, the Commission may make its own determination that a candidate in a general election who is not an eligible Senate candidate has raised aggregate contributions, or made or has obligated to make aggregate expenditures, in the amounts which would require a report under paragraph (2). The Commission shall, within 2 business days after making each such determination, notify each eligible Senate candidate in the general election involved about such determination, and shall, when such contributions or expenditures exceed the

general election expenditure limit under section 502(b), certify (pursuant to the provisions of subsection (d)) such candidate's eligibility for payment of any amount under section 503(a).

“(b) REPORTS ON PERSONAL FUNDS.—(1) Any candidate for the United States Senate who during the election cycle expends more than the limitation under section 502(a) during the election cycle from his personal funds, the funds of his immediate family, and personal loans incurred by the candidate and the candidate's immediate family shall file a report with the Secretary of the Senate within 1 business day after such expenditures have been made or loans incurred.

“(2) The Commission within 2 business days after a report has been filed under paragraph (1) shall notify each eligible Senate candidate in the election involved about each such report.

“(3) Notwithstanding the reporting requirements under this subsection, the Commission may make its own determination that a candidate for the United States Senate has made expenditures in excess of the amount under paragraph (1). The Commission within 2 business days after making such determination shall notify each eligible Senate candidate in the general election involved about each such determination.

“(c) CANDIDATES FOR OTHER OFFICES.—(1) Each individual—

“(A) who becomes a candidate for the office of United States Senator;

“(B) who, during the election cycle for such office, held any other Federal, State, or local office or was a candidate for such other office; and

“(C) who expended any amount during such election cycle before becoming a candidate for the office of United States Senator which would have been treated as an expenditure if such individual had been such a candidate, including amounts for activities to promote the image or name recognition of such individual,

shall, within 7 days of becoming a candidate for the office of United States Senator, report to the Secretary of the Senate the amount and nature of such expenditures.

“(2) Paragraph (1) shall not apply to any expenditures in connection with a Federal, State, or local election which has been held before the individual becomes a candidate for the office of United States Senator.

“(3) The Commission shall, as soon as practicable, make a determination as to whether the amounts included in the report under paragraph (1) were made for purposes of influencing the election of the individual to the office of United States Senator.

“(d) CERTIFICATIONS.—Notwithstanding section 505(a), the certification required by this section shall be made by the Commission on the basis of reports filed in accordance with the provisions of this Act, or on the basis of such Commission's own investigation or determination.

“(e) COPIES OF REPORTS AND PUBLIC INSPECTION.—The Secretary of the Senate shall transmit a copy of any report or filing received under this section or of title V as soon as possible (but no later than 4 working hours of the Commission) after receipt of such report or filing, and shall make such report or filing available for public inspection and copying in the same manner as the Commission under section 311(a)(4), and shall preserve such reports and filings in the same manner as the Commission under section 311(a)(5).

“(f) DEFINITIONS.—For purposes of this section, any term used in this section which is used in title V shall have the same meaning as when used in title V.”.

SEC. 104. DISCLOSURE BY NONELIGIBLE CANDIDATES.

Section 318 of FECA (2 U.S.C. 441d), as amended by section 133, is amended by adding at the end the following:

“(e) If a broadcast, cablecast, or other communication is paid for or authorized by a candidate in the general election for the office of United States Senator who is not an eligible Senate candidate, or the authorized committee of such candidate, such communication shall contain the following sentence: ‘This candidate has not agreed to voluntary campaign spending limits.’.”.

SEC. 105. FREE BROADCAST TIME.

(a) AMENDMENT OF COMMUNICATIONS ACT.—Title III of the Communications Act of 1934 (47 U.S.C. 301 et seq.) is amended by inserting after section 315 the following new section:

“FREE BROADCAST TIME FOR ELIGIBLE SENATE CANDIDATES

“SEC. 315A. (a) IN GENERAL.—In addition to broadcast time that a licensee makes available to a candidate under section 315(a), a licensee shall make available at no charge, to each eligible Senate candidates in each State within its broadcast area, 90 minutes of broadcast time during a prime time access period (as defined in section 601 of the Federal Election Campaign Act of 1971).

“(b) APPEARANCES ON NEWS OR PUBLIC SERVICE PROGRAMS.—An appearance by a candidate on a news or public service program at the invitation of a broadcasting station or other organization that presents such a program shall not be counted toward time made available pursuant to subsection (a).”.

(b) AMENDMENT OF FECA.—FECA, as amended by section 101, is amended by adding at the end the following new title:

“TITLE VI—DISSEMINATION OF POLITICAL INFORMATION

“SEC. 601. DEFINITIONS.

“In this title—

“(1) The term ‘free broadcast time’ means time provided by a broadcasting station during a prime time access period pursuant to section 315A of the Communications Act of 1934.

“(2) The term ‘minor party’ means a political party other than a major party—

“(A) whose candidate for the Senate in a State received more than 5 percent of the popular vote in the most recent general election; or

“(B) which files with the Commission, not later than 90 days before the date of a general or special election in a State, the number of signatures of registered voters in the State that is equal to 5 percent of the popular vote for the office of Senator in the most recent general or special election in the State.

“(3) The term ‘prime time access period’ means the time between 6:00 p.m. and 8:00 p.m. of a weekday during the period beginning on the date that is 60 days before the date of a general election or special election for the Senate and ending on the day before the date of the election.

“SEC. 602. USE OF FREE BROADCAST TIME.

“An eligible Senate candidate shall ensure that—

“(1) free broadcast time is used in a manner that promotes a rational discussion and debate of issues with respect to the elections involved;

“(2) in programs in which free broadcast time is used, not more than 25 percent of the time of the broadcast consists of presentations other than a candidate's own remarks;

“(3) free broadcast time is used in segments of not less than 1 minute; and

“(4) not more than 15 minutes of free broadcast time is used by the candidate in a 24-hour period.

“SEC. 603. REPORTS.

“(a) CANDIDATE REPORTS TO THE COMMISSION.—An eligible Senate candidate that uses free broadcast time under section 602 shall include with the candidate's post-general election report under section 304(a)(2)(A)(ii) or, in the case of a special election, with the candidate's first report under section 304(a)(2) filed after the special election, a statement of the amount of free broadcast time that the candidate used during the general election period or special election period.

“(b) COMMISSION REPORTS TO CONGRESS.—The Commission shall submit to Congress, not later than June 1 of each year that follows a year in which a general election for the Senate is held, a report setting forth the amount of free broadcast time used by eligible Senate candidates under section 602.

“SEC. 604. JUDICIAL PROCEEDINGS.

“(a) IN GENERAL.—The Commission may appear in any action filed under this section, either by attorneys employed in its office or by counsel whom it may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and title III of chapter 53 of that title.

“(b) ENFORCEMENT.—At its own instance or on the complaint of any person, and whether or not proceedings have been commenced or are pending under section 309, the Commission may petition a district court of the United States for declaratory or injunctive relief concerning any civil matter arising under this title, through attorneys and counsel described in subsection (a).

“(c) APPEALS.—The Commission may, on behalf of the United States, appeal from, and petition the Supreme Court of the United States for certiorari to review, a judgment or decree entered with respect to an action in which it appeared pursuant to this section.”.

Subtitle B—General Provisions

SEC. 131. EXTENSION OF REDUCED THIRD-CLASS MAILING RATES TO ELIGIBLE SENATE CANDIDATES.

Section 3626(e) of title 39, United States Code, is amended—

(1) in paragraph (2)(A)—

(A) by striking “and the National” and inserting “the National”; and

(B) by striking “Committee;” and inserting “Committee, and, subject to paragraph (3), the principal campaign committee of an eligible Senate candidate;”;

(2) in paragraph (2)(B), by striking “and” after the semicolon;

(3) in paragraph (2)(C), by striking the period and inserting “; and”;

(4) by adding after paragraph (2)(C) the following new subparagraph:

“(D) The terms ‘eligible Senate candidate’ and ‘principal campaign committee’ have the meanings given those terms in section 301 of the Federal Election Campaign Act of 1971.”; and

(5) by adding after paragraph (2) the following new paragraph:

“(3) The rate made available under this subsection with respect to an eligible Senate candidate shall apply only to—

“(A) the general election period (as defined in section 301 of the Federal Election Campaign Act of 1971); and

“(B) that number of pieces of mail equal to the number of individuals in the voting age population (as certified under section 315(e) of such Act) of the State.”.

SEC. 132. REPORTING REQUIREMENTS FOR CERTAIN INDEPENDENT EXPENDITURES.

Section 304(c) of FECA (2 U.S.C. 434(c)) is amended—

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

(2) by redesignating paragraph (3) as paragraph (5); and

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

“(3)(A) Any independent expenditure (including those described in subsection (b)(6)(B)(iii) of this section) aggregating \$1,000 or more made after the 20th day, but more than 24 hours, before any election shall be reported within 24 hours after such independent expenditure is made.

“(B) Any independent expenditure aggregating \$5,000 or more made at any time up to and including the 20th day before any election shall be reported within 48 hours after such independent expenditure is made. An additional statement shall be filed each time independent expenditures aggregating \$5,000 are made with respect to the same election as the initial statement filed under this section.

“(C) Such statement shall be filed with the Secretary of the Senate and the Secretary of State of the State involved and shall contain the information required by subsection (b)(6)(B)(iii) of this section, including whether the independent expenditure is in support of, or in opposition to, the candidate involved. The Secretary of the Senate shall as soon as possible (but not later than 4 working hours of the Commission) after receipt of a statement transmit it to the Commission. Not later than 48 hours after the Commission receives a report, the Commission shall transmit a copy of the report to each candidate seeking nomination or election to that office.

“(D) For purposes of this section, the term ‘made’ includes any action taken to incur an obligation for payment.

“(4)(A) If any person intends to make independent expenditures totaling \$5,000 during the 20 days before an election, such person shall file a statement no later than the 20th day before the election.

“(B) Such statement shall be filed with the Secretary of the Senate and the Secretary of State of the State involved, and shall identify each candidate whom the expenditure will support or oppose. The Secretary of the Senate shall as soon as possible (but not later than 4 working hours of the Commission) after receipt of a statement transmit it to the Commission. Not later than 48 hours after the Commission receives a statement under this paragraph, the Commission shall transmit a copy of the statement to each candidate identified.

“(5) The Commission may make its own determination that a person has made, or has incurred obligations to make, independent expenditures with respect to any Federal election which in the aggregate exceed the applicable amounts under paragraph (3) or (4). The Commission shall notify each candidate in such election of such determination within 24 hours of making it.

“(6) At the same time as a candidate is notified under paragraph (3), (4), or (5) with respect to expenditures during a general election period, the Commission shall certify eligibility to receive benefits under section 503(a).

“(7) The Secretary of the Senate shall make any statement received under this subsection available for public inspection and copying in the same manner as the Commission under section 311(a)(4), and shall preserve such statements in the same manner as the Commission under section 311(a)(5).”

SEC. 133. CAMPAIGN ADVERTISING AMENDMENTS.

Section 318 of FECA (2 U.S.C. 441d) is amended—

(1) in the matter before paragraph (1) of subsection (a), by striking “an expenditure” and inserting “a disbursement”;

(2) in the matter before paragraph (1) of subsection (a), by striking “direct”;

(3) in paragraph (3) of subsection (a), by inserting after “name” the following “and permanent street address”; and

(4) by adding at the end the following new subsections:

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

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

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

“(3) consist of a reasonable degree of color contrast between the background and the printed statement.

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

“(2) If a broadcast or cablecast communication described in paragraph (1) is broadcast or cablecast by means of television, the statement required by paragraph (1) shall—

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

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

“(e) Any broadcast or cablecast communication described in subsection (a)(3) shall include, in addition to the requirements of those subsections, in a clearly spoken manner, the following statement—

“_____ is responsible for the content of this advertisement.”

with the blank to be filled in with the name of the political committee or other person paying for the communication and the name of any connected organization of the payor; and, if broadcast or cablecast by means of television, shall also appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.”

SEC. 134. DEFINITIONS.

(a) IN GENERAL.—Section 301 of FECA (2 U.S.C. 431) is amended by striking paragraph (19) and inserting the following new paragraphs:

“(19) The term ‘eligible Senate candidate’ means a candidate who is eligible under section 502 to receive benefits under title V.

“(20) The term ‘general election’ means any election which will directly result in the election of a person to a Federal office, but does not include an open primary election.

“(21) The term ‘general election period’ means, with respect to any candidate, the period beginning on the day after the date of the primary or runoff election for the specific office the candidate is seeking, whichever is later, and ending on the earlier of—

“(A) the date of such general election; or

“(B) the date on which the candidate withdraws from the campaign or otherwise ceases actively to seek election.

“(22) The term ‘immediate family’ means—

“(A) a candidate’s spouse;

“(B) a child, stepchild, parent, grandparent, brother, half-brother, sister or half-sister of the candidate or the candidate’s spouse; and

“(C) the spouse of any person described in subparagraph (B).

“(23) The term ‘major party’ has the meaning given such term in section 9002(6) of the Internal Revenue Code of 1986, except that if a candidate qualified under State law for the ballot in a general election in an open primary in which all the candidates for the office participated and which resulted in the candidate and at least one other candidate qualifying for the ballot in the general election, such candidate shall be treated as a candidate of a major party for purposes of title V.

“(24) The term ‘primary election’ means an election which may result in the selection of a candidate for the ballot in a general election for a Federal office.

“(25) The term ‘primary election period’ means, with respect to any candidate, the period beginning on the day following the date of the last election for the specific office the candidate is seeking and ending on the earlier of—

“(A) the date of the first primary election for that office following the last general election for that office; or

“(B) the date on which the candidate withdraws from the election or otherwise ceases actively to seek election.

“(26) The term ‘runoff election’ means an election held after a primary election which is prescribed by applicable State law as the means for deciding which candidate will be on the ballot in the general election for a Federal office.

“(27) The term ‘runoff election period’ means, with respect to any candidate, the period beginning on the day following the date of the last primary election for the specific office such candidate is seeking and ending on the date of the runoff election for such office.

“(28) The term ‘voting age population’ means the resident population, 18 years of age or older, as certified pursuant to section 315(e).

“(29) The term ‘election cycle’ means—

“(A) in the case of a candidate or the authorized committees of a candidate, the term beginning on the day after the date of the most recent general election for the specific office or seat which such candidate seeks and ending on the date of the next general election for such office or seat; or

“(B) for all other persons, the term beginning on the first day following the date of the last general election and ending on the date of the next general election.

“(30) The term ‘personal funds expenditure limit’ means the limit applicable to an eligible Senate candidate under section 502(a).

“(31) The term ‘primary election expenditure limit’ means the limit applicable to an eligible Senate candidate under section 502(b).

“(32) The term ‘runoff election expenditure limit’ means the limit applicable to an eligible Senate candidate under section 502(c).

“(33) The term ‘general election expenditure limit’ means the limit applicable to an eligible Senate candidate under section 502(d).

“(34) The term ‘multicandidate political committee primary election contribution limit’ means the limit applicable to an eligible Senate candidate under section 502(e)(1).

“(35) The term ‘multicandidate political committee runoff election contribution limit’ means the limit applicable to an eligible Senate candidate under section 502(e)(2).

“(36) The terms ‘Senate Election Campaign Fund’ and ‘Fund’ mean the Senate Election Campaign Fund established under section 510.”

(b) IDENTIFICATION.—Section 301(13) of FECA (2 U.S.C. 431(13)) is amended by striking “mailing address” and inserting “permanent residence address”.

SEC. 135. PROVISIONS RELATING TO FRANKED MASS MAILINGS.

Section 3210(a)(6) of title 39, United States Code, is amended—

(1) in subparagraph (A), by striking "It is the intent of Congress that a Member of, or a Member-elect to, Congress" and inserting "A Member of, or Member-elect to, the House"; and

(2) in subparagraph (C)—

(A) by striking "if such mass mailing is postmarked fewer than 60 days immediately before the date" and inserting "if such mass mailing is postmarked during the calendar year"; and

(B) by inserting "or reelection" immediately before the period.

TITLE II—INDEPENDENT EXPENDITURES**SEC. 201. CLARIFICATION OF DEFINITIONS RELATING TO INDEPENDENT EXPENDITURES.**

(a) INDEPENDENT EXPENDITURE DEFINITION AMENDMENT.—Section 301 of FECA (2 U.S.C. 431) is amended by striking paragraphs (17) and (18) and inserting the following:

"(17)(A) The term 'independent expenditure' means an expenditure for an advertisement or other communication that—

"(i) contains express advocacy; and
 "(ii) is made without the participation or cooperation of a candidate or a candidate's representative.

"(B) The following shall not be considered an independent expenditure:

"(i) An expenditure made by a political committee of a political party.

"(ii) An expenditure made by a person who, during the election cycle, has communicated with or received information from a candidate or a representative of that candidate regarding activities that have the purpose of influencing that candidate's election to Federal office, where the expenditure is in support of that candidate or in opposition to another candidate for that office.

"(iii) An expenditure if there is any arrangement, coordination, or direction with respect to the expenditure between the candidate or the candidate's agent and the person making the expenditure.

"(iv) An expenditure if, in the same election cycle, the person making the expenditure is or has been—

"(I) authorized to raise or expend funds on behalf of the candidate or the candidate's authorized committees; or

"(II) serving as a member, employee, or agent of the candidate's authorized committees in an executive or policymaking position.

"(v) An expenditure if the person making the expenditure has advised or counseled the candidate or the candidate's agents 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 decision to seek Federal office.

"(vi) An expenditure if the person making the expenditure retains the professional services of any individual or other person also providing services in the same election cycle to the candidate in connection with the candidate's pursuit of nomination for election, or election, to Federal office, including any services relating to the candidate's decision to seek Federal office.

"(vii) An expenditure if the person making the expenditure has consulted at any time during the same election cycle about the candidate's plans, projects, or needs relating to the candidate's pursuit of nomination for election, or election, to Federal office, with—

"(I) any officer, director, employee or agent of a party committee that has made or intends to make expenditures or contribu-

tions, pursuant to subsections (a), (d), or (h) of section 315 in connection with the candidate's campaign; or

"(II) any person whose professional services have been retained by a political party committee that has made or intends to make expenditures or contributions pursuant to subsections (a), (d), or (h) of section 315 in connection with the candidate's campaign.

For purposes of this subparagraph, the person making the expenditure shall include any officer, director, employee, or agent of such person.

"(18) The term 'express advocacy' means, when a communication is taken as a whole, an expression of support for or opposition to a specific candidate, to a specific group of candidates, or to candidates of a particular political party, or 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."

(b) CONTRIBUTION DEFINITION AMENDMENT.—Section 301(8)(A) of FECA (2 U.S.C. 431(8)(A)) is amended—

(1) in clause (i), by striking "or" after the semicolon at the end;

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

(3) by adding at the end the following new clause:

"(iii) any payment or other transaction referred to in paragraph (17)(A)(i) that does not qualify as an independent expenditure under paragraph (17)(A)(ii)."

TITLE III—EXPENDITURES**Subtitle A—Personal Loans; Credit****SEC. 301. PERSONAL CONTRIBUTIONS AND LOANS.**

Section 315 of FECA (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

"(i) LIMITATIONS ON PAYMENTS TO CANDIDATES.—(1) If a candidate or a member of the candidate's immediate family made any loans to the candidate or to the candidate's authorized committees during any election cycle, no contributions received after the date of the general election for such election cycle may be used to repay such loans.

"(2) No contribution by a candidate or member of the candidate's immediate family may be returned to the candidate or member other than as part of a pro rata distribution of excess contributions to all contributors."

SEC. 302. EXTENSIONS OF CREDIT.

Section 301(8)(A) of FECA (2 U.S.C. 431(8)(A)), as amended by section 201(b), is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting "; or"; and

(3) by inserting at the end the following new clause:

"(iv) with respect to a candidate and the candidate's authorized committees, any extension of credit for goods or services relating to advertising on broadcasting stations, in newspapers or magazines, or by mailings, or relating to other types of general public political advertising, if such extension of credit is—

"(I) in an amount of more than \$500; and

"(II) for a period greater than the period, not in excess of 60 days, for which credit is generally extended in the normal course of business after the date on which such goods or services are furnished or the date of the mailing in the case of advertising by a mailing."

Subtitle B—Provisions Relating to Soft Money of Political Parties**SEC. 311. CONTRIBUTIONS TO POLITICAL PARTY COMMITTEES FOR GRASSROOTS FEDERAL ELECTION CAMPAIGN ACTIVITIES.**

(a) IN GENERAL.—Section 315(a)(1)(C) of FECA (2 U.S.C. 441a(a)(1)(C)) is amended by striking "\$5,000." and inserting "5,000, plus an additional \$5,000 that may be contributed to a political committee established and maintained by a State political party for the sole purpose of conducting grassroots Federal election campaign activities coordinated by the Congressional Campaign Committee and Senatorial Campaign Committee of the party."

(b) INCREASE IN OVERALL LIMIT.—Paragraph (3) of section 315(a) of FECA (2 U.S.C. 441a(a)(3)) is amended by adding at the end the following new sentence: "The limitation under this paragraph shall be increased (but not by more than \$5,000) by the amount of contributions made by an individual during a calendar year to political committees which are taken into account for purposes of paragraph (1)(C)."

(c) DEFINITION.—Section 301(a) of FECA (2 U.S.C. 431(a)), as amended by section 134, is amended by adding at the end the following new paragraph:

"(37) The term 'grassroots Federal election campaign activity' means—

"(A) voter registration and get-out-the-vote activities;

"(B) campaign activities, including broadcasting, newspaper, magazine, billboard, mass mail, and newsletter communications, and similar kinds of communications or public advertising that—

"(i) are generic campaign activities; or

"(ii) identify a Federal candidate regardless of whether a State or local candidate is also identified;

"(C) the preparation and dissemination of campaign materials that are part of a generic campaign activity or that identify a Federal candidate, regardless of whether a State or local candidate is also identified;

"(D) development and maintenance of voter files;

"(E) any other activity affecting (in whole or in part) an election for Federal office; and

"(F) activities conducted for the purpose of raising funds to pay for activities described in subparagraphs (A), (B), (C), (D), and (E), to the extent that any such activity is allocable to Federal elections under a regulation issued by the Commission."

SEC. 312. PROVISIONS RELATING TO NATIONAL, STATE, AND LOCAL PARTY COMMITTEES.

(a) EXPENDITURES BY STATE COMMITTEES IN CONNECTION WITH PRESIDENTIAL CAMPAIGNS.—Section 315(d) of FECA (2 U.S.C. 441a(d)) is amended by inserting at the end the following new paragraph:

"(4) A State committee of a political party, including subordinate committees of that State committee, shall not make expenditures in connection with the general election campaign of a candidate for President of the United States who is affiliated with such party which, in the aggregate, exceed an amount equal to 4 cents multiplied by the voting age population of the State, as certified under subsection (e). This paragraph shall not authorize a committee to make expenditures for audio broadcasts (including television broadcasts) in excess of the amount which could have been made without regard to this paragraph."

(b) CONTRIBUTION AND EXPENDITURE EXCEPTIONS.—(1) Section 301(8)(B) of FECA (2 U.S.C. 431(8)(B)) is amended—

(A) in clause (xi), by striking "direct mail" and inserting "mail"; and

(B) by repealing clauses (x) and (xii).

(2) Section 301(9)(B) of FECA (2 U.S.C. 431(9)(B)) is amended by repealing clauses (viii) and (ix).

(c) **SOFT MONEY OF COMMITTEES OF POLITICAL PARTIES.**—(1) Title III of FECA, as amended by section 102(a), is amended by inserting after section 324 the following new section:

"POLITICAL PARTY COMMITTEES

"SEC. 325. (a) Any amount solicited, received, or expended directly or indirectly by a national, State, district, or local committee of a political party (including any subordinate committee) with respect to an activity which, in whole or in part, is in connection with an election to Federal office shall be subject in its entirety to the limitations, prohibitions, and reporting requirements of this Act.

"(b) For purposes of subsection (a):

"(1) Any activity which is solely for the purpose of influencing an election for Federal office is in connection with an election for Federal office.

"(2) A grassroots Federal election campaign activity shall be treated as in connection with an election for Federal office.

"(3) The following shall not be treated as in connection with a Federal election:

"(A) Any amount described in section 301(8)(B)(viii).

"(B) Any amount contributed to a candidate for other than Federal office.

"(C) Any amount received or expended in connection with a State or local political convention.

"(D) Campaign activities, including broadcasting, newspaper, magazine, billboard, mass mail, and newsletter communications, and similar kinds of communications or public advertising that are exclusively on behalf of State or local candidates and are conducted in a year that is not a Presidential election year.

"(E) Research pertaining solely to State and local candidates and issues.

"(F) Any other activity which is solely for the purpose of influencing, and which solely affects, an election for non-Federal office.

"(4) For purposes of this subsection, the term 'Federal election period' means the period—

"(A) beginning on January 1 of any even-numbered calendar year; and

"(B) ending on the date during such year on which regularly scheduled general elections for Federal office occur.

In the case of a special election, the Federal election period shall include at least the 60-day period ending on the date of the election.

"(c) SOLICITATION BY COMMITTEES.—A Congressional or Senatorial Campaign Committee of a political party may not solicit or accept contributions not subject to the limitations, prohibitions, and reporting requirements of this Act.

"(d) AMOUNTS RECEIVED FROM STATE AND LOCAL CANDIDATE COMMITTEES.—(1) For purposes of subsection (a), any amount received by a national, State, district, or local committee of a political party (including any subordinate committee) from a State or local candidate committee shall be treated as meeting the requirements of subsection (a) and section 304(d) if—

"(A) such amount is derived from funds which meet the requirements of this Act with respect to any limitation or prohibition as to source or dollar amount, and

"(B) the State or local candidate committee—

"(i) maintains, in the account from which payment is made, records of the sources and amounts of funds for purposes of determining whether such requirements are met, and

"(ii) certifies to the other committee that such requirements were met.

"(2) Notwithstanding paragraph (1), any committee receiving any contribution described in paragraph (1) from a State or local candidate committee shall be required to meet the reporting requirements of this Act with respect to receipt of the contribution from such candidate committee.

"(3) For purposes of this subsection, a State or local candidate committee is a committee established, financed, maintained, or controlled by a candidate for other than Federal office."

(2) Section 315(d) of FECA (2 U.S.C. 441a(d)), as amended by subsection (a), is amended by adding at the end the following new paragraph:

"(5)(A) The national committee of a political party, the congressional campaign committees of a political party, and a State or local committee of a political party, including a subordinate committee of any of the preceding committees, shall not make expenditures during any calendar year for activities described in section 325(b)(2) with respect to such State which, in the aggregate, exceed an amount equal to 30 cents multiplied by the voting age population of the State (as certified under subsection (e)).

"(B) Expenditures authorized under this paragraph shall be in addition to other expenditures allowed under this subsection, except that this paragraph shall not authorize a committee to make expenditures to which paragraph (3) or (4) applies in excess of the limit applicable to such expenditures under paragraph (3) or (4).

"(C) No adjustment to the limitation under this paragraph shall be made under subsection (c) before 1992 and the base period for purposes of any such adjustment shall be 1990.

"(D) For purposes of this paragraph—

"(i) a local committee of a political party shall only include a committee that is a political committee (as defined in section 301(4)); and

"(ii) a State committee shall not be required to record or report under this Act the expenditures of any other committee which are made independently from the State committee."

(3) Section 301(4) of FECA (2 U.S.C. 431(4)) is amended by adding at the end the following new sentence:

"For purposes of subparagraph (C), any payments for get-out-the-vote activities on behalf of candidates for office other than Federal office shall be treated as payments exempted from the definition of expenditure under paragraph (9) of this section."

(d) **GENERIC ACTIVITIES.**—Section 301 of FECA (2 U.S.C. 431), as amended by section 311(c), is amended by adding at the end the following new paragraph:

"(38) The term 'generic campaign activity' means a campaign activity the purpose or effect of which is to promote a political party rather than any particular Federal or non-Federal candidate."

SEC. 313. RESTRICTIONS ON FUNDRAISING BY CANDIDATES AND OFFICEHOLDERS.

(a) **STATE FUNDRAISING ACTIVITIES.**—Section 315 of FECA (2 U.S.C. 441a), as amended by section 301, is amended by adding at the end the following new subsection:

"(k) LIMITATIONS ON FUNDRAISING ACTIVITIES OF FEDERAL CANDIDATES AND OFFICEHOLDERS AND CERTAIN POLITICAL COMMITTEES.—(1) For purposes of this Act, a candidate for Federal office (or an individual holding Federal office) may not solicit funds to, or receive funds on behalf of, any Federal or non-Federal candidate or political committee—

"(A) which are to be expended in connection with any election for Federal office unless such funds are subject to the limita-

tions, prohibitions, and requirements of this Act; or

"(B) which are to be expended in connection with any election for other than Federal office unless such funds are not in excess of amounts permitted with respect to Federal candidates and political committees under this Act, and are not from sources prohibited by this Act with respect to elections to Federal office.

"(2)(A) The aggregate amount which a person described in subparagraph (B) may solicit from a multicandidate political committee for State committees described in subsection (a)(1)(C) (including subordinate committees) for any calendar year shall not exceed the dollar amount in effect under subsection (a)(2)(B) for the calendar year.

"(B) A person is described in this subparagraph if such person is a candidate for Federal office, an individual holding Federal office, or any national, State, district, or local committee of a political party (including subordinate committees).

"(3) The appearance or participation by a candidate or individual in any activity (including fundraising) conducted by a committee of a political party or a candidate for other than Federal office shall not be treated as a solicitation for purposes of paragraph (1) if—

"(A) such appearance or participation is otherwise permitted by law; and

"(B) such candidate or individual does not solicit or receive, or make expenditures from, any funds resulting from such activity.

"(4) Paragraph (1) shall not apply to the solicitation or receipt of funds, or disbursements, by an individual who is a candidate for other than Federal office if such activity is permitted under State law.

"(5) For purposes of this subsection, an individual shall be treated as holding Federal office if such individual—

"(A) holds a Federal office; or

"(B) holds a position described in level I of the Executive Schedule under section 5312 of title 5, United States Code."

(b) **TAX-EXEMPT ORGANIZATIONS.**—Section 315 of FECA (2 U.S.C. 441a), as amended by subsection (a), is amended by adding at the end the following new subsection:

"(l) TAX-EXEMPT ORGANIZATIONS.—(1) If during any period an individual is a candidate for, or holds, Federal office, such individual may not during such period solicit contributions to, or on behalf of, any organization which is described in section 501(c) of the Internal Revenue Code of 1986 if a significant portion of the activities of such organization include voter registration or get-out-the-vote campaigns.

"(2) For purposes of this subsection, an individual shall be treated as holding Federal office if such individual—

"(A) holds a Federal office; or

"(B) holds a position described in level I of the Executive Schedule under section 5312 of title 5, United States Code."

SEC. 314. REPORTING REQUIREMENTS.

(a) **REPORTING REQUIREMENTS.**—Section 304 of FECA (2 U.S.C. 434) is amended by adding at the end the following new subsection:

"(d) POLITICAL COMMITTEES.—(1) The national committee of a political party and any congressional campaign committee, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period, whether or not in connection with an election for Federal office.

"(2) A political committee (not described in paragraph (1)) to which section 325 applies shall report all receipts and disbursements in connection with a Federal election (as determined under section 325) and all payments for combined activities under 326;

“(3) Any political committee to which paragraph (1) or (2) does not apply shall report any receipts or disbursements which are used in connection with a Federal election or for combined activities.

“(4) If any receipt or disbursement to which this subsection applies exceeds \$50, the political committee shall include identification of the person from whom, or to whom, such receipt or disbursement was made.

“(5) Reports required to be filed by this subsection shall be filed for the same time periods required for political committees under subsection (a).”.

(b) REPORT OF EXEMPT CONTRIBUTIONS.—Section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)) is amended by inserting at the end the following:

“(C) The exclusions provided in clauses (v) and (viii) of subparagraph (B) shall not apply for purposes of any requirement to report contributions under this Act, and all such contributions in excess of \$50 shall be reported.”.

(c) REPORTING OF EXEMPT EXPENDITURES.—Section 301(9) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9)) is amended by inserting at the end the following:

“(C) The exclusions provided in clause (iv) of subparagraph (B) shall not apply for purposes of any requirement to report expenditures under this Act, and all such expenditures in excess of \$50 shall be reported.”.

(d) CONTRIBUTIONS AND EXPENDITURES OF POLITICAL COMMITTEES.—Section 301(4) of FECA (2 U.S.C. 431(4)) is amended by adding at the end the following: “For purposes of this paragraph, the receipt of contributions or the making of, or obligating to make, expenditures shall be determined by the Commission on the basis of facts and circumstances, in whatever combination, demonstrating a purpose of influencing any election for Federal office, including, but not limited to, the representations made by any person soliciting funds about their intended uses; the identification by name of individuals who are candidates for Federal office or of any political party, in general public political advertising; and the proximity to any primary, runoff, or general election of general public political advertising designed or reasonably calculated to influence voter choice in that election.”.

(e) REPORTS BY STATE COMMITTEES.—Section 304 of FECA (2 U.S.C. 434), as amended by subsection (a), is amended by adding at the end the following new subsection:

“(e) FILING OF STATE REPORTS.—In lieu of any report required to be filed by this Act, the Commission may allow a State committee of a political party to file with the Commission a report required to be filed under State law if the Commission determines such reports contain substantially the same information.”.

SEC. 315. LIMITATIONS ON COMBINED POLITICAL ACTIVITIES OF POLITICAL COMMITTEES OF POLITICAL PARTIES.

Title III of FECA (2 U.S.C. 431 et seq.), as amended by section 312(c), is amended by adding at the end the following new section:

“LIMITATIONS ON COMBINED POLITICAL ACTIVITIES OF POLITICAL COMMITTEES OF POLITICAL PARTIES

“SEC. 326. (a)(1) Political party committees that make payments for combined political activity shall allocate a portion of such payments to Federal accounts containing contributions subject to the limitations and prohibitions of this Act, as provided for in this section.

“(2) National party committees shall allocate as follows:

“(A) At least 65 percent of the costs of voter registration drives, development and maintenance of voter files, get-out-the-vote

activities, and administrative expenses shall be paid from a Federal account in Presidential election years. At least 60 percent of the costs of voter drives and administrative expenses shall be paid from a Federal account in all other years.

“(B) The costs of fundraising activities which shall be paid from a Federal account shall equal the ratio of funds received into the Federal account to the total receipts from each fundraising program or event.

“(C) The costs of activities subject to limitation under section 315(d) which involve both Federal and non-Federal candidates, shall be paid from a Federal account according to the time or space devoted to Federal candidates.

“(3) State and local party committees shall allocate as follows:

“(A) At least 50 percent of the costs of voter registration drives, development and maintenance of voter files, get-out-the-vote activities, and administrative expenses shall be paid from a Federal account in Presidential election years. In all other years, the costs of voter drives and administrative expenses which shall be paid from a Federal account shall be determined by the ballot composition for the election cycle, but, in no event, shall the amount paid from the Federal account be less than 33 percent.

“(B) The costs of fundraising activities which shall be paid from a Federal account shall equal the ratio of funds received into the Federal account to the total receipts from each fundraising program or event.

“(C) The costs of activities exempt from the definition of ‘contribution’ or ‘expenditure’ under section 301, when conducted in conjunction with both Federal and non-Federal elections, shall be paid from a Federal account according to the time or space devoted to Federal candidates or elections.

“(D) The costs of activities subject to limitation under section 315 (a) or (d) which involve both Federal and non-Federal candidates, shall be paid from a Federal account according to the time or space devoted to Federal candidates.

“(b) For purposes of this subsection—

“(1) the term ‘combined political activity’ means any activity that is both—

“(A) in connection with an election for Federal office; and

“(B) in connection with an election for any non-Federal office.

“(2) Any activity which is undertaken solely in connection with a Federal election is not combined political activity.

“(3) Except as provided in paragraph (4), combined political activity shall include—

“(A) State and local party activities exempt from the definitions of ‘contribution’ and ‘expenditure’ under section 301 and activities subject to limitation under section 315 which involve both Federal and non-Federal candidates, except that payments for activities subject to limitation under section 315 are not subject to the limitation of subsection (a)(1);

“(B) voter drives including voter registration, voter identification and get-out-the-vote drives or any other activities that urge the general public to register, vote for or support non-Federal candidates, candidates of a particular party, or candidates associated with a particular issue, without mentioning a specific Federal candidate;

“(C) fundraising activities where both Federal and non-Federal funds are collected through such activities; and

“(D) administrative expenses not directly attributable to a clearly identified Federal or non-Federal candidate, except that payments for administrative expenses are not subject to the limitation of subsection (a)(1).

“(4) The following payments are exempt from the definition of combined political activity:

“(A) Any amount described in section 301(8)(B)(viii).

“(B) Any payments for legal or accounting services, if such services are for the purpose of ensuring compliance with this Act.

“(5) The term ‘ballot composition’ means the number of Federal offices on the ballot compared to the total number of offices on the ballot during the next election cycle for the State. In calculating the number of offices for purposes of this paragraph, the following offices shall be counted, if on the ballot during the next election cycle: President, United States Senator, United States Representative, Governor, State Senator, and State Representative. No more than three additional statewide partisan candidates shall be counted, if on the ballot during the next election cycle. No more than three additional local partisan candidates shall be counted, if such offices are on the ballot in the majority of the State’s counties during the next election cycle.

“(6) The term ‘time or space devoted to Federal candidates’ means with respect to a particular communication, the portion of the communication devoted to Federal candidates compared to the entire communication, except that no less than one-third of any communication shall be considered devoted to a Federal candidate.”.

TITLE IV—CONTRIBUTIONS

SEC. 401. REDUCTION OF CONTRIBUTION LIMITS.

Section 315(a)(1)(A) of FECA (2 U.S.C. 441a(a)(1)(A)) is amended by striking “\$1,000” and inserting “\$100”.

SEC. 402. CONTRIBUTIONS THROUGH INTERMEDIARIES AND CONDUITS; PROHIBITION OF CERTAIN CONTRIBUTIONS BY LOBBYISTS.

(a) IN GENERAL.—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.

“(B) Contributions made directly or indirectly by a person to or on behalf of a particular candidate through an intermediary or conduit, including contributions made or 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;

“(II) an officer, employee, or agent of such a political committee;

“(III) a political party;

“(IV) a partnership or sole proprietorship;

“(V) a lobbyist; or

“(VI) an organization prohibited from making contributions under section 316, or an officer, employee, or agent of such an organization acting on the organization’s behalf.

“(C)(i) The term ‘intermediary or conduit’ does not include—

“(I) a candidate or representative of a candidate receiving contributions to the candidate’s principal campaign committee or authorized committee;

“(II) a professional fundraiser compensated for fundraising services at the usual and customary rate;

“(III) a volunteer hosting a fundraising event at the volunteer’s home, in accordance with section 301(8)(B); or

“(IV) an individual who transmits a contribution from the individual’s spouse.

“(i) The term ‘representative’ means an individual who is expressly authorized by the candidate to engage in fundraising, and who occupies a significant position within the candidate’s campaign organization, provided that the individual is not described in subparagraph (B)(ii).

“(iii) The term ‘contributions made or arranged to be made’ includes—

“(I) contributions delivered to a particular candidate or the candidate’s authorized committee or agent; and

“(II) contributions directly or indirectly arranged to be made to a particular candidate or the candidate’s authorized committee or agent, in a manner that identifies directly or indirectly to the candidate or authorized committee or agent the person who arranged the making of the contributions or the person on whose behalf such person was acting.

“(iv) The term ‘acting on the organization’s behalf’ includes the following activities by an officer, employee or agent of a person described in subparagraph (B)(ii)(IV):

“(I) Soliciting or directly or indirectly arranging the making of a contribution to a particular candidate in the name of, or by using the name of, such a person.

“(II) Soliciting or directly or indirectly arranging the making of a contribution to a particular candidate using other than incidental resources of such a person.

“(III) Soliciting contributions for a particular candidate by substantially directing the solicitations to other officers, employees, or agents of such a person.

“(D) Nothing in this paragraph shall prohibit—

“(i) bona fide joint fundraising efforts conducted solely for the purpose of sponsorship of a fundraising reception, dinner, or other similar event, in accordance with rules prescribed by the Commission, by—

“(I) 2 or more candidates;

“(II) 2 or more national, State, or local committees of a political party within the meaning of section 301(4) acting on their own behalf; or

“(III) a special committee formed by 2 or more candidates, or a candidate and a national, State, or local committee of a political party acting on their own behalf; or

“(ii) fundraising efforts for the benefit of a candidate that are conducted by another candidate.

“(iii) bona fide fundraising efforts conducted by and solely on behalf of an individual for the purpose of sponsorship of a fundraising reception, dinner, or other similar event, but only if all contributions are made directly to a candidate or a representative of a candidate.

When 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 to the intended recipient.”.

(b) PROHIBITION OF CERTAIN CONTRIBUTIONS BY LOBBYISTS.—Section 315 of FECA (2 U.S.C. 441a), as amended by section 313(b), is amended by adding at the end the following new subsection:

“(m)(1) A lobbyist shall not make a contribution to or solicit a contribution on behalf of a legislative branch official before whom the lobbyist has appeared or with whom the lobbyist has made a lobbying contact, in the lobbyist’s representational ca-

capacity, during the 12-month period preceding the date on which the contribution is made or solicited.

“(2) A lobbyist who makes a contribution to or solicits a contribution on behalf of a legislative branch official shall not appear before or make a lobbying contact with that legislative branch official, in the lobbyist’s representational capacity, during the 12-month period after the date on which the contribution is made or solicited.”.

(c) DEFINITIONS.—Section 301(a) of FECA (2 U.S.C. 431(a)), as amended by section 312(d), is amended by adding at the end the following new paragraphs:

“(39) The term ‘lobbyist’ means—

“(A) a person required to register under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267) or the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.);

“(B) a person required under any other law to register as a lobbyist (as the term ‘lobbyist’ may be defined in any such law); and

“(C) any other person that receives compensation in return for making a lobbying contact with Congress on any legislative matter, including a member, officer, or employee of any organization that receives such compensation.

“(40)(A) The term ‘lobbying contact’—

“(i) means an oral or written communication with a legislative branch official made by a lobbyist on behalf of another person with regard to—

“(I) the formulation, modification, or adoption of Federal legislation (including a legislative proposal);

“(II) the formulation, modification, or adoption of a Federal rule, regulation, Executive order, or any other program, policy or position of the United States Government; or

“(III) the administration or execution of a Federal program or policy (including the negotiation, award, or administration of a Federal contract, grant, loan, permit, or license) but—

“(ii) does not include a communication that is—

“(I) made by a public official acting in an official capacity;

“(II) made by a representative of a media organization who is primarily engaged in gathering and disseminating news and information to the public;

“(III) made in a speech, article, publication, or other material that is widely distributed to the public or through the media;

“(IV) a request for an appointment, a request for the status of a Federal action, or another similar ministerial contact, if there is no attempt to influence a legislative branch official at the time of the contact;

“(V) made in the course of participation in an advisory committee subject to the Federal Advisory Committee Act (5 U.S.C. App.);

“(VI) testimony given before a committee, subcommittee, or office of Congress, or submitted for inclusion in the public record of a hearing conducted by the committee, subcommittee, or office;

“(VII) information provided in writing in response to a specific written request from a legislative branch official;

“(VIII) required by subpoena, civil investigative demand, or otherwise compelled by statute, regulation, or other action of Congress or a Federal agency;

“(IX) made to an agency official with regard to a judicial proceeding, criminal or civil law enforcement inquiry, investigation, or proceeding, or filing required by law;

“(X) made in compliance with written agency procedures regarding an adjudication conducted by the agency under section 554 of title 5, United States Code, or substantially similar provisions;

“(XI) a written comment filed in a public docket and other communication that is made on the record in a public proceeding;

“(XII) a formal petition for agency action, made in writing pursuant to established agency procedures; or

“(XIII) made on behalf of a person with regard to the person’s benefits, employment, other personal matters involving only that person, or disclosures pursuant to a whistleblower statute.

“(39) The term ‘legislative branch official’ means—

“(A) a member of Congress;

“(B) an elected officer of Congress;

“(C) an employee of a member of the House of Representatives, of a committee of the House of Representatives, or on the leadership staff of the House of Representatives, other than a clerical or secretarial employee;

“(D) an employee of a Senator, of a Senate committee, or on the leadership staff of the Senate, other than a clerical or secretarial employee; and

“(E) an employee of a joint committee of the Congress, other than a clerical or secretarial employee.”.

SEC. 403. CONTRIBUTIONS BY DEPENDENTS NOT OF VOTING AGE.

(a) IN GENERAL.—Section 315 of FECA (2 U.S.C. 441a), as amended by section 402(b), is amended by adding at the end the following new subsection:

“(n) For purposes of this section, any contribution by an individual who—

“(1) is a dependent of another individual; and

“(2) has not, as of the time of such contribution, attained the legal age for voting for elections to Federal office in the State in which such individual resides, shall be treated as having been made by such other individual. If such individual is the dependent of another individual and such other individual’s spouse, the contribution shall be allocated among such individuals in the manner determined by them.”.

SEC. 404. CONTRIBUTIONS TO CANDIDATES FROM STATE AND LOCAL COMMITTEES OF POLITICAL PARTIES TO BE AGGREGATED.

(a) IN GENERAL.—Section 315(a) of FECA (2 U.S.C. 441a(a)) is amended by adding at the end the following new paragraph:

“(9) A candidate for Federal office may not accept, with respect to an election, any contribution from a State or local committee of a political party (including any subordinate committee of such committee), if such contribution, when added to the total of contributions previously accepted from all such committees of that political party, exceeds a limitation on contributions to a candidate under this section.”.

(b) CONFORMING AMENDMENT.—Section 315(a)(5) of FECA (2 U.S.C. 441a(a)(5)) is amended—

(1) by adding “and” at the end of subparagraph (A);

(2) by striking subparagraph (B); and

(3) by redesignating subparagraph (C) as subparagraph (B).

SEC. 405. LIMITED EXCLUSION OF ADVANCES BY CAMPAIGN WORKERS FROM THE DEFINITION OF THE TERM “CONTRIBUTION”.

Section 301(8)(B) of FECA (2 U.S.C. 431(8)(B)) is amended—

(1) in clause (xiii), by striking “and” after the semicolon at the end;

(2) in clause (xiv), by striking the period at the end and inserting: “; and”; and

(3) by adding at the end the following new clause:

“(xv) any advance voluntarily made on behalf of an authorized committee of a candidate by an individual in the normal course

of such individual's responsibilities as a volunteer for, or employee of, the committee, if the advance is reimbursed by the committee within 10 days after the date on which the advance is made, and the aggregate value of advances on behalf of a committee does not exceed \$500 with respect to an election."

TITLE V—REPORTING REQUIREMENTS

SEC. 501. CHANGE IN CERTAIN REPORTING FROM A CALENDAR YEAR BASIS TO AN ELECTION CYCLE BASIS.

Paragraphs (2) through (7) of section 304(b) of FECA (2 U.S.C. 434(b)(2)-(7)) are amended by inserting after "calendar year" each place it appears the following: "(election cycle, in the case of an authorized committee of a candidate for Federal office)".

SEC. 502. PERSONAL AND CONSULTING SERVICES.

Section 304(b)(5)(A) of FECA (2 U.S.C. 434(b)(5)(A)) is amended by adding before the semicolon at the end the following: ", except that if a person to whom an expenditure is made is merely providing personal or consulting services and is in turn making expenditures to other persons (not including employees) who provide goods or services to the candidate or his or her authorized committees, the name and address of such other person, together with the date, amount and purpose of such expenditure shall also be disclosed".

SEC. 503. REDUCTION IN THRESHOLD FOR REPORTING OF CERTAIN INFORMATION BY PERSONS OTHER THAN POLITICAL COMMITTEES.

Section 304(b)(3)(A) of FECA (2 U.S.C. 434(b)(3)(A)) is amended by striking "\$200" and inserting "\$50".

SEC. 504. COMPUTERIZED INDICES OF CONTRIBUTIONS.

Section 311(a) of FECA (2 U.S.C. 438(a)) is amended—

(1) by striking "and" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(11) maintain computerized indices of contributions of \$50 or more."

TITLE VI—PRESIDENTIAL DEBATES

SEC. 601. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) American voters are increasingly frustrated with the lack of significant political debate in presidential elections in the United States, and voting participation in the United States is lower than in any other advanced industrialized country, due in part to such frustration;

(2) the right of eligible citizens to participate in the election process as informed voters, provided in and derived from the first and fourteenth amendments to the Constitution, has consistently been protected and promoted by the Federal Government;

(3) United States presidential debates sponsored by nonpartisan organizations offer important fora for free, open, and substantive exchanges of candidates' ideas, and should include all significant candidates, including non-major and independent candidates; and

(4) throughout United States history, significant minor party and independent candidates have often been a source for new ideas and new programs, offering American voters an opportunity to engage in a diverse and open political discourse on critical issues of the day.

(b) PURPOSES.—The purposes of this title are to make participation in presidential debates a requirement for receipt of Federal general election campaign funds and to allow all candidates who meet the criteria outlined in this Act to participate in such debates.

SEC. 602. PRESIDENTIAL AND VICE PRESIDENTIAL CANDIDATE DEBATES.

Section 9003 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

"(e) PRESIDENTIAL AND VICE PRESIDENTIAL CANDIDATE DEBATES.—

"(1) AGREEMENT TO DEBATE.—In addition to meeting the requirements of subsection (a), (b), or (c), in order to be eligible to receive any payments under section 9006, the candidates for the office of President and Vice President in a Presidential election shall agree in writing that—

"(A) the Presidential candidate, if eligible under paragraph (3), will participate in not less than 3 Presidential candidate debates, which shall be held in the September and October preceding a Presidential general election at least 2 weeks before the election; and

"(B) the Vice Presidential candidate, if eligible under paragraph (3), will participate in not less than 1 Vice Presidential candidate debate, which shall be held prior to the third Presidential candidate debate.

"(2) DEBATE REQUIREMENTS.—

"(A) IN GENERAL.—Each debate under paragraph (1) shall—

"(i) be sponsored by a nonpartisan organization that has no affiliation with any political party;

"(ii) include all candidates that meet the criteria stated in paragraph (3) (except any such candidate who elects not to receive payments under section 9006), who shall appear and participate in a regulated exchange of questions and answers on political, social, economic, and other issues; and

"(iii) be of at least 90 minutes' duration, of which not less than 30 minutes are devoted to questions and answers or discussion directly between the candidates, as determined by the sponsor of the debate.

"(B) ANNOUNCEMENT OF TIME, LOCATION, AND FORMAT.—The sponsor of debates shall announce the time, location, and format of the debate prior to the first Monday in September before the Presidential election.

"(3) CRITERIA FOR PARTICIPATION IN PRESIDENTIAL CANDIDATE DEBATES.—A candidate is eligible to participate in a debate under paragraph (1) if—

"(A) the candidate has qualified for the election ballot as the candidate of a political party or as an independent candidate to the office of President or Vice President in not less than 40 States;

"(B) the candidate met the requirements of section 9033(b) (3) and (4); or

"(C) the candidate raised not less than \$500,000 on or after January 1 of the calendar year immediately preceding the calendar year of the Presidential election, as disclosed in a report filed pursuant to section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434).

"(4) ENFORCEMENT.—If the Commission, acting on its own or at the complaint of any person, determines that a Presidential or Vice Presidential candidate that has received payments under section 9006 failed to participate in a debate under paragraph (1) and was responsible at least in part for that failure, the candidate shall pay to the Secretary an amount equal to the amount of the payments made to the candidate under section 9006."

TITLE VII—MISCELLANEOUS

SEC. 701. PROHIBITION OF LEADERSHIP COMMITTEES.

Section 302(e) of FECA (2 U.S.C. 432(e)) is amended—

(1) by amending paragraph (3) to read as follows:

"(3)(A) No political committee that supports or has supported more than one candidate may be designated as an authorized committee, except that—

"(i) a candidate for the office of President nominated by a political party may designate the national committee of such political party as the candidate's principal campaign committee, but only if that national committee maintains separate books of account with respect to its functions as a principal campaign committee; and

"(ii) a candidate may designate a political committee established solely for the purpose of joint fundraising by such candidates as an authorized committee.

"(B) As used in this paragraph, the term 'support' does not include a contribution by any authorized committee in amounts of \$1,000 or less to an authorized committee of any other candidate."; and

(2) by adding at the end the following new paragraph:

"(6)(A) A candidate for Federal office or any individual holding Federal office may not establish, maintain, or control any political committee other than a principal campaign committee of the candidate, authorized committee, party committee, or other political committee designated in accordance with paragraph (3). A candidate for more than one Federal office may designate a separate principal campaign committee for each Federal office.

"(B) For one year after the effective date of this paragraph, any such political committee may continue to make contributions. At the end of that period such political committee shall disburse all funds by one or more of the following means: making contributions to an entity qualified under section 501(c)(3) of the Internal Revenue Code of 1986; making a contribution to the treasury of the United States; contributing to the national, State or local committees of a political party; or making contributions not to exceed \$250 to candidates for elective office."

SEC. 702. POLLING DATA CONTRIBUTED TO CANDIDATES.

Section 301(8) of FECA (2 U.S.C. 431(8)), as amended by section 314(b), is amended by inserting at the end the following new subparagraph:

"(D) A contribution of polling data to a candidate shall be valued at the fair market value of the data on the date the poll was completed, depreciated at a rate not more than 1 percent per day from such date to the date on which the contribution was made."

TITLE VIII—EFFECTIVE DATES; AUTHORIZATIONS

SEC. 801. EFFECTIVE DATE.

Except as otherwise provided in this Act, the amendments made by, and the provisions of, this Act shall take effect on the date of the enactment of this Act but shall not apply with respect to activities in connection with any election occurring before January 1, 1994.

SEC. 802. SENSE OF THE SENATE REGARDING FUNDING OF SENATE ELECTION CAMPAIGN FUND.

It is the sense of the Senate that—

(1) the current Presidential checkoff should be increased to \$5.00, its designation changed to the "Federal Election Campaign Checkoff", and individuals should be permitted to contribute an additional \$5.00 to the fund in additional taxes if they so desire;

(2) the Internal Revenue Service and the Federal Election Commission should be required to develop and implement a plan to publicize the fund and the checkoff to increase citizen participation; and

(3) funds to pay for the increase in the checkoff to \$5.00 should come from the repeal of the tax deduction for business lobbying activity.

SEC. 803. SEVERABILITY.

Except as provided in sections 101(c) and 121(b), if any provision of this Act (including

any amendment made by this Act), or the application of any such provision to any person or circumstance, is held invalid, the validity of any other provision of this Act, or the application of such provision to other persons and circumstances, shall not be affected thereby.

SEC. 804. EXPEDITED REVIEW OF CONSTITUTIONAL ISSUES.

(a) **DIRECT APPEAL TO SUPREME COURT.**—An appeal may be taken directly to the Supreme Court of the United States from any interlocutory order or final judgment, decree, or order issued by any court ruling on the constitutionality of any provision of this Act or amendment made by this Act.

(b) **ACCEPTANCE AND EXPEDITION.**—The Supreme Court shall, if it has not previously ruled on the question addressed in the ruling below, accept jurisdiction over, advance on the docket, and expedite the appeal to the greatest extent possible.

**SUMMARY OF SENATE FAIR ELECTIONS AND GRASSROOTS DEMOCRACY ACT
CONTRIBUTION LIMITS**

Political Action committees—prohibited from making contributions or expenditures to influence federal elections. If ban declared unconstitutional: (1) lowers PAC contribution limit to \$250 per candidate, and (2) imposes aggregate PAC receipts limit on Senate candidates.

Individual contribution Limits—lowered to \$100 for donations to Senate candidates, per election cycle.

VOLUNTARY CAMPAIGN EXPENDITURE LIMITS

General election period: Formula-based, from \$775,000 (small states) to \$4.5 million (large states).

Primary election period: 67% of general election limit (\$2.5 million max.).

Runoff election: 20% of general election limit.

Candidate's personal funds limit: \$25,000.

Limits increased if opponent raises or spend more than 200% of general election limit.

BENEFITS FOR CANDIDATES ABIDING BY VOLUNTARY EXPENDITURE LIMITS

Public funding—Primary (and Runoff): match for individual in-State donations of \$100 or less, up to 50% of spending limit.

General: Major party candidates given subsidy equal to spending limit.

Minor party candidates: provided match for individual in-State donations of \$100 or less, up to 50% of spending limit.

Contingent funding: payments to participating candidates to compensate for and in amount of (1) opponents' expenditures in excess of spending limit, and (2) independent expenditures made against participant or for opponent.

Free Broadcast Time—broadcasters must provide 90 min. of prime access time to eligible candidates within broadcast area, in segments of at least 1 min., with no more than 15 min. within a 24-hr. period and no more than 25% of a broadcast consisting of other than candidate remarks.

Reduced Postal Rate—1 mailing per eligible voter during general election period, at lowest non-profit third-class rate.

Eligibility threshold for benefits—candidate must raise 5% of general election limit in amounts of \$100 or less (at least 60% within-state).

Funding source—appropriated funds, financed by increase in dollar checkoff to 5% and elimination of tax deduction for lobbying.

SOFT MONEY

Prohibits all "soft" money in federal elections; requires that all federal election ex-

penditures be from sources allowed by federal law.

Establishes Grassroots Federal Election Fund to be maintained by state political parties for grassroots political activities that benefit federal candidates exclusively. Contributions to these funds must be raised and disclosed under federal limits, and may not exceed \$5,000.

BUNDLING

Prohibits bundling by all PACs; parties; unions, corporations, trade associations, and national banks; partnerships or sole proprietorships; and lobbyists.

Prohibits lobbyists from contributing funds to, or soliciting funds for Members of Congress if they have lobbied those Members or their staff within the last twelve months.

INDEPENDENT EXPENDITURES

Tightens definition to ensure proper distance from candidates; augments disclosure and disclaimer requirements.

CONFERENCE REPORT ON GIFTS PORTION OF LOBBYING DISCLOSURE BILL (AS COMPARED TO SENATE-PASSED BILL)

The conference report on gifts to Members, officers and employees of Congress is the same as the Senate-passed bill on gifts, S. 1935, with a few exceptions as shown in italic. As with the Senate-passed bill, gifts are prohibited except as described below:

FROM LOBBYISTS

Food/refreshments of nominal value not part of a meal.

Campaign contributions/attendance at fund-raising events sponsored by political organizations.

Informational materials like books, videotapes.

Gifts from close personal friends and family members.

Pension/other employment benefits earned while serving as an employee of lobbying firm.

FROM NONLOBBYISTS

Food/refreshments/entertainment in Member's home state. They remain subject to current rules until and unless changed by Rules Committee.

Food/refreshments of minimal value (less than \$20).

Personal and family relationship. (Changed from personal friendship to personal relationship to cover situations where the gift is unrelated to Member's official position.)

Campaign contribution/attendance at fund-raising events sponsored by political organizations.

Attendance/food/refreshments/entertainment at widely attended events where Member is either speaking or event is related to Member's official duties or representational function.

Anything for which Member pays market value or doesn't use and promptly returns.

Contributions to a legal expense fund (pursuant to limits already set by resolution).

Gifts from other Members or employees of Senate/House.

Anything of value resulting from outside business activities not connected to duties of Member.

Anything customarily given by a prospective employer.

Pension and other benefits.

Informational materials like books, videotapes.

Awards/prizes given to the public.

Honorary degrees (*including associated travel*) and other bona fide nonmonetary awards presented in recognition of public service.

Homestate products of minimal value for display or distribution.

Items of little intrinsic value, such as baseball caps, greeting cards.

Training, if the training is in the interest of the Senate.

Bequests, inheritances.

Any item authorized by Foreign Gifts Act. Anything paid by state or local or federal government.

Personal hospitality.

Items available to all federal employees/comparable class of individuals.

Plaque/trophy of modest value.

Anything for which, in unusual case, a waiver is granted by Ethics Committee.

As with current rule, gifts based on personal relationship over \$250 must be approved by Ethics Committee and must be disclosed on financial disclosure form.

TRAVEL

Travel to a meeting, speaking engagement, factfinding trip or similar event in connection with the duties of the Member is permitted. Gifts of travel related to charity events or which is substantially recreational is prohibited. Disclosure of expenses for trips where reimbursement is permitted must be filed with Secretary of Senate within 30 days of travel.

SPOUSES

Current rules and Senate-passed bill apply to spouses and dependents as well as Members. Conference report doesn't restrict gifts to spouses and dependents unless the Member has reason to believe gift was given because of the Member's official position and where gift is given with the knowledge and acquiescence of the Member. Such gifts are then treated as gifts to the Member.

Also conference report explicitly allows a spouse or dependent to travel with a Member at the expense of the private party if other spouses/dependents are expected to do so or there is a representational purpose.

Spouses/dependents are also allowed to accompany Members to widely attended events.

COMMON CAUSE,

Washington, DC, January 4, 1995.

DEAR SENATOR: Enclosed for your information is a copy of a letter delivered today to House Speaker Newt Gingrich from Common Cause.

In a 1990 speech, Speaker Gingrich stated: "The first duty of our generation is to reestablish integrity and a bond of honesty in the political process" and called for the passage of "reform laws to clean up the election and lobbying system".

"We must insure that citizen politics defeats money politics." Speaker Gingrich said.

The Common Cause letter urges Speaker Gingrich to make good on his words and lead an effort to reform the corrupt influence money system in Congress.

Sincerely,

FRED WERTHEIMER,
President.

COMMON CAUSE,

Washington, DC, January 4, 1995.

House Speaker NEWT GINGRICH,
*U.S. Capitol H—230,
Washington, DC.*

DEAR SPEAKER GINGRICH: On August 22, 1990, in a speech to The Heritage Foundation, you said:

"The first duty of our generation is to reestablish integrity and a bond of honesty in the political process. We should punish wrongdoers in politics and government and pass reform laws to clean up the election and lobbying systems. We must insure that citizen politics defeats money politics. This is the only way our system can regain its integrity. Every action should be measured against that goal, and every American

should be challenged to register and vote to achieve that goal."

We agree,

As you become Speaker of the House of Representatives today, you have a unique moment in history in which to make good on your words. You have a unique opportunity to lead an effort to reform the corrupt system in Congress which you have criticized throughout your House career.

As you also stated in your speech before The Heritage Foundation:

"Congress is a broken system. It is increasingly a system of corruption in which money politics is defeating and driving out citizen politics. * * * [H]onesty and integrity are at the heart of a free society. Corruption, special favors, dishonesty and deception corrode the very process of freedom and alienate citizens from their country."

I am enclosing other examples of statements you have made over the years about the importance of integrity in government and the need for political reform.

You and the newly elected Republicans in the House have told the country that you are committed to changing the way Washington works.

But citizens throughout this nation clearly understand that there is no way to change the way Washington works without fundamental reform of the corrupt influence money system. This requires effective campaign finance reform and a tough gift ban for Members of Congress.

In your words, "The first duty of our generation is to reestablish integrity and a bond of honesty in the political process."

In your words, "We should punish wrongdoers in politics and government and pass reform laws to clean up the election and lobbying systems."

In your words, "We must insure that citizen politics defeats money politics. This is the only way our system can regain its integrity."

In your new position of leadership, you now face a clear choice. You can make good on your words and lead the effort to clean up Congress. Or you can ignore your words and become the chief protector of the corrupt influence money system in Washington.

Common Cause strongly urges you to make good on your words by supporting and scheduling early action on effective and comprehensive campaign finance reform legislation, a strong gift ban and lobby reform legislation.

Sincerely,

FRED WERTHEIMER,
President.

S. 117

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

SECTION 1. SENATE GIFT RULE.

The text of rule XXXV of the Standing Rules of the Senate is amended to read as follows:

"1. No member, officer, or employee of the Senate shall accept a gift, knowing that such gift is provided by a lobbyist, a lobbying firm, or an agent of a foreign principal registered under the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.) in violation of this rule.

"2. (a) In addition to the restriction on receiving gifts from registered lobbyists, lobbying firms, and agents of foreign principals provided by paragraph 1 and except as provided in this rule, no member, officer, or employee of the Senate shall knowingly accept a gift from any other person.

"(b)(1) For the purpose of this rule, the term 'gift' means any gratuity, favor, discount, entertainment, hospitality, loan, for-

bearance, or other item having monetary value. The term includes gifts of services, training, transportation, lodging, and meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.

"(2) A gift to the spouse or dependent of a member, officer, or employee (or a gift to any other individual based on that individual's relationship with the member, officer, or employee) shall be considered a gift to the member, officer, or employee if it is given with the knowledge and acquiescence of the member, officer, or employee and the member, officer, or employee has reason to believe the gift was given because of the official position of the member, officer, or employee.

"(c) The restrictions in subparagraph (a) shall apply to the following:

"(1) Anything provided by a lobbyist or a foreign agent which is paid for, charged to, or reimbursed by a client or firm of such lobbyist or foreign agent.

"(2) Anything provided by a lobbyist, a lobbying firm, or a foreign agent to an entity that is maintained or controlled by a member, officer, or employee of the Senate.

"(3) A charitable contribution (as defined in section 170(c) of the Internal Revenue Code of 1986) made by a lobbyist, a lobbying firm, or a foreign agent on the basis of a designation, recommendation, or other specification of a member, officer, or employee of the Senate (not including a mass mailing or other solicitation directed to a broad category of persons or entities).

"(4) A contribution or other payment by a lobbyist, a lobbying firm, or a foreign agent to a legal expense fund established for the benefit of a member, officer, or employee of the Senate.

"(5) A charitable contribution (as defined in section 170(c) of the Internal Revenue Code of 1986) made by a lobbyist, a lobbying firm, or a foreign agent in lieu of an honorarium to a member, officer, or employee of the Senate.

"(6) A financial contribution or expenditure made by a lobbyist, a lobbying firm, or a foreign agent relating to a conference, retreat, or similar event, sponsored by or affiliated with an official congressional organization, for or on behalf of members, officers, or employees of the Senate.

"(d) The restrictions in subparagraph (a) shall not apply to the following:

"(1) Anything for which the member, officer, or employee pays the market value, or does not use and promptly returns to the donor.

"(2) A contribution, as defined in the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) that is lawfully made under that Act, or attendance at a fundraising event sponsored by a political organization described in section 527(e) of the Internal Revenue Code of 1986.

"(3) Anything provided by an individual on the basis of a personal or family relationship unless the member, officer, or employee has reason to believe that, under the circumstances, the gift was provided because of the official position of the member, officer, or employee and not because of the personal or family relationship. The Select Committee on Ethics shall provide guidance on the applicability of this clause and examples of circumstances under which a gift may be accepted under this exception.

"(4) A contribution or other payment to a legal expense fund established for the benefit of a member, officer, or employee, that is otherwise lawfully made, if the person making the contribution or payment is identified for the Select Committee on Ethics.

"(5) Any food or refreshments which the recipient reasonably believes to have a value of less than \$20.

"(6) Any gift from another member, officer, or employee of the Senate or the House of Representatives.

"(7) Food, refreshments, lodging, and other benefits—

"(A) resulting from the outside business or employment activities (or other outside activities that are not connected to the duties of the member, officer, or employee as an officeholder) of the member, officer, or employee, or the spouse of the member, officer, or employee, if such benefits have not been offered or enhanced because of the official position of the member, officer, or employee and are customarily provided to others in similar circumstances;

"(B) customarily provided by a prospective employer in connection with bona fide employment discussions; or

"(C) provided by a political organization described in section 527(e) of the Internal Revenue Code of 1986 in connection with a fundraising or campaign event sponsored by such an organization.

"(8) Pension and other benefits resulting from continued participation in an employee welfare and benefits plan maintained by a former employer.

"(9) Informational materials that are sent to the office of the member, officer, or employee in the form of books, articles, periodicals, other written materials, audio tapes, videotapes, or other forms of communication.

"(10) Awards or prizes which are given to competitors in contests or events open to the public, including random drawings.

"(11) Honorary degrees (and associated travel, food, refreshments, and entertainment) and other bona fide, nonmonetary awards presented in recognition of public service (and associated food, refreshments, and entertainment provided in the presentation of such degrees and awards).

"(12) Donations of products from the State that the member represents that are intended primarily for promotional purposes, such as display or free distribution, and are of minimal value to any individual recipient.

"(13) An item of little intrinsic value such as a greeting card, baseball cap, or a T shirt.

"(14) Training (including food and refreshments furnished to all attendees as an integral part of the training) provided to a member, officer, or employee, if such training is in the interest of the Senate.

"(15) Bequests, inheritances, and other transfers at death.

"(16) Any item, the receipt of which is authorized by the Foreign Gifts and Decorations Act, the Mutual Educational and Cultural Exchange Act, or any other statute.

"(17) Anything which is paid for by the Federal Government, by a State or local government, or secured by the Government under a Government contract.

"(18) A gift of personal hospitality of an individual, as defined in section 109(14) of the Ethics in Government Act.

"(19) Free attendance at a widely attended event permitted pursuant to subparagraph (e).

"(20) Opportunities and benefits which are—

"(A) available to the public or to a class consisting of all Federal employees, whether or not restricted on the basis of geographic consideration;

"(B) offered to members of a group or class in which membership is unrelated to congressional employment;

"(C) offered to members of an organization, such as an employees' association or congressional credit union, in which membership is related to congressional employment

and similar opportunities are available to large segments of the public through organizations of similar size;

“(D) offered to any group or class that is not defined in a manner that specifically discriminates among Government employees on the basis of branch of Government or type of responsibility, or on a basis that favors those of higher rank or rate of pay;

“(E) in the form of loans from banks and other financial institutions on terms generally available to the public; or

“(F) in the form of reduced membership or other fees for participation in organization activities offered to all Government employees by professional organizations if the only restrictions on membership relate to professional qualifications.

“(21) A plaque, trophy, or other memento of modest value.

“(22) Anything for which, in an unusual case, a waiver is granted by the Select Committee on Ethics.

“(e)(1) Except as prohibited by paragraph 1, a member, officer, or employee may accept an offer of free attendance at a widely attended convention, conference, symposium, forum, panel discussion, dinner, viewing, reception, or similar event, provided by the sponsor of the event, if—

“(A) the member, officer, or employee participates in the event as a speaker or a panel participant, by presenting information related to Congress or matters before Congress, or by performing a ceremonial function appropriate to the member's, officer's, or employee's official position; or

“(B) attendance at the event is appropriate to the performance of the official duties or representative function of the member, officer, or employee.

“(2) A member, officer, or employee who attends an event described in clause (1) may accept a sponsor's unsolicited offer of free attendance at the event for an accompanying individual if others in attendance will generally be similarly accompanied or if such attendance is appropriate to assist in the representation of the Senate.

“(3) Except as prohibited by paragraph 1, a member, officer, or employee, or the spouse or dependent thereof, may accept a sponsor's unsolicited offer of free attendance at a charity event, except that reimbursement for transportation and lodging may not be accepted in connection with the event.

“(4) For purposes of this paragraph, the term ‘free attendance’ may include waiver of all or part of a conference or other fee, the provision of local transportation, or the provision of food, refreshments, entertainment, and instructional materials furnished to all attendees as an integral part of the event. The term does not include entertainment collateral to the event, or food or refreshments taken other than in a group setting with all or substantially all other attendees.

“(f)(1) No member, officer, or employee may accept a gift the value of which exceeds \$250 on the basis of the personal relationship exception in subparagraph (d)(3) or the close personal friendship exception in clause (2) unless the Select Committee on Ethics issues a written determination that one of such exceptions applies.

“(2)(A) A gift given by an individual under circumstances which make it clear that the gift is given for a nonbusiness purpose and is motivated by a family relationship or close personal friendship and not by the position of the member, officer, or employee of the Senate shall not be subject to the prohibition in clause (1).

“(B) A gift shall not be considered to be given for a nonbusiness purpose if the individual giving the gift seeks—

“(i) to deduct the value of such gift as a business expense on the individual's Federal income tax return, or

“(ii) direct or indirect reimbursement or any other compensation for the value of the gift from a client or employer of such lobbyist or foreign agent.

“(C) In determining if the giving of a gift is motivated by a family relationship or close personal friendship, at least the following factors shall be considered:

“(i) The history of the relationship between the individual giving the gift and the recipient of the gift, including whether or not gifts have previously been exchanged by such individuals.

“(ii) Whether the gift was purchased by the individual who gave the item.

“(iii) Whether the individual who gave the gift also at the same time gave the same or similar gifts to other members, officers, or employees of the Senate.

“(g)(1) The Committee on Rules and Administration is authorized to adjust the dollar amount referred to in subparagraph (d)(5) on a periodic basis, to the extent necessary to adjust for inflation.

“(2) The Select Committee on Ethics shall provide guidance setting forth reasonable steps that may be taken by members, officers, and employees, with a minimum of paperwork and time, to prevent the acceptance of prohibited gifts from lobbyists.

“(3) When it is not practicable to return a tangible item because it is perishable, the item may, at the discretion of the recipient, be given to an appropriate charity or destroyed.

“3. (a)(1) Except as prohibited by paragraph 1, a reimbursement (including payment in kind) to a member, officer, or employee for necessary transportation, lodging and related expenses for travel to a meeting, speaking engagement, factfinding trip or similar event in connection with the duties of the member, officer, or employee as an officeholder shall be deemed to be a reimbursement to the Senate and not a gift prohibited by this rule, if the member, officer, or employee—

“(A) in the case of an employee, receives advance authorization, from the member or officer under whose direct supervision the employee works, to accept reimbursement, and

“(B) discloses the expenses reimbursed or to be reimbursed and the authorization to the Secretary of the Senate within 30 days after the travel is completed.

“(2) For purposes of clause (1), events, the activities of which are substantially recreational in nature, shall not be considered to be in connection with the duties of a member, officer, or employee as an officeholder.

“(b) Each advance authorization to accept reimbursement shall be signed by the member or officer under whose direct supervision the employee works and shall include—

“(1) the name of the employee;

“(2) the name of the person who will make the reimbursement;

“(3) the time, place, and purpose of the travel; and

“(4) a determination that the travel is in connection with the duties of the employee as an officeholder and would not create the appearance that the employee is using public office for private gain.

“(c) Each disclosure made under subparagraph (a)(1) of expenses reimbursed or to be reimbursed shall be signed by the member or officer (in the case of travel by that Member or officer) or by the member or officer under whose direct supervision the employee works (in the case of travel by an employee) and shall include—

“(1) a good faith estimate of total transportation expenses reimbursed or to be reimbursed;

“(2) a good faith estimate of total lodging expenses reimbursed or to be reimbursed;

“(3) a good faith estimate of total meal expenses reimbursed or to be reimbursed;

“(4) a good faith estimate of the total of other expenses reimbursed or to be reimbursed;

“(5) a determination that all such expenses are necessary transportation, lodging, and related expenses as defined in this paragraph; and

“(6) in the case of a reimbursement to a member or officer, a determination that the travel was in connection with the duties of the member or officer as an officeholder and would not create the appearance that the member or officer is using public office for private gain.

“(d) For the purposes of this paragraph, the term ‘necessary transportation, lodging, and related expenses’—

“(1) includes reasonable expenses that are necessary for travel for a period not exceeding 3 days exclusive of traveltime within the United States or 7 days exclusive of traveltime outside of the United States unless approved in advance by the Select Committee on Ethics;

“(2) is limited to reasonable expenditures for transportation, lodging, conference fees and materials, and food and refreshments, including reimbursement for necessary transportation, whether or not such transportation occurs within the periods described in clause (1);

“(3) does not include expenditures for recreational activities, or entertainment other than that provided to all attendees as an integral part of the event; and

“(4) may include travel expenses incurred on behalf of either the spouse or a child of the member, officer, or employee, subject to a determination signed by the member or officer (or in the case of an employee, the member or officer under whose direct supervision the employee works) that the attendance of the spouse or child is appropriate to assist in the representation of the Senate.

“(e) The Secretary of the Senate shall make available to the public all advance authorizations and disclosures of reimbursement filed pursuant to subparagraph (a) as soon as possible after they are received.

“4. In this rule:

“(a) The term ‘client’ means any person or entity that employs or retains another person for financial or other compensation to conduct lobbying activities on behalf of that person or entity. A person or entity whose employees act as lobbyists on its own behalf is both a client and an employer of such employees. In the case of a coalition or association that employs or retains other persons to conduct lobbying activities, the client is—

“(1) the coalition or association and not its individual members when the lobbying activities are conducted on behalf of its membership and financed by the coalition's or association's dues and assessments; or

“(2) an individual member or members, when the lobbying activities are conducted on behalf of, and financed separately by, 1 or more individual members and not by the coalition's or association's dues and assessments.

“(b) The term ‘lobbying firm’—

“(A) means a person or entity that has 1 or more employees who are lobbyists on behalf of a client other than that person or entity; and

“(B) includes a self-employed individual who is a lobbyist.

“(c) The term ‘lobbyist’ means a person registered under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267) or

required to be registered under any successor statute.

"(d) The term 'State' means each of the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States."

SEC. 2. MISCELLANEOUS PROVISIONS.

(a) AMENDMENTS TO THE ETHICS IN GOVERNMENT ACT.—Section 102(a)(2)(B) of the Ethics in Government Act (5 U.S.C. 102, App. 6) is amended by adding at the end thereof the following: "Reimbursements deemed accepted by the Senate pursuant to Rule XXXV of the Standing Rules of the Senate shall be reported as required by such rule and need not be reported under this section."

(b) REPEAL OF OBSOLETE PROVISION.—Section 901 of the Ethics Reform Act of 1989 (2 U.S.C. 31-2) is repealed.

(c) GENERAL SENATE PROVISIONS.—The Senate Committee on Rules and Administration, on behalf of the Senate, may accept gifts provided they do not involve any duty, burden, or condition, or are not made dependent upon some future performance by the United States. The Committee on Rules and Administration is authorized to promulgate regulations to carry out this section.

SEC. 3. EXERCISE OF SENATE RULEMAKING POWERS.

Sections 1 and 2(c) are enacted by the Senate—

(1) as an exercise of the rulemaking power of the Senate and pursuant to section 7353(b)(1) of title 5, United States Code, and accordingly, they shall be considered as part of the rules of the Senate, 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 the Senate to change such rules at any time and in the same manner and to the same extent as in the case of any other rule of the Senate.

SEC. 4. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on May 31, 1995.

Mr. FEINGOLD. Mr. President, today I am pleased to join my colleagues, Senators LAUTENBERG and WELLSTONE, in once again introducing legislation that will fundamentally reform the way Congress deals with the thousands and thousands of gifts and other perks that are offered by Members each year from individuals, lobbyists and associations that seek special access and influence on Capitol Hill.

Last year, this body approved a strong gift ban bill by a resounding vote of 95 to 4. The provisions of that bill, which would have strictly prohibited the acceptance of gifts from lobbyists and which provided only a few exceptions for nonlobbyists, were retained in a conference report that not only would have clamped down on this outrageous perk, but would have closed the gaping loopholes that riddle our current lobbying disclosure laws. That conference report failed to pass in the closing days of the 103d Congress, but we are introducing this bill today because we are unwilling to allow such an important and fundamental issue to be forgotten merely because we were unable to obtain final passage in the waning moments of the last Congress. This legislation is needed to help restore the lost faith of people in their Government, and to reverse the strong negative view of the American people har-

bor for this institutions. We have to recognize that the American people want their representatives to fundamentally change the way they do business, and passing meaningful gift ban legislation would represent an important first step towards extinguishing the firestorm of cynicism and distrust that has swept across the political landscape. It would send a strong message to our constituents that we are prepared to take forceful steps to allay any perceived conflicts of interests between the acceptance of such gifts and our responsibilities as elected representatives.

Let me illustrate this point by referring to a TIME/CNN poll taken late last year. Like many polls before it, this poll showed that public approval of the performance of Congress as an institution is embarrassingly low. This poll also found that 84 percent, 84 percent of the American people believe that officials in Washington are heavily influenced by special interests and out of touch with the average person. The issue here, is not whether Members of Congress are indeed for sale or susceptible to pressure from special interests. We know that this is largely invalid. But it is the perception of impropriety that must be changed. We must identify what has fueled this perception, and pass reforms that will regain the lost trust and faith the American people have in their Government.

The number and types of gifts delivered to congressional offices each and every day is astonishing, and frankly, we should be thankful that most of our constituents are spared the imagery that has become a frequent sight on Capitol Hill of flatbed carts moving through the hallways of Congress, stacked with gifts. Though I have adopted a strict policy for myself and my staff that prohibits the acceptance of virtually anything of value, my office has received—and declined—close to 800 gifts since I joined the U.S. Senate 2 years ago. I have had some unusual gifts come into my office, including, for the second consecutive year, a Christmas tree. It may strike some of our constituents as odd that there is a lobbying firm out there that is committed to leveling a small forest every year to provide Christmas trees to Members of Congress. But it is not only the gifts themselves that anger the American people, it is also the source of these gifts that sparks the greatest resentment among our constituents, and this is reflected in the same TIME/CNN poll I referred to earlier.

In this poll, the following question was posed: "Which one of these groups do you think have too much influence in government?". A list of choices were provided, and which groups did respondents believe have too much influence in public policy decisions? The wealthy, large corporations, foreign governments and special interest groups. The gifts that we receive—and, again, that I personally decline—range from fruit baskets to artwork to fine

wine—you name it. The sources of these gifts? The wealthy, large corporations, foreign governments and special interest groups. In other words, the exact same groups cited by a majority of poll respondents as having special influence and access with the Federal Government are the exact same groups that provide most of the free gifts and meals to Members of Congress. The connection is clear, and I am convinced that if we eliminate such unnecessary gifts we can convince the American people that we are not beholden to any special interests and we can begin to break down the walls of distrust between the American people and their Government.

The bill we are introducing today will strictly prohibit the lobbying community from providing free meals, travel and entertainment to Members of Congress and their staffs. Most of these stringent rules will apply to non-lobbyists as well. The legislation also includes exceptions to these tight restrictions that will allow legislators and staff to carry out the day to day official responsibilities of a Member of Congress. For example, these exceptions do allow Members to be reimbursed for certain expenses incurred in the attendance of programs, seminars and conferences related to official business. Those exceptions aside, the gift ban provisions contained in this legislation will take a hard line against those offered items that are completely unrelated to official business and serve only to fuel the negative perceptions of Congress that have permeated our society.

The current gift rules, which allow Members of Congress and their staff to accept gifts worth up to \$250 from any one source during a year and does not include toward that limit any gifts under \$100, are simply unacceptable. When the U.S. Senate first debated this issue last year, differing objections were raised to our effort to prohibit the acceptance of these gifts. Some argued that the gifts provided to Members and staff do not translate into special access for anyone, nor do they have any influence on the legislative process. Maybe, maybe not. But it is the mere appearance of impropriety that has so sharply turned the American people against this institution. For our constituents who may view a television news report of some special interest group picking up the tab for a lawmaker's trip to Florida, it appears to be a clear quid pro quo arrangement. But there was another interesting argument raised during last year's debate on this issue—the argument that strict gift rules were unworkable and would hinder the work of Members and their staffs. I would ask my colleagues who genuinely believe this to look at the experience of my home State, Wisconsin.

I served for 10 years in the Wisconsin State Legislature as a State senator.

For over 20 years, the Wisconsin Legislature has lived under rules that prohibit the acceptance of anything of value, even a cup of coffee, from a lobbyist or a lobbying organization. These rules, which have had virtually no impact on that legislative body's ability to perform, have earned the State of Wisconsin a well-deserved reputation for clean government, a term that few people, unfortunately, would apply to the U.S. Congress. My experience in the Wisconsin Legislature led me 2 years ago to adopt a strict ethics policy for my U.S. Senate office that combines the most restrictive elements of the existing ethics policy for the U.S. Senate and the ethics rules of the Wisconsin State Legislature. Specifically, I and the individuals employed in my office cannot accept food, drink, lodging, transportation, or any item or service from a lobbyist or any item of more than a nominal value from any person offered because of public position.

Like the Wisconsin rules, there are exceptions provided that allow me and my staff to fulfill our legislative responsibilities. For example, these restrictions do not apply to the offering of educational or information materials; lodging, food, or beverage offered coincidentally with the presentation of a talk or participation in a meeting, program, or conference related to official business. The restrictions also do not apply to functions sponsored by, or items provided by, Federal agencies or Federal officials or diplomatic functions sponsored by foreign governments where attendance at such events is part of the individual's official responsibilities.

In short, the strict rules governing the acceptance of gifts that have been adopted by both my office and the Wisconsin Legislature have worked while allowing those abiding by them to fulfill their official obligations and responsibilities.

Acting on this legislation that will fundamentally reform the way Congress deals with the many gifts and other perks that are offered to Members each year would mark a significant change in the way Washington, DC, does business, as well as a strong first step toward restoring the voters' confidence in their elected representatives. But we need to do more than simply pass tough gift ban legislation. We need to strengthen our current lobbying disclosure laws that are riddled with gaping loopholes. We need to pass comprehensive campaign finance reform that will level the playing field between incumbents and challengers, and diminish the role of special interest money that has dominated our election system. It is my sincere hope that this body will begin this process of reform by acting on this measure at the earliest possibility. Once again, I thank my colleagues from Minnesota and New Jersey for their persistence on this issue, and I yield the floor.

By Mr. MOYNIHAN.

S. 118. A bill to amend chapter 44 of title 18, United States Code, to prohibit the manufacture, transfer, or importation of .25 caliber and .32 caliber and 9 millimeter ammunition; to the Committee on the Judiciary.

S. 119. A bill to tax 9 millimeter, .25 caliber, and .32 caliber bullets; to the Committee on Finance.

VIOLENT CRIME REDUCTION ACT AND REAL COST OF HANDGUN AMMUNITION ACT

• Mr. MOYNIHAN. Mr. President, I introduce two bills: the Violent Crime Reduction Act of 1995 and the Real Cost of Handgun Ammunition Act of 1995. Their purposes are to ban or heavily tax .25 caliber, .32 caliber, and 9 mm ammunition. These calibers of bullets are used disproportionately in crime. They are not sporting or hunting rounds, but instead are the bullets of choice for drug dealers and violent felons. Every year they contribute overwhelmingly to the pervasive loss of life caused by bullet wounds.

Today marks the third time in as many Congresses that I have introduced legislation to ban or tax these pernicious bullets. As the terrible gunshot death toll in the United States continues unabated, so too does the need for these bills, which, by keeping these bullets out of the hands of criminals, would save a significant number of lives.

The number of Americans killed or wounded each year by bullets demonstrates their true cost to American society. Just look at the data:

In 1993, 16,189 people were murdered by gunshot. An even greater number lost their lives to bullets by shooting themselves, either purposefully or accidentally. And although no national statistics are kept on bullet-related injuries, studies suggest they occur 2 to 5 times more frequently than do deaths. This adds up to 184,000 bullet-related injuries per year.

Homicide is the second leading cause of death in the 15 to 34-year-old age bracket. It is the leading cause of death for black males aged 15 to 34. The lifetime risk of death from homicide in U.S. males is 1 in 164, about the same as the risk of death in battle faced by U.S. servicemen in the Vietnam War. For black males, the lifetime risk of death from homicide is 1 in 28, twice the risk of death in battle faced by Marines in Vietnam.

As noted by Susan Baker and her colleagues in the book "Epidemiology and Health Policy," edited by Sol Levine and Abraham Lilienfeld:

There is a correlation between rates of private ownership of guns and gun-related death rates; guns cause two-third of family homicides; and small easily concealed weapons comprise the majority of guns used for homicides, suicides and unintentional death.

Baker states that:

... these facets of the epidemiology of firearm-related deaths and injuries have important implications. Combined with their lethality, the widespread availability of easily concealed handguns for impetuous use by people who are angry, drunk, or frightened

appears to be a major determinant of the high firearm death rate in the United States. Each contributing factor has implications for prevention. Unfortunately, issues related to gun control have evoked such strong sentiments that epidemiologic data are rarely employed to good advantage.

Strongly held views on both sides of the gun control issue have made the subject difficult for epidemiologists. I would suggest that a good deal of energy is wasted in this never-ending debate, for gun control as we know it misses the point. We ought to focus on the bullets and not the guns.

I would remind the Senate of our experience in controlling epidemics. Although the science of epidemiology traces its roots to antiquity—Hippocrates stressed the importance of considering environmental influences on human diseases—the first modern epidemiological study was conducted by James Lind in 1747. His efforts led to the eventual control of scurvy. It wasn't until 1795 that the British Navy accepted his analysis and required limes in shipboard diets. Most solutions are not perfect. Disease is rarely eliminated. But might epidemiology be applied in the case of bullets to reduce suffering? I believe so.

In 1854 John Snow and William Farr collected data that clearly showed cholera was caused by contaminated drinking water. Snow removed the handle of the Broad Street pump in London to prevent people from drawing water from this contaminated water source and the disease stopped in that population. His observations led to a legislative mandate that all London water companies filter their water by 1857. Cholera epidemics subsided. Now treatment of sewage prevents cholera from entering our rivers and lakes, and the disinfection of drinking water makes water distribution systems uninhabitable for cholera vibrio, identified by Robert Koch as the causative agent 26 years after Snow's study.

In 1900, Walter Reed identified mosquitos as the carriers of yellow fever. Subsequent mosquito control efforts by another U.S. Army doctor, William Gorgas, enabled the United States to complete the Panama Canal. The French failed because their workers were too sick from yellow fever to work. Now that it is known that yellow fever is caused by a virus, vaccines are used to eliminate the spread of the disease.

These pioneering epidemiology success stories showed the world that epidemics require an interaction between three things: The host (the person who becomes sick or, in the case of bullets, the shooting victim); the agent (the cause of sickness, or the bullet); and the environment (the setting in which the sickness occurs or, in the case of bullets, violent behavior). Interrupt this epidemiological triad and you reduce or eliminate disease and injury.

How might this approach apply to the control of bullet-related injury and

death? Again, we are contemplating something different from gun control. There is a precedent here. In the middle of this century it was recognized that epidemiology could be applied to automobile death and injury. From a governmental perspective, this hypothesis was first adopted in 1959, late in the administration of Gov. Averell Harriman of New York State. In the 1960 Presidential campaign, I drafted a statement on the subject which was released by Senator John F. Kennedy as part of a general response to enquiries from the American Automobile Association. Then Senator Kennedy stated:

Traffic accidents constitute one of the greatest, perhaps the greatest of the nation's public health problems. They waste as much as 2 percent of our gross national product every year and bring endless suffering. The new highways will do much to control the rise of the traffic toll, but by themselves they will not reduce it. A great deal more investigation and research is needed. Some of this has already begun in connection with the highway program. It should be extended until highway safety research takes its place as an equal of the many similar programs of health research which the federal government supports.

Experience in the 1950's and early 1960's, prior to passage of the Motor Vehicle Safety Act, showed that traffic safety enforcement campaigns designed to change human behavior did not improve traffic safety. In fact, the death and injury toll mounted. I was Assistant Secretary of Labor in the mid-1960's when Congress was developing the Motor Vehicle Safety Act, and I was called to testify.

It was clear to me and others that motor vehicle injuries and deaths could not be limited by regulating driver behavior. Nonetheless, we had an epidemic on our hands and we needed to do something about it. My friend William Haddon, the first Administrator of the National Highway Traffic Safety Administration, recognized that automobile fatalities were caused not by the initial collision, when the automobile strikes some object, but by a second collision, in which energy from the first collision is transferred to the interior of the car, causing the driver and occupants to strike the steering wheel, dashboard, or other structures in the passenger compartment. The second collision is the agent of injury to the hosts (the car's occupants).

Efforts to make automobiles crash-worthy follow examples used to control infectious disease epidemics. Reduce or eliminate the agent of injury. Seat belts, padded dashboards, and air bags are all specifically designed to reduce, if not eliminate, injury caused by the agent of automobile injuries, energy transfer to the human body during the second collision. In fact, we've done nothing revolutionary. All of the technology use to date to make cars crash-worthy, including air bags, was developed prior to 1970.

Experience shows the approach worked. Of course it could have worked better, but it worked. Had we been able

to totally eliminate the agent (the second collision) the cure would have been complete. Nonetheless, merely by focusing on simple, achievable remedies, we reduced the traffic death and injury epidemic by 30 percent. Motor vehicle deaths declined in absolute terms by 13 percent from 1980 to 1990, despite significant increases in the number of drivers, vehicles, and miles driven. Driver behavior is changing, too. National seat belt usage is up dramatically, 60 percent now compared to 14 percent in 1984. These efforts have resulted in some 15,000 lives saved and 100,000 injuries avoided each year.

We can apply that experience to the epidemic of murder and injury from bullets. The environment in which these deaths and injuries occur is complex. Many factors likely contribute to the rise in bullet-related injury. Here is an important similarity with the situation we faced 25 years ago regarding automobile safety. We found we could not easily alter the behavior of millions of drivers, but we could easily change the behavior of three or four automobile manufacturers. Likewise, we simply cannot do much to change the environment (violet behavior) in which gun-related injury occurs, nor do we know how. We can, however, do something about the agent causing the injury: bullets. Ban them! At least the round used disproportionately to cause death and injury. That is, the .25 caliber, .32 caliber, and 9 millimeter bullets. These three rounds account for the ammunition used in about 13 percent of licensed guns in New York City, yet they are involved in one-third of all homicides. They are not, as I have said, useful for sport or hunting. They are used for violence. If we fail to confront the fact that these rounds are used disproportionately in crimes, innocent people will continue to die.

I have called on Congress during the past several sessions to ban or heavily tax these bullets. This would not be the first time that Congress has banned a particular round of ammunition. In 1986, it passed legislation written by the Senator from New York banning the so-called cop-killer bullet. This round, jacketed with tungsten alloys, steel, brass, or any number of other metals, had been demonstrated to penetrate no fewer than four police flak jackets and an additional five Los Angeles County phone books at one time. In 1982, the New York Police Benevolent Association came to me and asked me to do something about the ready availability of these bullets. The result was the Law Enforcement Officers Protection Act, which we introduced in 1982, 1983, and for the last time during the 99th Congress. In the end, with the tacit support of the National Rifle Association, the measure passed the Congress and was signed by the President as Public Law 99-408 on August 28, 1986. In the 1994 crime bill, we enacted my amendment to broaden the ban to include new thick steel-jacketed armor-piercing rounds.

There are some 200 million firearms in circulation in the United States today. They are, in essence, simple machines, and with minimal care, remain working for centuries. However, estimates suggest that we have only a 4-year supply of bullets. Some two billion cartridges are used each year. At any given time there are some 7.5 billion rounds in factory, commercial, or household inventory.

In all cases, with the exception of pistol whipping, gun-related injuries are caused not by the gun, but by the agents involved in the second collision: the bullets. Eliminating the most dangerous rounds would not end the problem of handgun killings. But it would reduce it. A 30-percent reduction in bullet-related deaths, for instance, would save over 10,000 lives each year and prevent up to 50,000 wounds.

Water treatment efforts to reduce typhoid fever in the United States took about 60 years. Slow sand filters were installed in certain cities in the 1880's, and water chlorination treatment began in the 1910's. The death rate from typhoid in Albany, NY, prior to 1889, when the municipal water supply was treated by sand filtration, was about 100 fatalities per 100,000 people each year. The rate dropped to about 25 typhoid deaths per year after 1889, and dropped again to about 10 typhoid deaths per year after 1915, when chlorination was introduced. By 1950, the death rate from typhoid fever had dropped to zero. It will take longer than 60 years to eliminate bullet-related death and injury, but we need to start with achievable measures to break the deadly interactions between people, bullets, and violent behavior.

The bills I introduce today would begin the process. They would begin to control the problem by banning or taxing those rounds used disproportionately in crime—the .25-caliber, .32-caliber, and 9-millimeter rounds. The bills recognize the epidemic nature of the problem, building on findings contained in the June 10, 1992, issue of the *Journal of the American Medical Association* which was devoted entirely to the subject of violence, principally violence associated with firearms.

Mr. President, it is time to confront the epidemic of bullet-related violence. I urge my colleagues to support these bills and ask unanimously consent that their texts be printed in the RECORD.

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

S. 118

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Violent Crime Reduction Act of 1995".

SEC. 2. Section 922(a) of title 18, United States Code, is amended by—

- (1) striking out "and" at the end of paragraph (7);
- (2) striking out the period at the end of paragraph (8) and inserting in lieu thereof a semicolon; and
- (3) adding at the end thereof the following:

"(9) for any person to manufacture, transfer, or import .25 or .32 caliber or 9 millimeter ammunition, except that this paragraph shall not apply to—

"(A) the manufacture or importation of such ammunition for the use of the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof; and

"(B) any manufacture or importation for testing or for experimenting authorized by the Secretary; and

"(10) for any manufacturer or importer to sell or deliver .25 or .32 caliber or 9 millimeter ammunition, except that this paragraph shall not apply to—

"(A) the sale or delivery by a manufacturer or importer of such ammunition for the use of the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof; and

"(B) the sale or delivery by a manufacturer or importer of such ammunition for testing or for experimenting authorized by the Secretary."

SEC. 3. Section 923(a)(1)(A) of title 18, United States Code, is amended to read as follows:

"(A) of destructive devices, ammunition for destructive devices, armor piercing ammunition, or .25 or .32 caliber or 9 millimeter ammunition, a fee of \$1,000 per year;"

SEC. 4. Section 923(a)(1)(C) of title 18, United States Code, is amended to read as follows:

"(C) of ammunition for firearms other than destructive devices, or armor piercing or .25 or .32 caliber or 9 millimeter ammunition for any firearm, a fee of \$10 per year."

SEC. 5. Section 923(a)(2) of title 18, United States Code, is amended to read as follows:

"(2) If the applicant is an importer—

"(A) of destructive devices, ammunition for destructive devices, or armor piercing or .25 or .32 caliber or 9 millimeter ammunition for any firearm, a fee of \$1,000 per year; or

"(B) of firearms other than destructive devices or ammunition for firearms other than destructive devices, or ammunition other than armor piercing or .25 or .32 caliber or 9 millimeter ammunition for any firearm, a fee of \$50 per year."

SEC. 6. Section 923 of title 18, United States Code, is amended by adding at the end thereof the following:

"(I) Licensed importers and licensed manufacturers shall mark all .25 and .32 caliber and 9 millimeter ammunition and packages containing such ammunition for distribution, in the manner prescribed by the Secretary by regulation."

SEC. 7. Section 929(a)(1) of title 18, United States Code, is amended by—

(1) inserting ", or with .25 or .32 caliber or 9 millimeter ammunition" after "possession of armor piercing ammunition"; and

(2) inserting ", or .25 or .32 caliber or 9 millimeter ammunition," after "armor-piercing handgun ammunition".

SEC. 8. This Act and the amendments made by this Act shall take effect on the first day of the first calendar month which begins more than 90 days after the date of enactment of this Act.

S. 119

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Real Cost of Handgun Ammunition Act of 1995."

SEC. 101. INCREASE IN TAX ON CERTAIN BULLETS.

(a) IN GENERAL.—Section 4181 of the Internal Revenue Code of 1986 (relating to the imposition of tax on firearms, etc.) is amended by adding at the end the following new flush sentence:

"In the case of 9 millimeter, .25 caliber, or .32 caliber ammunition, the rate of tax under this section shall be 1,000 percent."

(b) EXEMPTION FOR LAW ENFORCEMENT PURPOSES.—Section 4182 of the Internal Revenue Code of 1986 (relating to exemptions) is amended by adding at the end the following new subsection:

"(d) LAW ENFORCEMENT.—The last sentence of section 4181 shall not apply to any sale (not otherwise exempted) to, or for the use of, the United States (or any department, agency, or instrumentality thereof) or a State or political subdivision thereof (or any department, agency, or instrumentality thereof)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after December 31, 1997.●

By Mr. MOYNIHAN:

S. 120. A bill to provide for the collection and dissemination of information on injuries, death, and family dissolution due to bullet-related violence, to require the keeping of records with respect to dispositions of ammunition, and to increase taxes on certain bullets; to the Committee on Finance.

VIOLENT CRIME CONTROL ACT

● Mr. MOYNIHAN. Mr. President, I introduce a bill that comprehensively seeks to control the epidemic proportions of violence in America. This legislation, the Violent Crime Control Act of 1995, combines most of the provisions of two other crime-related bills I am introducing today as well.

By including two different crime-related provisions, my bill attacks the crime epidemic on more than just one front. If we are truly serious about confronting our Nation's crime problem, we must learn more about the nature of the epidemic of bullet-related violence and ways to control it. To do this, we must require records to be kept on the disposition of ammunition.

In October 1992, the Senate Finance Committee received testimony that public health and safety experts have, independently, concluded that there is an epidemic of bullet-related violence. The figures are staggering.

In 1992, 37,776 people lost their lives in the United States from bullets. Of these, 17,790 were murdered, 18,169 committed suicide, and 1,409 accidentally shot themselves. By focusing on bullets, and not guns, we recognize that much like nuclear waste, guns remain active for centuries. With minimum care, they do not deteriorate. However, bullets are consumed. Estimates suggest we have only a 4-year supply of them.

Not only am I proposing that we tax bullets used disproportionately in crimes, that is, 9 millimeter, .25 and .32 caliber bullets, I also believe we must set up a Bullet Death and Injury Control Program within the Centers for Disease Control's National Center for Injury Prevention and Control. This center will enhance our knowledge of the distribution and status of bullet-related death and injury and subsequently make recommendations about the extent and nature of bullet-related violence.

So that the center would have substantive information to study and analyze, this bill also requires importers and manufacturers of ammunition to keep records and submit an annual report to the Bureau of Alcohol, Tobacco and Firearms [BATF] on the disposition of ammunition. Currently, importers and manufacturers of ammunition are not required to do so.

Clearly, it will take intense effort on all of our parts to reduce violent crime in America. We must confront this epidemic from several different angles, recognizing that there is no simple solution.

I ask unanimous consent that the text of this bill be printed in the RECORD at this time.

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

S. 120

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 "Violent Crime Control Act of 1995".

SEC. 2. FINDINGS.

The Congress finds that—

(1) there is no reliable information on the amount of ammunition available;

(2) importers and manufacturers of ammunition are not required to keep records to report to the Federal Government on ammunition imported, produced, or shipped;

(3) the rate of bullet-related deaths in the United States is unacceptably high and growing;

(4) three calibers of bullets are used disproportionately in crime: 9 millimeter, .25 caliber, and .32 caliber bullets;

(5) injury and death are greatest in young males, and particularly young black males;

(6) epidemiology can be used to study bullet-related death and injury to evaluate control options;

(7) bullet-related death and injury has placed increased stress on the American family resulting in increased welfare expenditures under title IV of the Social Security Act;

(8) bullet-related death and injury have contributed to the increase in Medicaid expenditures under title XIX of the Social Security Act;

(9) bullet-related death and injury have contributed to increased supplemental security income benefits under title XVI of the Social Security Act;

(10) a tax on the sale of bullets will help control bullet-related death and injury;

(11) there is no central responsible agency for trauma, there is relatively little funding available for the study of bullet-related death and injury, and there are large gaps in research programs to reduce injury;

(12) current laws and programs relevant to the loss of life and productivity from bullet-related trauma are inadequate to protect the citizens of the United States; and

(13) increased research in bullet-related violence is needed to better understand the causes of such violence, to develop options for controlling such violence, and to identify and overcome barriers to implementing effective controls.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to increase the tax on the sale of 9 millimeter, .25 caliber, and .32 caliber bullets

(except with respect to any sale to law enforcement agencies) as a means of reducing the epidemic of bullet-related death and injury;

(2) to undertake a nationally coordinated effort to survey, collect, inventory, synthesize, and disseminate adequate data and information for—

(A) understanding the full range of bullet-related death and injury, including impacts on the family structure and increased demands for benefit payments under provisions of the Social Security Act;

(B) assessing the rate and magnitude of change in bullet-related death and injury over time;

(C) educating the public about the extent of bullet-related death and injury; and

(D) expanding the epidemiologic approach to evaluate efforts to control bullet-related death and injury and other forms of violence;

(3) to develop options for controlling bullet-related death and injury;

(4) to build the capacity and encourage responsibility at the individual, group, community, State and Federal levels for control and elimination of bullet-related death and injury;

(5) to promote a better understanding of the utility of the epidemiologic approach for evaluating options to control or reduce death and injury from nonbullet-related violence.

TITLE I—BULLET DEATH AND INJURY CONTROL PROGRAM

SEC. 101. BULLET DEATH AND INJURY CONTROL PROGRAM.

(a) ESTABLISHMENT.—There is established within the Centers for Disease Control's National Center for Injury Prevention and Control (referred to as the "Center") a Bullet Death and Injury Control Program (referred to as the "Program").

(b) PURPOSE.—The Center shall conduct research into and provide leadership and coordination for—

(1) the understanding and promotion of knowledge about the epidemiologic basis for bullet-related death and injury within the United States;

(2) developing technically sound approaches for controlling, and eliminating, bullet-related deaths and injuries;

(3) building the capacity for implementing the options, and expanding the approaches to controlling death and disease from bullet-related trauma; and

(4) educating the public about the nature and extent of bullet-related violence.

(c) FUNCTIONS.—The functions of the Program shall be—

(1) to summarize and to enhance the knowledge of the distribution, status, and characteristics of bullet-related death and injury;

(2) to conduct research and to prepare, with the assistance of State public health departments—

(A) statistics on bullet-related death and injury;

(B) studies of the epidemic nature of bullet-related death and injury; and

(C) status of the factors, including legal, socioeconomic, and other factors, that bear on the control of bullets and the eradication of the bullet-related epidemic;

(3) to publish information about bullet-related death and injury and guides for the practical use of epidemiological information, including publications that synthesize information relevant to national goals of understanding the bullet-related epidemic and methods for its control;

(4) to identify socioeconomic groups, communities, and geographic areas in need of study, develop a strategic plan for research necessary to comprehend the extent and na-

ture of bullet-related death and injury, and determine what options exist to reduce or eradicate such death and injury;

(5) to provide for the conduct of epidemiologic research on bullet-related death and injury through grants, contracts, cooperative agreements, and other means, by Federal, State, and private agencies, institutions, organizations, and individuals;

(6) to make recommendations to Congress, the Bureau of Alcohol, Tobacco, and Firearms, and other Federal, State, and local agencies on the technical management of data collection, storage, and retrieval necessary to collect, evaluate, analyze, and disseminate information about the extent and nature of the bullet-related epidemic of death and injury as well as options for its control;

(7) to make recommendations to the Congress, the Bureau of Alcohol, Tobacco, and Firearms, and other Federal, State and local agencies, organizations, and individuals about options for actions to eradicate or reduce the epidemic of bullet-related death and injury;

(8) to provide training and technical assistance to the Bureau of Alcohol, Tobacco, and Firearms and other Federal, State, and local agencies regarding the collection and interpretation of bullet-related data; and

(9) to research and explore bullet-related death and injury and options for its control.

(d) ADVISORY BOARD.—

(1) IN GENERAL.—The Center shall have an independent advisory board to assist in setting the policies for and directing the Program.

(2) MEMBERSHIP.—The advisory board shall consist of 13 members, including—

(A) 1 representative from the Centers for Disease Control;

(B) 1 representative from the Bureau of Alcohol, Tobacco and Firearms;

(C) 1 representative from the Department of Justice;

(D) 1 member from the Drug Enforcement Agency;

(E) 3 epidemiologists from universities or nonprofit organizations;

(F) 1 criminologist from a university or nonprofit organization;

(G) 1 behavioral scientist from a university or nonprofit organization;

(H) 1 physician from a university or nonprofit organization;

(I) 1 statistician from a university or nonprofit organization;

(J) 1 engineer from a university or nonprofit organization; and

(K) 1 public communications expert from a university or nonprofit organization.

(3) TERMS.—Members of the advisory board shall serve for terms of 5 years, and may serve more than 1 term.

(4) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government 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 Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(5) TRAVEL EXPENSES.—A member of the advisory board that is not otherwise in the Federal Government service shall, to the extent provided for in advance in appropriations Acts, be paid actual travel expenses and per diem in lieu of subsistence expenses in accordance with section 5703 of title 5, United States Code, when the member is

away from the member's usual place of residence.

(6) CHAIR.—The members of the advisory board shall select 1 member to serve as chair.

(e) CONSULTATION.—The Center shall conduct the Program required under this section in consultation with the Bureau of Alcohol, Tobacco, and Firearms and the Department of Justice.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$1,000,000 for fiscal year 1996, \$2,500,000 for fiscal year 1997, and \$5,000,000 for each of fiscal years 1998, 1999, and 2000 for the purpose of carrying out this section.

(g) REPORT.—The Center shall prepare an annual report to Congress on the Program's findings, the status of coordination with other agencies, its progress, and problems encountered with options and recommendations for their solution. The report for December 31, 1996, shall contain options and recommendations for the Program's mission and funding levels for the years 1996-2000, and beyond.

TITLE II—INCREASE IN EXCISE TAX ON CERTAIN BULLETS

SEC. 201. INCREASE IN TAX ON CERTAIN BULLETS.

(a) IN GENERAL.—Section 4181 of the Internal Revenue Code of 1986 (relating to the imposition of tax on firearms, etc.) is amended by adding at the end the following new flush sentence:

"In the case of 9 millimeter, .25 caliber, or .32 caliber ammunition, the rate of tax under this section shall be 1,000 percent."

(b) EXEMPTION FOR LAW ENFORCEMENT PURPOSES.—Section 4182 of the Internal Revenue Code of 1986 (relating to exemptions) is amended by adding at the end the following new subsection:

"(d) LAW ENFORCEMENT.—The last sentence of section 4181 shall not apply to any sale (not otherwise exempted) to, or for the use of, the United States (or any department, agency, or instrumentality thereof) or a State or political subdivision thereof (or any department, agency, or instrumentality thereof)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after December 31, 1995.

TITLE III—USE OF AMMUNITION

SEC. 301. RECORDS OF DISPOSITION OF AMMUNITION.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Section 923(g) of title 18, United States Code, is amended—

(1) in paragraph (1)(A) by inserting after the second sentence "Each licensed importer and manufacturer of ammunition shall maintain such records of importation, production, shipment, sale, or other disposition of ammunition at the licensee's place of business for such period and in such form as the Secretary, in consultation with the Director of the National Center for Injury Prevention and Control of the Centers for Disease Control (for the purpose of ensuring that the information that is collected is useful for the Bullet Death and Injury Control Program), may by regulation prescribe. Such records shall include the amount, caliber, and type of ammunition."; and

(2) by adding at the end thereof the following new paragraph:

"(6) Each licensed importer or manufacturer of ammunition shall annually prepare a summary report of imports, production, shipments, sales, and other dispositions during the preceding year. The report shall be prepared on a form specified by the Secretary, in consultation with the Director of the National Center for Injury Prevention

and Control of the Centers for Disease Control (for the purpose of ensuring that the information that is collected is useful for the Bullet Death and Injury Control Program), shall include the amounts, calibers, and types of ammunition that were disposed of, and shall be forwarded to the office specified thereon not later than the close of business on the date specified by the Secretary."

(b) STUDY OF CRIMINAL USE AND REGULATION OF AMMUNITION.—The Secretary of the Treasury shall request the Centers for Disease Control to—

(1) prepare, in consultation with the Secretary, a study of the criminal use and regulation of ammunition; and

(2) submit to Congress, not later than July 31, 1996, a report with recommendations on the potential for preventing crime by regulating or restricting the availability of ammunition.●

By Mr. GRAMM:

S. 121. A bill to guarantee individuals and families continued choice and control over their doctors and hospitals, to ensure that health coverage is permanent and portable, to provide equal tax treatment for all health insurance consumers, to control medical cost inflation through medical savings accounts, to reform medical liability litigation, to reduce paperwork, and for other purposes; to the Committee on Finance.

FAMILY HEALTH CARE PRESERVATION ACT

Mr. GRAMM. Mr. President, I ask unanimous consent that the outline of S. 121 be printed in the RECORD.

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

OUTLINE OF THE FAMILY HEALTH CARE PRESERVATION ACT

I. ENHANCE SECURITY FOR THOSE PRESENTLY INSURED BY MAKING PRIVATE INSURANCE PORTABLE AND PERMANENT:

Portability:

To enhance the capacity of American workers to change jobs without losing their health insurance coverage, existing law under COBRA (which allows individuals temporarily to continue their health insurance coverage after leaving their place of employment by paying their premiums directly) would be modified to allow individuals two additional lower-cost options to keep their health insurance coverage during their transition between jobs. Workers could:

(A) Continue their current insurance coverage during the 18 months covered by COBRA by paying their insurance premiums directly;

(B) Continue their current insurance coverage during the 18 months covered by COBRA by paying their insurance premiums directly, but with a lower premium reflecting a \$1,000 deductible; or

(C) Continue their current insurance coverage during the 18 months covered by COBRA by paying their insurance premiums directly, but with a lower premium reflecting a \$3,000 deductible.

With these options, the typical monthly premium paid for a family of four would drop by as much as 20 percent when switching to a \$1,000 deductible and as much as 52 percent when switching to a \$3,000 deductible. Also, premium payments made by families would now be deducted from income in the manner described in title II of this bill.

In addition, individuals would be permitted to make penalty-free withdrawals from their Individual Retirement Accounts and 401(k)s to pay for health insurance coverage during the transition period. The transition period

of coverage would end once a person is in a position to get coverage from another employer.

Permanence:

Health insurance would be made permanent (belonging to the family or individual by these three reforms:

Those with Individual Coverage:

(A) No existing health insurance policy can be canceled due to the state of health of any person covered by the policy. Insurance companies must offer each policy holder the option to purchase a new policy under the conditions of part B of this section with the terms to be negotiated between the buyer and seller of the policy.

(B) All individual health insurance policies written after the enactment of this legislation must be guaranteed renewable, and premiums cannot be increased based on the occurrence of illness.

Those with Group Coverage:

(A) Existing group policies must provide each member of the group the right to convert to an individual policy when leaving the group. This individual policy will be rated based on actuarial data, but cannot be canceled due to the state of health of those covered by the policy. In addition, any group policy holder (ie. employer obtaining coverage on employees' behalf) will have the right to purchase a new group policy under the conditions stated under part B of this section with the terms to be negotiated between the group's benefactor or representative and the seller of the group policy.

(B) All group policies issued after enactment of this legislation must be permanent, and premiums cannot be increased based on the health of the members covered under the group policy. In addition, similar to part A of this section, new group policies must provide each member of the group the right to convert to an individual policy when leaving the group. However, the premium charges of the individual leaving the new group plan cannot be based on the individual's state of health and cannot be canceled except for nonpayment of premiums.

Those with Employer-provided Self-funded Coverage:

(A) Companies currently operating self-funded plans must make arrangements with one or more private insurers to offer individuals leaving the self-funded plan individual coverage. The individual policy will be rated based on actuarial data, but cannot be canceled due to the state of health of those covered by the policy.

(B) All self-funded plans created after enactment of this legislation must (like part A of this section) make arrangements with one or more private insurers to offer individuals leaving the self-funded plan individual coverage. However, the premium charge of the individual leaving the self-funded plan cannot be based on the individual's state of health and cannot be canceled except for nonpayment of premiums.

II-A. PROVIDE EQUAL TAX TREATMENT FOR THE SELF-EMPLOYED AND UNINSURED:

Self-employed workers and individuals without employer-provided health insurance coverage will now be allowed to deduct from taxable income their medical insurance coverage costs. The 25% deduction will be retroactively restored and phased up to 100% over the next five years. The tax deduction will apply to the individual purchase of conventional health insurance, HMO coverage, Medical Savings Account contributions, or any other prepaid medical plan.

II-B. ESTABLISH MEDICAL SAVINGS ACCOUNTS TO PROMOTE COMPETITION AND CONTROL COSTS:

In combination with the purchase of a \$3,000 deductible catastrophic insurance policy, contributions to the Medical Savings

Account of up to \$3,000 per year by either the employer or employee shall be tax deductible. The catastrophic policy will cover expenses such as physician services, hospital care, diagnostic tests, and other major medical expenses once the policy holder meets the \$3,000 annual deductible. Tax-free withdrawals from the Medical Savings Account could be made to pay for qualifying out-of-pocket medical expenses which apply toward the insurance policy's deductible. If the funds in the Medical Savings Account are not spent so that as new deposits are made, the sum grows beyond the \$3,000 deductible, the individual can invest excess tax-free in a long-term care package or withdraw the excess and treat it as income.

III. ENHANCE EFFICIENCY THROUGH PAPERWORK REDUCTION:

(A) Medicaid, Medicare, and all other Federal entities involved in the funding or delivery of health care shall standardize their health care forms and must reduce their total health care paperwork burden by 50 percent within two years of enactment of this legislation. The paperwork burden must be reduced by another 50 percent over the following three years, achieving a total paperwork reduction of 75 percent over a 5-year period.

(B) State agencies involved in the funding or delivery of health care, like federal entities, shall standardize their health care forms. Also like federal entities, within five years of enactment, states must reduce their total health care paperwork burden by 75 percent in order to remain eligible for federal health assistance.

IV. PROVIDE MEANINGFUL MEDICAL LIABILITY REFORM:

(A) Any claim of negligence not "substantially justified" or which has been improperly advanced will result in an automatic judgment against the plaintiff rendering the plaintiff liable for the legal fees incurred by the health care provider, as well as any losses as a result of being away from the practice.

(B) The liability of any malpractice defendant will be limited to the proportion of damages attributable to such defendant's conduct.

(C) A health care provider can negotiate limits on medical liability with the buyer of health care in return for lower fees.

(D) Non-economic damages cannot exceed \$250,000 adjusted annually for inflation.

(E) Lawyer's contingency fees will be capped at 25 percent.

(F) Malpractice awards will be reduced for any collateral source payments to which the claimant is entitled, and the claimant will be required to accept periodic payment as opposed to lump sum on awards in excess of \$100,000 adjusted annually for inflation.

(G) No malpractice action can be initiated more than two years from the date the alleged malpractice was discovered or should have been discovered, and no more than four years after the date of the occurrence.

(H) No punitive damages will be awarded against manufacturers of a drug or medical device if such drug or medical device has been approved by the Food and Drug Administration as safe and effective.

By Mr. MOYNIHAN:

S. 122. A bill to prohibit the use of certain ammunition, and for other purposes; to the Committee on the Judiciary.

S. 124. A bill to amend the Internal Revenue Code of 1986 to increase the tax on handgun ammunition, to impose the special occupational tax and registration requirements on importers

and manufacturers of handgun ammunition, and for other purposes; to the Committee on Finance.

LEGISLATION TO CONTROL DESTRUCTIVE AMMUNITION

• Mr. MOYNIHAN. Mr. President, I introduced two measures to help fight the epidemic of bullet-related violence in America: the Real Cost of Destructive Ammunition Act and the Destructive Ammunition Prohibition Act of 1995. The purpose of these bills is to prevent from reaching the marketplace some of the most deadly rounds of ammunition ever produced.

Some of my colleagues may remember the Black Talon. It is a hollow-tipped bullet, singular among handgun ammunition in its capacity for destruction. Upon impact with human tissue, the bullet produces razor-sharp radial petals that produce a devastating wound. It is the very same bullet that a crazed gunman fired at unsuspecting passengers on a Long Island Rail Road train last winter. That same month, it was also used in the shooting of Officer Jason E. White of the District of Columbia Metropolitan Police Department, just fifteen blocks from the Capitol.

I first learned of the Black Talon in a letter I received from Dr. E.J. Gallagher, Director of Emergency Medicine at Albert Einstein College of Medicine at the Municipal Hospital Trauma Center in the Bronx. Dr. Gallagher wrote that he has "never seen a more lethal projectile." On November 3, 1993, I introduced a bill to tax the Black Talon at 10,000 percent. Nineteen days later, Olin Corporation, the manufacturer of the Black Talon, announced that it would withdraw sale of the bullet to the general public. Unfortunately, the 103d Congress came to a close without the bill having won passage.

As a result, there is nothing in law to prevent the reintroduction of this pernicious bullet, nor is there any existing impediment to the sale of similar rounds that might be produced by another manufacturer. So today I reintroduce the bill to tax the Black Talon, and introduce for the first time a bill to prohibit the sale of the Black Talon to the public. Both bills would apply to any bullet with the same physical characteristics as the Black Talon. These bullets have no place in the armory of criminals.

It has been estimated that the cost of hospital services for treating bullet-related injuries is \$1 billion per year, with the total cost to the economy of such injuries approximately \$14 billion. We can ill afford further increases in this number, but this would surely be the result if bullets with the destructive capacity of the Black Talon are allowed onto the streets.

Mr. President, we are facing an unrivaled epidemic of violence in this country and it is disproportionately the result of deaths and injuries caused by bullet wounds. It is time we took meaningful steps to put an end to the massacres that occur daily as a result

of gunshots. How better a beginning than to go after the most insidious culprits of this violence? I urge my colleagues to support these measures and to prevent these bullets from appearing on the market, and I ask unanimous consent that the bills be printed in the RECORD.

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

S. 122

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act may be cited as the "Destructive Ammunition Prohibition Act of 1995".

SECTION 1. DEFINITION.

Section 921(a)(17) of title 18, United States Code, is amended by adding at the end the following new subparagraph:

"(D) The term 'destructive ammunition' means—

"(1) any jacketed, hollow point projectile that may be used in a handgun and the jacket of which is designed to produce, upon impact, sharp-tipped, barb-like projections that extend beyond the diameter of the unfired projectile.

SEC. 2. PROHIBITION.

Section 922(a) of title 18, United States Code, is amended—

(1) in paragraph (7), by inserting "or destructive" after "armor piercing"; and

(2) in paragraph (8), by inserting "or destructive" after "armor piercing".

S. 124

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 "Real Cost of Destructive Ammunition Act".

SEC. 2. INCREASE IN TAX ON HANDGUN AMMUNITION.

(a) INCREASE IN MANUFACTURERS TAX.—

(1) IN GENERAL.—Section 4181 of the Internal Revenue Code of 1986 (relating to imposition of tax on firearms) is amended—

(A) by striking "Shells, and cartridges" and inserting "Shells and cartridges not taxable at 10,000 percent."

"ARTICLES TAXABLE AT 10,000 PERCENT.—

"Any jacketed, hollow point projectile which may be used in a handgun and the jacket of which is designed to produce, upon impact, evenly-spaced sharp or barb-like projections that extend beyond the diameter of the unfired projectile.

(2) ADDITIONAL TAXES ADDED TO THE GENERAL FUND.—Section 3(a) of the Act of September 2, 1937 (16 U.S.C. 669b(a)), commonly referred to as the "Pittman-Robertson Wildlife Restoration Act", is amended by adding at the end the following new sentence: "There shall not be covered into the fund the portion of the tax imposed by such section 4181 that is attributable to any increase in amounts received in the Treasury under such section by reason of the amendments made by section 2(a)(1) of the Real Cost of Handgun Ammunition Act, as estimated by the Secretary."

SEC. 3. SPECIAL TAX FOR IMPORTERS, MANUFACTURERS, AND DEALERS OF HANDGUN AMMUNITION.

(a) IN GENERAL.—

(1) IMPOSITION OF TAX.—Section 5801 of the Internal Revenue Code of 1986 (relating to special occupational tax on importers, manufacturers, and dealers of machine guns, destructive devices, and certain other firearms) is amended by adding at the end the following new subsection:

"(c) SPECIAL RULE FOR HANDGUN AMMUNITION.—

"(1) IN GENERAL.—On first engaging in business and thereafter on or before July 1 of each year, every importer and manufacturer of handgun ammunition shall pay a special (occupational) tax for each place of business at the rate of \$10,000 a year or fraction thereof.

"(2) HANDGUN AMMUNITION DEFINED.—For purposes of this part, the term 'handgun ammunition' shall mean any centerfire cartridge which has a cartridge case of less than 1.3 inches in length and any cartridge case which is less than 1.3 inches in length."

(2) REGISTRATION OF IMPORTERS AND MANUFACTURERS OF HANDGUN AMMUNITION.—Section 5802 of the Internal Revenue Code of 1986 (relating to registration of importers, manufacturers, and dealers) is amended—

(A) in the first sentence, by inserting "and each importer and manufacturer of handgun ammunition," after "dealer in firearms", and

(B) in the third sentence, by inserting "and handgun ammunition operations of an importer or manufacturer," after "dealer".

(b) CONFORMING AMENDMENTS.—

(1) CHAPTER HEADING.—Chapter 53 of the Internal Revenue Code of 1986 (relating to machine guns, destructive devices, and certain other firearms) is amended in the chapter heading by inserting "HANDGUN AMMUNITION," after "CHAPTER 53—".

(2) TABLE OF CHAPTERS.—The heading for chapter 53 in the table of chapters for subtitle E of such Code is amended to read as follows:

"Chapter 53—Handgun ammunition, machine guns, destructive devices, and certain other firearms."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on July 1, 1995.

(2) ALL TAXPAYERS TREATED AS COMMENCING IN BUSINESS ON JULY 1, 1995.—Any person engaged on July 1, 1995, in any trade or business which is subject to an occupational tax by reason of the amendment made by subsection (a)(1) shall be treated for purposes of such tax as having first engaged in a trade of business on such date.●

By Mr. MOYNIHAN (for himself and Mr. LIEBERMAN):

S. 123. A bill to require the Administrator of the Environmental Protection Agency to seek advice concerning environmental risks, and for other purposes; to the Committee on Environment and Public Works.

ENVIRONMENTAL RISK EVALUATION ACT

● Mr. MOYNIHAN. Mr. President, Nearly 2 years ago today I addressed the Senate about the impending "revolution" over the Nation's approach to environmental protection. I noted that Federal environmental laws were being questioned and that State and local governments were signaling that their resources are finite and that compliance with additional environmental laws while still adequately maintaining roads and buildings and providing social services and education was fast becoming unaffordable. At least not without Federal support.

I suggested that we might better use the results of risk assessments to help set environmental priorities and make decisions, and I quoted an editorial in the January 8, 1992, issue of Science

alerting us to the "growing questioning of the factual basis for Federal command and control actions" largely due to concerns over regulatory costs. I concluded that "The message is clear. State and local governments will hold the Congress and EPA more accountable in the future about obligating them to spend their resources on Federal requirements. They will want 'proof' that there is a problem and confidence that the legislated 'solutions' will solve it." And finally, I noted that "the Science editorial suggests that we are seeing the 'beginning of a revolt.'"

How quickly times change. Less than 2 years later, the revolt is fully underway. Yet just 4 months before the Science editorial appeared, my colleagues from both sides of the aisle expressed incredulity when in September 1992 I held my first hearing as chairman of the Environment and Public Works Committee on S. 2132, the "Environmental Risk Reduction Act," a bill I introduced earlier in the 102d Congress. One of the witnesses was Dr. Edward Hayes of the Ohio State University who testified for the city of Columbus, OH. He noted that the mayor of Columbus and other city leaders had set out to analyze with as much precision as possible the impact of Federal environmental laws during recent years. They wanted to know what effect those changes would have on the city's budget. The findings were reported in "Environmental Legislation: The Increasing Costs of Regulatory Compliance to the City of Columbus." It turned out that new environmental initiatives were estimated to cost the city of Columbus an additional \$1.6 billion over the next decade—an extra \$856 per year of increased local fees or taxes for every household in the city by the year 2000. A followup study, "Ohio Metropolitan Area Cost Report for Environmental Compliance," showed a similar impact in eight other Ohio cities. As we have heard over the past 2 years, this pattern is being repeated in other places. The social change has matured, Congress has changed, and the new Congress will experiment to find a more workable way of protecting the environment.

To help with this effort, I rise again, as I did in both the 102d and 103d Congresses, to introduce the "Environmental Risk Evaluation Act." The primary goal of this legislation is to place risk assessment in the proper perspective. Strange as it may seem, environmental legislation doesn't use science effectively precisely because it places too much emphasis on risk assessment. This perverse situation stems from the requirements in current environmental legislation, stated or implied, that the Environmental Protection Agency—EPA—must regulate environmental pollutants to "safe levels of exposure" and in so doing that EPA use science to determine what is "safe." The problem is simple: the premise is false, science cannot define "safety." Consider first the definition. Webster says "safety" is

the feeling of absence of harm. Decisions about what is "safe" are based very much on personal or societal feelings, informed by science yes, but based on feelings. Next consider the nature of science. It is very much about uncertainty, because our knowledge is far from perfect and because new scientific findings often disprove that which we thought we knew.

Thus, to the extent they force agencies to use science to determine "safe" exposure levels, current environmental laws set EPA and other agencies up for failure. Risk managers have no incentive to take any action other than to err on the side of safety. This is not necessarily bad as a general policy, but in practice the belief is that it has led to layer upon layer of safety factors and excessive cost. This is because risk managers require the use of conservative assumptions in risk assessment models when the information needed to assess risk is missing or incomplete, as it invariably is, causing large costs to be incurred to meet the low exposure levels estimated to be "safe."

This weakens citizens' faith in Government. There is a growing perception that many decisions are not based on common sense and that regulations cost too much. Risk assessments, which use scientific information, have become the outward and visible sign of the regulatory process. Those who question the philosophy underlying the current legislative and regulatory approach attack the risk assessment process, especially the assumptions used in place of knowledge about what we are exposed to and what are the resulting effects.

Given the benefit of our experience with EPA and with environmental legislation over the past 24 years, it is clear that we are asking the wrong question. Marc Landy and his colleagues first noted this in their book EPA: Asking the Wrong Questions. A far better legislative question to ask EPA to address when setting environmental regulations is "How much are we willing to pay to reduce risk by what amount, given all the uncertainties about risks, costs and benefits of control" rather than "What is the Safe Level of Exposure." Far better because it reflects the strengths and limits of science to inform decision-making and to set technically sound regulations. Far better too because it can increase the capacity of Government to govern in the future by informing the citizenry. And far better if it reflects the will of the people as evidenced by continued support for Government policies over time.

The Republican "Contract With America" seems to have a good deal of support from the citizenry, at least for now. Its call for transparency in the way regulations are set, including the methods and assumptions used in assessing risks and costs are in keeping with what I had in mind when I introduced my "Environmental Risk Reduction Act" in the last two Congresses.

Let me note that the American public views the contract as being full of fresh new ideas and approaches to governing, something they believe the Democrats have lost the ability to generate in the recent past. But let us not make improvements to the way we encourage and regulate environmental protection a partisan issue. Good Government policies cut across party lines and live beyond any given administration. And, as I have noted above, improving the use of risk assessment and cost benefit analyses for environmental decision-making is something I have been pursuing for several Congresses. Rather, let us take a bipartisan approach.

As a first step, let us freely acknowledge that environmental decisions can be informed by science, but that they cannot be made based on science alone. In fact, truth be known, such decisions are based more on policy, economic and social considerations than they are on science. This does not mean that science is not useful for environmental decisions or that we shouldn't vigorously pursue research to better understand what contaminants are released into the environment, what we are exposed to, what gets into our bodies, and what happens to it there. We spend upwards of \$185 billion per year to comply with environmental regulations, and while this is not necessarily too much to spend on environmental protection, it is too much to spend unwisely. Better knowledge about whether effects actually occur at the very low levels encountered in the environment could help frame the debates on environmental protection more sharply.

Don't forget that social concerns, public preference, basic fairness, and yes, even outrage, must be considered too. But, let us make clear that health effects don't have to occur for us to be outraged. For instance, if it were shown that habitation near a Superfund site did not pose a major health risk, as a country we may still decide to clean up the site because we find the contamination to be offensive. We may decide to compensate homeowners at the site for the fair value of their land so they can move away, even if there have been no site-related health problems. Consider that we may be concerned that the economically disadvantaged people who tend to live near such sites would be further disadvantaged by loss of equity in home or land values. Such actions are not possible under the current Superfund law. As it now stands, those who favor compensation to land holders at Superfund sites must act indirectly and press for findings of health effects from the chemicals found at those sites. The responsible parties who must pay to clean up the sites must also act indirectly and respond to findings of likely health problems by attacking the assumptions needed to assess risk and contend that effects are exaggerated or that there are no effects. No one addresses the problem realistically

because there is no direct way to address any consideration but risk.

Let us question whether the "Emperor Has Clothes," at least when it comes to how assessments of risk are used. Let's put risk in its proper place as one tool of many in the decision-making toolbox and let us face the issue honestly by broadening the range of issues and tools that can be used in making environmental decisions. Let's make the debate over environmental protection more realistic and relevant to our citizens. Let's not pass any law that requires or implies that EPA should determine the "safe" level when setting regulations. Rather, let us ask how much are we willing to pay to reduce risk by what amount given all the uncertainties in estimating costs and benefits and let us identify factors other than risk that make sense to consider when making decisions.

The bill I offer today addresses the risk assessment and cost/benefit assessment components of the decisionmaking process, focusing on its use for priority setting, something not addressed in the Republican "Contract With America." My bill recognizes that values, social concerns—who should bear the risk for whose benefit—and basic fairness must be considered in addition to risks and costs. It does not prescribe how to conduct risk and cost/benefit assessments because of the evolving nature of these fields of inquiry and because of my desire to avoid freezing technology.

I am introducing "The Environmental Risk Evaluation Act," to help us learn how best to practice the trades of environmental risk assessment and cost/benefit analyses. The bill will put into law the major findings of the 1990 "Reducing Risk" report by EPA's Science Advisory Board—SAB. I agree with former EPA Administrator William Reilly's belief that science can lend much needed coherence, order, and integrity to costly and controversial decisions.

America's environmental laws are a large and diverse lot. We have only two decades of experience on this subject, and we are still learning, feeling our way. The relative risk ranking and cost/benefit analyses called for in this bill provide some common ground for looking at our environmental laws. The bill also provides the public and Congress with access to the findings. The "Reducing Risk" report states that "relative risk data and risk assessment techniques should inform—the public—judgment as much as possible." Not dictate it, but inform it.

All this will take time, decades perhaps. But let us take heart. Questions that seem difficult now can with a certain amount of effort yield to the scientific method. I urge my colleagues to support this bill and ask unanimous consent that it be printed in the RECORD.

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

S. 123

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 "Environmental Risk Evaluation Act of 1995".

SEC. 2. FINDINGS AND POLICY.

(a) DEFINITIONS.—As used in this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) ADVERSE EFFECT ON HUMAN HEALTH.—The term "adverse effect on human health" includes any increase in the rate of death or serious illness, including disease, cancer, birth defects, reproductive dysfunction, developmental effects (including effects on the endocrine and nervous systems), and other impairments in bodily functions.

(3) RISK.—The term "risk" means the likelihood of an occurrence of an adverse effect on human health, the environment, or public welfare.

(4) SOURCE OF POLLUTION.—The term "source of pollution" means a category or class of facilities or activities that alter the chemical, physical, or * * *.

(b) FINDINGS.—Congress finds that—

(1) cost-benefit analysis and risk assessment are useful but imperfect tools that serve to enhance the information available in developing environmental regulations and programs;

(2) cost-benefit analysis and risk assessment can also serve as useful tools in setting priorities and evaluating the success of environmental protection programs;

(3) cost and risk are not the only factors that need to be considered in evaluating environmental programs as other factors, including values and equity, must also be considered.

(4) current methods for valuing ecological resources and assessing intergenerational effects of sources of pollution need further development before integrated rankings of sources of pollution based on the factors referred to in paragraph (3) can be used with high levels of confidence;

(5) methods to assess and describe the risks of adverse human health effects, other than cancer, need further development before integrated rankings of sources of pollution based on the risk to human health can be used with high levels of confidence;

(6) periodic reports by the Administrator on the costs and benefits of regulations promulgated under Federal environmental laws, and other Federal actions with impacts on human health, the environment, or public welfare, will provide Congress and the general public with a better understanding of—

(A) national environmental priorities; and
(B) expenditures being made to achieve reductions in risk to human health, the environment, and public welfare; and

(7) periodic reports by the Administrator on the costs and benefits of environmental regulations will also—

(A) provide Congress and the general public with a better understanding of the strengths, weaknesses, and uncertainties of cost-benefit analysis and risk assessment and the research needed to reduce major uncertainties; and

(B) assist Congress and the general public in evaluating environmental protection regulations and programs, and other Federal actions with impacts on human health, the environment, or public welfare, to determine the extent to which the regulations, programs, and actions adequately and fairly protect affected segments of society.

(c) REPORT ON ENVIRONMENTAL PRIORITIES, COSTS, AND BENEFITS.—

(1) RANKING.—

(A) IN GENERAL.—The Administrator shall identify and, taking into account available data, to the extent practicable, rank sources of pollution with respect to the relative degree of risk of adverse effects on human health, the environment, and public welfare.

(B) METHOD OF RANKING.—In carrying out the rankings under subparagraph (A), the Administrator shall—

(i) rank the sources of pollution considering the extent and duration of the risk; and

(ii) take into account broad societal values, including the role of natural resources in sustaining economic activity into the future.

(2) EVALUATION OF REGULATORY AND OTHER COSTS.—In addition to carrying out the rankings under paragraph (1), the Administrator shall evaluate—

(A) the private and public costs associated with each source of pollution and the costs and benefits of complying with regulations designed to protect against risks associated with the sources of pollution; and

(B) the private and public costs and benefits associated with other Federal actions with impacts on human health, the environment, or public welfare, including direct development projects, grant and loan programs to support infrastructure construction and repair, and permits, licenses, and leases to use natural resources or to release pollution to the environment, and other similar actions.

(3) RISK REDUCTION OPPORTUNITIES.—In assessing risks, costs, and benefits as provided in paragraphs (1) and (2), the Administrator shall also identify reasonable opportunities to achieve significant risk reduction through modifications in environmental regulations and programs and other Federal actions with impacts on human health, the environment, or public welfare.

(4) UNCERTAINTIES.—In evaluating the risks referred to in paragraphs (1) and (2), the Administrator shall—

(A) identify the major uncertainties associated with the risks;

(B) explain the meaning of the uncertainties in terms of interpreting the ranking and evaluation; and

(C) determine—

(i) the type and nature of research that would likely reduce the uncertainties; and

(ii) the cost of conducting the research.

(5) CONSIDERATION OF BENEFITS.—In carrying out this section, the Administrator shall consider and, to the extent practicable, estimate the monetary value, and such other values as the Administrator determines to be appropriate, of the benefits associated with reducing risk to human health and the environment, including—

(A) avoiding premature mortality;

(B) avoiding cancer and noncancer diseases that reduce the quality of life;

(C) preserving biological diversity and the sustainability of ecological resources;

(D) maintaining an aesthetically pleasing environment;

(E) valuing services performed by ecosystems (such as flood mitigation, provision of food or material, or regulating the chemistry of the air or water) that, if lost or degraded, would have to be replaced by technology;

(F) avoiding other risks identified by the Administrator; and

(G) considering the benefits even if it is not possible to estimate the monetary value of the benefits in exact terms.

(6) REPORTS.—

(A) PRELIMINARY REPORT.—Not later than 1 year after the date of enactment of this Act, the Administrator shall report to Congress on the sources of pollution and other Federal actions that the Administrator will address,

and the approaches and methodology the Administrator will use, in carrying out the rankings and evaluations under this section. The report shall also include an evaluation by the Administrator of the need for the development of methodologies to carry out the ranking.

(B) PERIODIC REPORT.—

(i) IN GENERAL.—On completion of the ranking and evaluations conducted by the Administrator under this section, but not later than 3 years after the date of enactment of this Act, and every 3 years thereafter, the Administrator shall report the findings of the rankings and evaluations to Congress and make the report available to the general public.

(ii) EVALUATION OF RISKS.—Each periodic report prepared pursuant to this subparagraph shall, to the extent practicable, evaluate risk management decisions under Federal environmental laws, including title XIV of the Public Health Service Act (commonly known as the "Safe Drinking Water Act") (42 U.S.C. 300f et seq.), that present inherent and unavoidable choices between competing risks, including risks of controlling microbial versus disinfection contaminants in drinking water. Each periodic report shall address the policy of the Administrator concerning the most appropriate methods of weighing and analyzing the risks, and shall incorporate information concerning—

(I) the severity and certainty of any adverse effect on human health, the environment, or public welfare;

(II) whether the effect is immediate or delayed;

(III) whether the burden associated with the adverse effect is borne disproportionately by a segment of the general population or spread evenly across the general population; and

(IV) whether a threatened adverse effect can be eliminated or remedied by the use of an alternative technology or a protection mechanism.

(d) IMPLEMENTATION.—In carrying out this section, the Administrator shall—

(1) consult with the appropriate officials of other Federal agencies and State and local governments, members of the academic community, representatives of regulated businesses and industry, representatives of citizen groups, and other knowledgeable individuals to develop, evaluate, and interpret scientific and economic information;

(2) make available to the general public the information on which rankings and evaluations under this section are based; and

(3) establish methods for determining costs and benefits of environmental regulations and other Federal actions, including the valuation of natural resources and intergenerational costs and benefits, by rule after notice and opportunity for public comment.

(e) REVIEW BY THE SCIENCE ADVISORY BOARD.—Before the Administrator submits a report prepared under this section to Congress, the Science Advisory Board, established by section 8 of the Environmental Research, Development, and Demonstration Act of 1978 (42 U.S.C. 4365), shall conduct a technical review of the report in a public session.●

By Mr. MOYNIHAN:

S. 125. A bill to authorize the minting of coins to commemorate the 50th anniversary of the founding of the United Nations in New York City, New York; to the Committee on Banking, Housing, and Urban Affairs.

THE UNITED NATIONS 50TH ANNIVERSARY
COMMEMORATIVE COIN ACT OF 1995

Mr. MOYNIHAN. Mr. President, I rise to introduce a bill to authorize the

minting of gold and silver coins commemorating the 50th anniversary of the United Nations. It was October 23, 1945, that the United Nations Charter went into effect, as a majority of the 50 nations that had met at the San Francisco Conference earlier that year finally ratified the charter. The 51-member General Assembly first met the following January 10 in London.

The ratification of the charter was a momentous occasion, a milestone in international relations. The charter begins, "We the Peoples of the United Nations." The reference is clearly to our Constitution and the still-revolutionary idea that a people is defined by belief, rather than blood. The charter provides authority to organize world trade, finance, and democratization. Under it the use of force assumes a collective aspect that seeks to deter aggression.

Measured against the lofty ambitions of its drafters, the charter has in reality fallen short too often, but measured against the bloody and lawless conduct of sovereigns over the millennia its accomplishments are clear. The charter is recognized today as the cornerstone of international law. If it cannot solve every problem, when there is substantial agreement among the Security Council it does provide a framework for the legal use of force against aggressors, as was the recent case with Iraq.

In observance of the 50th anniversary, I propose that Congress authorize the design and minting of gold and silver commemorative coins. No more than 100,000 gold coins would be minted, and no more than 500,000 \$1 silver coins. This is a modest amount by current standards for commemorative coins, enough to satisfy numismatists and those around the world who support the United Nations and its ideals and would like to join in its commemoration. The number of coins is not so great as to overwhelm the market for them.

The surcharges on these coins will benefit the United Nations Association of the United States, whose educational programs such as the Model United Nations for both high school and college students are most successful. The U.N. Association is a worthy beneficiary.

Mr. President, the 50th anniversary of the United Nations deserves our observance. I ask my colleagues for their support, and I ask that the text of the bill be printed following my remarks.

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

S. 125

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 "United Nations 50th Anniversary Commemorative Coin Act of 1995".

SEC. 2. COIN SPECIFICATIONS.

(a) DENOMINATIONS.—The Secretary of the Treasury (hereafter in this Act referred to as

the "Secretary") shall mint and issue the following coins:

(1) \$5 GOLD COINS.—Not more than 100,000 \$5 coins, which shall—

(A) weigh 8.359 grams;

(B) have a diameter of 0.850 inches; and

(C) contain 90 percent gold and 10 percent alloy.

(2) \$1 SILVER COINS.—Not more than 500,000 \$1 coins, which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) contain 90 percent silver and 10 percent copper.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) NUMISMATIC ITEMS.—For purposes of section 5134 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

SEC. 3. SOURCES OF BULLION.

(a) GOLD.—The Secretary shall obtain gold for minting coins under this Act pursuant to the authority of the Secretary under other provisions of law.

(b) SILVER.—The Secretary shall obtain silver for minting coins under this Act only from stockpiles established under the Strategic and Critical Materials Stock Piling Act.

SEC. 4. DESIGN OF COINS.

(a) DESIGN REQUIREMENTS.—

(1) IN GENERAL.—The design of the coins minted under this Act shall—

(A) be emblematic of the United Nations and the ideals for which it stands; and

(B) include the 3 opening words of the United Nations Charter—"We the peoples".

(2) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this Act there shall be—

(A) a designation of the value of the coin;

(B) an inscription of the year; and

(C) inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) SELECTION.—The design for the coins minted under this Act shall be—

(1) selected by the Secretary after consultation with the United Nations Association of the United States of America and the Commission of Fine Arts; and

(2) reviewed by the Citizens Commemorative Coin Advisory Committee.

SEC. 5. ISSUANCE OF COINS.

(a) QUALITY AND MINT FACILITY.—The coins authorized under this Act may be issued in uncirculated and proof qualities and shall be struck at the United States Bullion Depository at West Point.

(b) PERIOD FOR ISSUANCE.—The Secretary may issue coins minted under this Act only during the period beginning on June 26, 1995, and ending on December 31, 2002.

SEC. 6. SALE OF COINS.

(a) SALE PRICE.—The coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins;

(2) the surcharge provided in subsection (d) with respect to such coins; and

(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) PREPAID ORDERS.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

(d) SURCHARGES.—All sales shall include a surcharge of—

- (1) \$25 per coin for the \$5 coin; and
- (2) \$5 per coin for the \$1 coin.

SEC. 7. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this Act.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

SEC. 8. DISTRIBUTION OF SURCHARGES.

(a) IN GENERAL.—All surcharges received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the United Nations Association of the United States of America for the purpose of assisting with educational activities, such as high school and college Model United Nations programs and other grassroots activities, that highlight the United Nations and the United States' role in that world body.

(b) AUDITS.—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of United Nations Association of the United States of America as may be related to the expenditures of amounts paid under subsection (a).

SEC. 9. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this Act will not result in any net cost to the United States Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this Act unless the Secretary has received—

- (1) full payment for the coin;
- (2) security satisfactory to the Secretary to indemnify the United States for full payment; or
- (3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

By Mr. MOYNIHAN:

S. 126. A bill to unify the formulation and execution of United States diplomacy; to the Select Committee on Intelligence.

THE CENTRAL INTELLIGENCE AGENCY ABOLITION
ACT OF 1995

Mr. MOYNIHAN. Mr. President, it is no secret that a serious re-examination of our intelligence needs is in order. Since 1991, when I introduced the End of the Cold War Act, I have endeavored to bring the shortcomings of the intelligence community to public light. Not to denigrate our intelligence efforts, but to improve them. Despite resistance to change, much of the End of the Cold War Act has been implemented. We have eliminated "Lookout Lists," which excluded persons who merely expressed "unacceptable" opinions from

entry into the United States. One aspect of the bill yet to be implemented brings me to the floor today: the transfer of the functions of the Central Intelligence Agency to the Department of State.

The scrutiny that has now visited the intelligence community in the aftermath of the exposure of Aldrich Ames, the man whose treason caused the deaths of at least 10 American agents, increases the likelihood that some long needed reassessments will be made. I do not relish these circumstances, for to a great extent the Ames case merely distracts from some of the most fundamental defects of the CIA. While the Ames affair brings attention to the Directorate of Operations, it takes scrutiny away from the Directorate of Intelligence.

What of operations? Speaking before the Boston Bar Association in 1993, John le Carré, the man who provided us with a window into the world of a spy, questioned the contributions of spies to the winning of the cold war. In his remarks he stated:

You see, it wasn't the spies who won the cold war. I don't believe that in the end the spies mattered very much at all. Their capsuled isolation and their remote theorizing actually prevented them from seeing, as late as 1987 or 8, what anybody in the streets could have told them:

"It's over. We've won. The Iron Curtain is crashing down! The monolith we fought is a bag of bones! Come out of your trenches and smile!"

Even the victory, for them, was a cunning Bolshevik Trick.

And anyway, what had they got to smile about? It was a victory achieved by openness, not secrecy. By frankness, not intrigue.

The Soviet Empire did not fall apart because the spooks had bugged the men's room in the Kremlin or put broken glass in Mrs. Brezhnev's bath, but because running a huge closed repressive society in the 1980s had become—economically, socially and militarily, and technologically—impossible.

The collapse of the Soviet Union was therefore the very denial of secrecy. Mr. le Carré is not alone. Recently William Pfaff in an article in the International Herald Tribune posed the question, "what positive things do [spies] accomplish?" He reached much the same conclusion as le Carré and added that "the useful information today is that supplied by area specialists, historians and ethnologists, and through conventional diplomatic observation and journalism."

If covert operations failed to have an impact as suggested by le Carré and Pfaff, what of our intelligence analysis? How did that serve us in the cold war? I believe I have fully laid out to the Senate on previous occasions my assessment and those of numerous respected individuals on the performance of the CIA in this regard. The defining failure of the CIA was their inability to predict the collapse of the Soviet Union.

In 1975, along with my daughter Maura, I visited China as a guest of George Bush, who was then Chief of our U.S. Liaison Office of Peking. By this

time, I was persuaded the Soviet Union would break up along ethnic lines. In a "Letter From Peking" dated January 26, 1975, which I wrote and submitted to The New Yorker, the closing passage reads:

While it is agreed that few Marxist-Leninist predictions have come true in the twentieth century, it is perhaps not sufficiently noticed that certain predictions about Marxist-Leninist regimes have proved durable enough. Lincoln Steffens returned from Moscow in the early years, pronouncing that he had seen the future, and it worked. Well, it was one future, and it has worked for a half century, and may have considerable time left before ethnicity breaks it up. Red China works, too, and is likely to last even longer.

I believe this is the first time in my writing that I stated the belief then forming that the Soviet Union would not conquer the world, but rather, would one day break up along ethnic lines. A no longer brief acquaintance with Central Asia and its history had about convinced me. I thought then, at mid-decade, that this might require considerable time. By the end of the decade, I had decided it would be upon us sooner. In 1979, in an issue of Newsweek devoted to predictions of what would happen in the eighties, I submitted it was likely that the Soviet Union would break up.

Former Director of Central Intelligence, Adm. Stansfield Turner, writing in Foreign Affairs in 1991, confirms that such a possibility had not penetrated the intelligence community when he stated.

Today we hear some revisionist rumblings that the CIA did in fact see the Soviet collapse emerging after all. If some individual CIA analyst were more prescient than the corporate view, their ideas were filtered out in the bureaucratic process; and it is the corporate view that counts because that is what reaches the president and his advisers. On this one, the corporate view missed by a mile.

And there were others. Several months ago, the Deputy Director for Intelligence [DDI] at the Central Intelligence Agency, Douglas MacEachin, released a report entitled "The Tradecraft of Analysis: Challenge and Change in the CIA." In this report he outlines what he regards as some of the major known failures of the intelligence community. He attributes these failures to analysis which rested on faulty assumptions—he called these assumptions "linchpins." In the report he states:

A review of the record of famous wrong forecasts nearly always reveals at least one "linchpin" that did not hold up: the Soviets will not invade Czechoslovakia because they will not want to pay the political costs, especially after having signed the Rejkavik Declaration the previous year; the Soviets will not invade Afghanistan because they do not want to sink SALT-II which at that moment is being debated by the U.S. Senate; Saddam Hussein needs about two years to refurbish his military forces after the debilitating war with Iran and, therefore, will not, despite evidence of motives for doing so, invade Kuwait in the foreseeable future.

He concludes, "In each case, the sin was less in the fact that the linchpins

did not hold than in the failure of the intelligence products to highlight the extent to which they were assumptions." Surely intelligence products could benefit from highlighting assumptions. However, a more rigorous scrutiny provided by greater openness would give an opportunity for facts, assumptions, and conclusions to be challenged.

Scientists have long understood that secrecy keeps mistakes secret. In the early 1960's, Jack Ruina, an MIT professor who had been head of the Defense Advance Research Projects Agency at the Department of Defense during the Kennedy administration, told me after visiting the Soviet Union that it was plain it just wasn't working. In particular he noticed something which someone without scientific training might not have. The Soviets did not know who their best people were. Promising young scientists in Russia were locked in a room and had no knowledge about the activities of their colleagues around the country. As anyone who has visited the fine research hospitals of New York can tell you, the free flow of ideas is vital to advancement. Openness of information is essential for great science.

This is no secret. Indeed, in 1970 a Task Force organized by the Defense Science Board and headed by Dr. Frederick Seitz concluded that "more might be gained that lost if our nation were to adopt—unilaterally, if necessary—a policy of complete openness in all areas of information."

Yet the secrecy system is still in place. The information Security Oversight Office keeps a tally of the number of secrets classified each year. They reported that in 1993 the United States created 6,408,688 secrets. Absurd. While each agency has different procedures and criteria for classifying documents, all seem to operate under the assumption that classification is preferable to disclosure.

Secrecy is a disease. It causes hardening of the arteries of the mind. It hinders true scholarship and hides mistakes. William Pfaff has suggested that we ought not rely on spies, but rather on journalists, historians, ethnologists; those who do not operate under the cloak of secrecy but publish their work for all to read and comment upon.

After World War II, it was originally intended that intelligence would be coordinated by the Secretary of State. The maneuvering of some of the more powerful Assistant Secretaries in the State Department at the time prevented that from being implemented and the independent Central Intelligence Agency was soon formed. Dean Acheson, who was present at the creation, doubted the wisdom of such a move. "I had the gravest forebodings about this organization and warned the President that as set up neither he, the National Security Council, nor anyone else would be in a position to know what it was doing or to control it." The State Department must function as the primary agency in formulating and

conducting foreign policy. Any other arrangement invites confusion.

In the last 4 years, this proposal has generated considerable debate—some positive, some negative. Reform of United States foreign policy institutions will continue to occupy the attentions of Congress, and if for nothing else, this proposal contributes to the debate. So I am today introducing the Abolition of the Central Intelligence Agency Act.

By Mr. MOYNIHAN:

S. 127. A bill to improve the administration of the Women's Rights National Historical Park in the State of New York, and for other purposes; to the Committee on Energy and Natural Resources.

THE NATIONAL HISTORIC PARK ACT OF 1995

Mr. MOYNIHAN. Mr. President, I rise to introduce a bill that will add several important properties to the Women's Rights National Historic Park in Seneca Falls, NY. In 1980 I introduced legislation to commemorate an idea, that of equal rights for women. It is commemorated in Seneca Falls because that is where in 1848 the Declaration of Sentiments was signed, stating that "all men and women are created equal" and that women should have equal political rights with men. From this beginning sprang the 19th amendment and all that other advances for women this century and last.

With the historic park authorized in 1980, we began the planning, held a design competition for the visitors center, and paid for the construction. The park is now in operation and a tremendous success. Visitorship increased 50 percent in fiscal year 1993 to 30,000. However, the park is not complete. As can be expected when starting such a venture from zero, not all the important properties could be acquired at the outset. Several remain in private hands or under the control of the Trust for Public Land, and this bill authorizes their addition to the park.

These properties include the last remaining parcel of the original Elizabeth Cady Stanton property, necessary so that the Stanton House can be restored to its original condition, and the Young House in Waterloo, important for safety, resource preservation, and preserving the historic scene at the M'Clintock House. The other two are the Baldwin property, which would provide a visitor contact facility, restrooms, and boat docking facilities, and a maintenance facility now being rented by the Park Service.

These additions to Women's Rights National Historic Park will add tremendously to the enjoyment and value of a visit. The National Park Service supports them, and in fact I understand that this legislation is the top priority for the North Atlantic Region. We must pass it promptly, for time is not a luxury; the Nies property is in the early stages of foreclosure. I urge my colleagues to support this bill, and to come to the Women's Rights Park

themselves. It is a trip well worth making.

I further ask 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. 127

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

SECTION 1. COMPOSITION.

The second sentence of section 1601(c) of Public Law 96-607 (16 U.S.C. 4101) is amended—

- (1) by striking "initially";
- (2) by striking paragraph (7);
- (3) by redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively;
- (4) in paragraph (7) (as redesignated), by striking "and" at the end;
- (5) in paragraph (8) (as redesignated), by striking the period at the end and inserting a semicolon; and
- (6) by adding at the end the following:
 - "(9) not to exceed 1 acre, plus improvements, as determined by the Secretary, in Seneca Falls for development of a maintenance facility;
 - "(10) dwelling, 1 Seneca Street, Seneca Falls;
 - "(11) dwelling, 10 Seneca Street, Seneca Falls;
 - "(12) parcels adjacent to Wesleyan Chapel Block, including Clinton Street, Fall Street, and Mynderse Street, Seneca Falls; and
 - "(13) dwelling, 12 East Williams Street, Waterloo."

SEC. 2. MISCELLANEOUS AMENDMENTS.

Section 1601 of Public Law 96-607 (16 U.S.C. 4101) is amended—

- (1) in subsection (h)(5), by striking "ten years" and inserting "25 years"; and
- (2) in subsection (i)—
 - (A) by inserting "(1)" after "(i)";
 - (B) by striking "\$700,000" and inserting "\$1,500,000";
 - (C) by striking "\$500,000" and inserting "\$15,000,000"; and
 - (D) by adding at the end the following:
 - "(2) In addition to the sums appropriated before the date of enactment of this paragraph for land acquisition and development to carry out this section, there are authorized to be appropriated for fiscal years beginning after September 30, 1994, \$2,000,000."

By Mr. MOYNIHAN:

S. 128. A bill to establish the Thomas Cole National Historic Site in the State of New York, and for other purposes; to the Committee on Energy and Natural Resources.

THE THOMAS COLE NATIONAL HISTORIC SITE ACT
OF 1995

Mr. MOYNIHAN. Mr. President, I rise to introduce a bill which would place the home and studio of Thomas Cole under the care of the National Park Service as a National Historic Site. Thomas Cole founded the American artistic tradition known as the Hudson River School. He painted landscapes of the American wilderness as it never had been depicted, untamed and majestic, the way Americans saw it in the 1830's and 1840's. His students and followers included Frederick Church, Alfred Bierstadt, Thomas Moran, and John Frederick Kennesett.

No description of Cole's works would do them justice, but let me say that

their moody, dramatic style and subject matter were in sharp contrast to the pastoral European landscapes that Americans had previously admired. The new country was just settled enough that some people had time and resources to devote to collecting art. Cole's new style coincided with this growing interest, to the benefit of both.

Cole had begun his painting career in Manhattan, but one day took a steamboat up the Hudson for inspiration. It worked. The landscapes he saw set him on the artistic course that became his life's work. He eventually moved to a house up the river in Catskill, where he in turn boarded, owned, married, and raised his family. That house, known as Cedar Grove, remained in the Cole family until 1979, when it was put up for sale.

Three art collectors saved Cedar Grove from developers, and now the Thomas Cole Foundation is offering to donate the house to the Park Service. This would be only the second site in the Park Service dedicated to interpreting the life and work of an American painter.

Olana, Church's home, sits immediately across the Hudson, so we have the opportunity to provide visitors with two nearby destinations that show the inspiration for two of America's foremost nineteenth century painters. Visitors could walk, hike, or drive to the actual spots where masterpieces were painted and see the landscape much as it was then.

Mr. President, the home of Thomas Cole is being offered as a donation. I believe we owe it to him, and to the many people who admire the Hudson River School and explore its origins, to accept this offer and designate it a National Historic Site.

I regret that none of Thomas Cole's work hangs in the Capitol, although two works by Bierstadt can be found in the stairwell outside the Speaker's Lobby. Perhaps Cole's greatest work is the four-part *Voyage of Life*, an allegorical series that depicts man in the four stages of life. It can be found in the National Gallery, along with two other Cole paintings. Another work of Cole's that we would be advised to remember is *The Course of Empire*, which depicts the rise of a great civilization from the wilderness, and its return.

Last year the first major Cole exhibition in decades was held at the National Museum of American Art. The exhibition was all the evidence needed of Cole's importance and the merit of adding his home to the list of National Historic Sites. I should add that this must happen soon. The house needs work, and will not endure many more winters in its present state.

I ask that my colleagues support this legislation, and 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. 128

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 "Thomas Cole National Historic Site Act of 1995".

SEC. 2. FINDINGS AND PURPOSES.

- (a) FINDINGS.—Congress finds that—
- (1) the Hudson River school of landscape painting was inspired by Thomas Cole and was characterized by a group of 19th century landscape artists who recorded and celebrated the landscape and wilderness of America, particularly in the Hudson River Valley region in the State of New York;
 - (2) Thomas Cole has been recognized as America's most prominent landscape and allegorical painter in the mid-19th century;
 - (3) the Thomas Cole House in Greene County, New York is listed on the National Register of Historic Places and has been designated as a National Historic Landmark;
 - (4) within a 15 mile radius of the Thomas Cole House, an area that forms a key part of the rich cultural and natural heritage of the Hudson River Valley region, significant landscapes and scenes painted by Thomas Cole and other Hudson River artists survive intact;
 - (5) the State of New York has established the Hudson River Valley Greenway to promote the preservation, public use, and enjoyment of the natural and cultural resources of the Hudson River Valley region; and
 - (6) establishment of the Thomas Cole National Historic Site will provide opportunities for the illustration and interpretation of cultural themes of the heritage of the United States and unique opportunities for education, public use, and enjoyment.

(b) PURPOSES.—The purposes of this Act are—

- (1) to preserve and interpret the home and studio of Thomas Cole for the benefit, inspiration, and education of the people of the United States;
- (2) to help maintain the integrity of the setting in the Hudson River Valley region that inspired artistic expression;
- (3) to coordinate the interpretive, preservation, and recreational efforts of Federal, State, and other entities in the Hudson Valley region in order to enhance opportunities for education, public use, and enjoyment; and
- (4) to broaden understanding of the Hudson River Valley region and its role in American history and culture.

SEC. 3. DEFINITIONS.

As used in this Act:

- (1) HISTORIC SITE.—The term "historic site" means the Thomas Cole National Historic Site established by section 4.
- (2) HUDSON RIVER ARTISTS.—The term "Hudson River artists" means artists who belonged to the Hudson River school of landscape painting.
- (3) PLAN.—The term "plan" means the general management plan developed pursuant to section 6(d).
- (4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 4. ESTABLISHMENT OF THOMAS COLE NATIONAL HISTORIC SITE.

(a) IN GENERAL.—There is established, as a unit of the National Park System, the Thomas Cole National Historic Site, in the State of New York.

(b) DESCRIPTION.—The historic site shall consist of the home and studio of Thomas Cole, comprising approximately 3.4 acres, located at 218 Spring Street, in the village of Catskill, New York, as generally depicted on the boundary map numbered TCH/80002, and dated March 1992.

SEC. 5. ACQUISITION OF PROPERTY.

(a) REAL PROPERTY.—The Secretary is authorized to acquire lands, and interests in lands, within the boundaries of the historic site by donation, purchase with donated or appropriated funds, or exchange.

(b) PERSONAL PROPERTY.—The Secretary may also acquire by the same methods as provided in subsection (a), personal property associated with, and appropriate for, the interpretation of the historic site. *Provided*, That the Secretary may acquire works of art associated with Thomas Cole and other Hudson River artists only by donation or purchase with donated funds.

SEC. 6. ADMINISTRATION OF SITE.

(a) IN GENERAL.—The Secretary shall administer the historic site in accordance with this Act and all laws generally applicable to units of the National Park System, including the Act entitled "An Act To establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1, 2-4), and the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935 (16 U.S.C. 461 et seq.).

(b) COOPERATIVE AGREEMENTS.—

(1) IN GENERAL.—To further the purposes of this Act, the Secretary may consult with and enter into cooperative agreements with the State of New York, the Thomas Cole Foundation, and other public and private entities to facilitate public understanding and enjoyment of the lives and works of the Hudson River artists through the development, presentation, and funding of art exhibits, resident artist programs, and other appropriate activities related to the preservation, interpretation, and use of the historic site.

(2) LIBRARY AND RESEARCH CENTER.—The Secretary may enter into a cooperative agreement with the Greene County Historical Society to provide for the establishment of a library and research center at the historic site.

(c) EXHIBITS.—The Secretary may display, and accept for the purposes of display, works of art associated with Thomas Cole and other Hudson River artists, as may be necessary for the interpretation of the historic site.

(d) GENERAL MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 2 complete fiscal years after the date of enactment of this Act, the Secretary shall develop a general management plan for the historic site.

(2) SUBMISSION TO CONGRESS.—On the completion of the plan, the plan shall be submitted to the Committee on Energy and Natural Resources of the Senate and the Committee on Public Lands and Resources of the House of Representatives.

(3) REGIONAL WAYSIDE EXHIBITS.—The plan shall include recommendations for regional wayside exhibits, to be carried out through cooperative agreements with the State of New York and other public and private entities.

(4) PREPARATION.—The plan shall be prepared in accordance with section 12(b) of the Act entitled "An Act to improve the administration of the national park system by the Secretary of the Interior, and to clarify the authorities applicable to the system, and for other purposes", approved August 18, 1970 (16 U.S.C. 1a-1 through 1a-7).

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

By Mr. McCAIN (for himself and Mr. FEINGOLD):

S. 129. A bill to amend section 207 of title 18, United States Code, to tighten

the restrictions on former executive and legislative branch officials and employees; to the Committee on Governmental Affairs.

THE ETHICS IN GOVERNMENT REFORM ACT OF 1995

Mr. McCAIN. 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. 129

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 "Ethics in Government Reform Act of 1995".

SEC. 2. SPECIAL RULES FOR HIGHLY PAID EXECUTIVE APPOINTEES AND MEMBERS OF CONGRESS AND HIGHLY PAID CONGRESSIONAL EMPLOYEES.

(a) In General.—

(1) Appearances before agency.—(A) Section 207(d) of title 18, United States Code, is amended by adding at the end thereof the following:

"(3) Restrictions on political appointees.—

(A) In addition to the restrictions set forth in subsections (a), (b), and (c) and paragraph (1) of this subsection, any person who—

"(i) serves in the position of Vice President of the United States; or

"(ii) is a full-time, noncareer Presidential, Vice Presidential, or agency head appointee in an executive agency whose rate of basic pay is not less than \$80,000 (adjusted for any COLA after the date of enactment of the Ethics in Government Reform Act of 1995) and is not an appointee of the senior foreign service or solely an appointee as a uniformed service commissioned officer,

and who, after the termination of his or her service or employment as such officer or employee, knowingly makes, with the intent to influence, any communication to or appearance before any officer or employee of a department or agency in which such person served within 5 years before such termination, during a period beginning on the termination of service or employment as such officer or employee and ending 5 years after the termination of service in the department or agency, on behalf of any other person (except the United States), in connection with any matter on which such person seeks official action by any officer or employee of such department or agency, shall be punished as provided in section 216 of this title.

"(B) In addition to the restrictions set forth in subsections (a), (b), and (c) and paragraph (1) of this subsection, any person who is listed in Schedule I under section 5312 of title 5, United States Code, or is employed in a position in the Executive Office of the President and is a full-time, noncareer Presidential, Vice Presidential, or agency head appointee in an executive agency whose rate of basic pay is not less than \$80,000 (adjusted for any COLA after the date of enactment of the Ethics in Government Reform Act of 1995) and is not an appointee of the senior foreign service or solely an appointee as a uniformed service commissioned officer, and who—

"(i) after the termination of his or her service or employment as such employee, knowingly makes, with the intent to influence, any communication to or appearance before any officer or employee of a department or agency with respect to which the person participated personally and substantially within 5 years before such termination, during a period beginning on the ter-

mination of service or employment as such employee and ending 5 years after the termination of substantial personal responsibility with respect to the department or agency, on behalf of any other person (except the United States), in connection with any matter on which such person seeks official action by any officer or employee of such department or agency; or

"(ii) within 2 years after the termination of his or her service or employment as such employee, knowingly makes, with the intent to influence, any communication to or appearance before any person described in paragraph (2)(B) on behalf of any other person (except the United States), in connection with any matter on which such person seeks official action by the person described in paragraph (2)(B).

shall be punished as provided in section 216 of this title."

(B) The first sentence of section 207(h)(1) of title 18, United States Code, is amended by inserting after "subsection (c)" the following: "and subsection (d)(3)".

(2) Foreign agents.—Section 207(f) of title 18, United States Code, is amended by—

(A) redesignating paragraph (2) as paragraph (4);

(B) adding after paragraph (1) the following:

"(2) Special restrictions.—Any person who—

"(A)(i) serves in the position of Vice President of the United States;

"(ii) is a full-time, noncareer Presidential, Vice Presidential, or agency head appointee in an executive agency whose rate of basic pay is not less than \$80,000 (adjusted for any COLA after the date of enactment of the Ethics in Government Reform Act of 1995) and is not an appointee of the senior foreign service or solely an appointee as a uniformed service commissioned officer;

"(iii) is employed in a position in the Executive Office of the President and is a full-time, noncareer Presidential, Vice Presidential, or agency head appointee in an executive agency whose rate of basic pay is not less than \$80,000 (adjusted for any COLA after the date of enactment of the Ethics in Government Reform Act of 1995) and is not an appointee of the senior foreign service or solely an appointee as a uniformed service commissioned officer; or

"(iv) is a Member of Congress or employed in a position by the Congress at a rate of pay equal to or greater than \$80,000 (adjusted for any COLA after the date of enactment of the Ethics in Government Reform Act of 1995); and

"(B) knowingly after such service or employment—

"(i) represents a foreign national (as defined in section 319(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e(b)) before any officer or employee of any department or agency of the United States with the intent to influence a decision of such officer or employee in carrying out his or her official duties; or

"(ii) aids or advises a foreign national (as defined in section 319(b) of the Federal Election Campaign Act of 1971) with the intent to influence a decision of any officer or employee of any department or agency of the United States, in carrying out his or her official duties,

shall be punished as provided in section 216 of this title."

"(3) GIFTS FROM A FOREIGN GOVERNMENT OR FOREIGN POLITICAL PARTY.—Any person who—

"(A)(i) serves in the position of President or Vice President of the United States;

"(ii) is a full-time, noncareer Presidential, Vice Presidential, or agency head appointee in an executive agency whose rate of basic pay is not less than \$80,000 (adjusted for any

COLA after the date of enactment of the Ethics in Government Reform Act of 1995) and is not an appointee of the senior foreign service or solely an appointee as a uniformed service commissioned officer;

"(iii) is employed in a full-time, noncareer position in the Executive Office of the President whose rate of basic pay is not less than \$80,000 (adjusted for any COLA after the date of enactment of the Ethics in Government Reform Act of 1995) and is not an appointee of the senior foreign service or solely an appointee as a uniformed service commissioned officer;

"(iv) is a Member of Congress; or

"(v) is employed in a position by the Congress at a rate of pay equal to or greater than \$80,000 (adjusted for any COLA after the date of enactment of the Ethics in Government Reform Act of 1995); and

"(B) after such service or employment terminates, receives a gift from a foreign government or foreign political party;

shall be punished as provided in section 216 of this title.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'foreign national' means—

"(i) a government of a foreign country as defined in section 1(e) of the Foreign Agents Registration Act of 1938, as amended or a foreign political party as defined in section 1(f) of that Act;

"(ii) a person outside of the United States, unless such person is an individual and a citizen of the United States, or unless such person is not an individual and is organized under or created by the laws of the United States or of any state or other place subject to the jurisdiction of the United States and has its principal place of business within the United States;

"(iii) a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country; and

"(iv) a person any of whose activities are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in major part by an entity described in clause (i), (ii), or (iii); and

"(B) the term 'gift'—

"(i) includes any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value greater than \$20; and

"(ii) does not include—

"(I) modest items of food and refreshments offered other than as part of a meal;

"(II) greeting cards and items of little intrinsic value which are intended solely for presentation;

"(III) loans from banks and other financial institutions on terms generally available to the public;

"(IV) opportunities and benefits, including favorable rates and commercial discounts, available to the public; or

"(V) travel, subsistence, and related expenses in connection with the person's rendering of advice or aid to a government of a foreign country or foreign political party, if the Secretary of State certifies in advance that such activity is in the best interests of the United States."

(3) Trade negotiators.—Section 207(b)(1) of title 18, United States Code, is amended by—

(A) inserting "(A)" after "In general.—"; and

(B) adding at the end thereof the following:

"(B) For any person who—

"(i) is a full-time, noncareer Presidential, Vice Presidential, or agency head appointee in an executive agency whose rate of basic pay is not less than \$80,000 (adjusted for any

COLA after the date of enactment of the Ethics in Government Reform Act of 1995) and is not an appointee of the senior foreign service or solely an appointee as a uniformed service commissioned officer;

“(ii) is employed in a position in the Executive Office of the President, and is a full-time, noncareer Presidential, Vice Presidential, or agency head appointee in an executive agency whose rate of basic pay is not less than \$80,000 (adjusted for any COLA after the date of enactment of the Ethics in Government Reform Act of 1995) and is not an appointee of the senior foreign service or solely an appointee as a uniformed service commissioned officer; or

“(iii) is a Member of Congress or employed in a position by the Congress at a rate of pay equal to or greater than \$80,000 (adjusted for any COLA after the date of enactment of the Ethics in Government Reform Act of 1995).

the restricted period after service referred to in subparagraph (A) shall be permanent.”.

(4) Congress.—Section 207(e) of title 18, United States Code, is amended—

(A) in paragraph (1)(A) by striking “within 1 year” and inserting “within 2 years”;

(B) in paragraph (1) by adding at the end thereof the following:

“(D) Any person who is a Member of Congress and who, within 5 years after leaving the position, knowingly makes, with intent to influence, any communication to or appearance before any committee member or a staff member of any committee over which the Member had jurisdiction, on behalf of any other person (except the United States) in connection with any matter on which such former Member seeks action by the committee member or a staff member of the committee in his or her official capacity, shall be punished as provided in section 216 of this title.”;

(C) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(D) by inserting after paragraph (5) the following new paragraph:

“(6) Highly paid staffers.—For any person described in paragraph (2), (3), (4), or (5), employed in a position at a rate of pay equal to or greater than \$80,000 (adjusted for any COLA after the date of enactment of the Ethics in Government Reform Act of 1995)—

“(A) the restriction provided in paragraph (1)(A) shall apply; and

“(B) the restricted period after termination in paragraph (2), (3), (4), or (5), applicable to such person shall be 5 years.”.

(b) PENALTIES.—

(1) FUTURE ACTIVITIES.—Section 216 of title 18, United States Code, is amended by adding at the end thereof the following:

“(d) In addition to the penalties provided in subsections (a), (b), and (c), the punishment for violation of section 207 may include a prohibition on the person knowingly, with the intent to influence, communicating to or appearing before any employee of the executive or legislative branch, for a period of not to exceed 5 years.”.

(2) USE OF PROFITS.—Section 216(b) of title 18, United States Code, is amended by inserting after the first sentence the following: “Any amount of compensation recovered pursuant to the preceding sentence for a violation of section 207 shall be deposited in the general fund of the Treasury to reduce the deficit.”

(c) EXCEPTIONS.—Section 207(j) of title 18, United States Code, is amended by adding at the end thereof the following:

“(7) NON-INFLUENTIAL CONTRACTS.—Nothing in this section shall prevent an individual from making requests for appointments, requests for the status of Federal action, or other similar ministerial contacts, if there is no attempt to influence an officer or employee of the legislative or executive branch.

“(8) TESTIMONY TO THE CONGRESS.—Nothing in this section shall prevent an individual from testifying or submitting testimony to any committee or instrumentality of the Congress.

“(9) COMMENTS.—Nothing in this section shall prevent an individual from making communications in response to a notice in the Federal Register, Commerce Business Daily, or other similar publication soliciting communications from the public and directed to the agency official specifically designated in the notice to receive such communications.

“(10) ADJUDICATION.—Nothing in this section shall prevent an individual from making communications or appearances in compliance with written agency procedures regarding an adjudication conducted by the agency under section 554 of title 5, United States Code or substantially similar provisions.

“(11) COMMENTS FOR THE RECORD.—Nothing in this section shall prevent an individual from submitting written comments filed in a public docket and other communications that are made on the record.”.

SEC. 3. EFFECTIVE DATE.

The restrictions contained in section 207 of title 18, United States Code, as added by section 2 of this Act—

(1) shall apply only to persons whose service as officers or employees of the Government, or as Members of Congress terminates on or after the date of the enactment of this Act; and

(2) in the case of officers, employees, and Members of Congress described in section 207(b)(1)(B) of title 18, United States Code (as added by section 2 of this Act), shall apply only with respect to participation in trade negotiations or treaty negotiations, and with respect to access to information, occurring on or after such date of enactment.

SEC. 4. SEVERABILITY.

If any provision of this Act, or the application thereof, is held invalid, the validity of the remainder of this Act and the application of such provision to other persons and circumstances shall not be affected thereby.

Mr. FEINGOLD. Mr. President, I am pleased to join with my colleague, Senator MCCAIN, in introducing this legislation that will strengthen our current laws that restrict certain movements between public and private sector employment—the so-called revolving door. The Senator from Arizona has been a strong and consistent voice on efforts to reform our government and I know that his expertise on this issue in particular during the 103d Congress was critical to efforts to move forward in this area.

The proposal that we are offering today is yet another attempt to improve the standing of Congress and the federal government with our constituents.

We know, as reflected by the last two election cycles, that voters are fed up with a political system that seems to encourage personal gain and profit rather than what is in the best interests of the American people. The time has come for a bit of self-examination, and for us as representatives of the people to identify why the public has grown so disenchanted with their government.

There was a time, Mr. President, when those in public service were looked upon with high admiration and esteem. Politics was once, as Robert Kennedy called it, an honorable profes-

sion. But the admiration and esteem has been replaced with perceptions of an institution that meets the concerns and demands of special interests to the exclusion of the interests of the American people. Mr. President, one can read many messages coming from the electorate during the 1992 and 1994 elections. Some might argue that those elections were calls for fiscal responsibility, or for ensuring that our communities are safer and our families healthier. We can have an endless discussion about those issues. But I do not think there could have been a clearer message from the last two elections than the message that the American people are not necessarily fed up with Republicans or Democrats, but that they are fed up with a system here in Washington that both parties are forced to operate within.

The revolving door between public and private employment has generated much of this anger and cynicism. But by putting a lock on this door for meaningful periods of time, we can send a message that those entering government employment should view public service as an honor and a privilege—not as another rung on the ladder to personal gain and profit. Some may suggest that we are seeking to alleviate meritless concerns of an overreacting public. But the facts show that on this issue the public is right on target. For example, since 1974 according to the Center for Public Integrity, 47 percent of all former senior U.S. trade officials have registered with the Justice Department as lobbyists for foreign agents. In other words, nearly half of our former high-ranking trade representatives, who played active roles in our trade negotiations and have direct knowledge of confidential information of U.S. trade and business interests, are now lobbying on behalf of foreign agents. In many cases, these individuals are representing these foreign interests at the negotiating table opposite of the United States. Whether you supported or opposed recent trade agreements such as the North American Free Trade Agreement and the General Agreement on Trade and Tariffs, one can only speculate as to how such revolving door practices influenced the outcome of those negotiations.

And that is just our trade officials. Such revolving door problems are just as prevalent in the legislative branch. Former members of Congress who once chaired or served on committees with jurisdiction over particular industries or special interests, are now lobbying their former colleagues on behalf of those industries or special interests. Former committee staff directors are using their contacts and knowledge of their former committees to secure lucrative positions in lobbying firms and associations with interests related to those committees. How can we blame our constituents for looking upon this institution with cynicism and disdain when they hear about a former member

of the House Foreign Affairs Committee registering as a lobbyist on behalf of a foreign country? How can we ensure that the trade agreements we enter into are indeed fair when individuals who have recently represented the United States are now on the other side of the bargaining table? Or how about the former chairman of the House subcommittee with jurisdiction over the Rural Electrification Administration retiring last year to head the National Rural Electric Cooperative Association. Are our constituents to believe that this former chairman has no special access or influence with his former committee that may benefit his new employer?

It seems that since the election last November that the print media has been filled with announcements of government officials leaving the public sector to work for lobbying firms. One recent article announced that a staff assistant leaving her position on the House Subcommittee on Energy and Power will be working for the government relations, i.e. lobbying, department of the American Public Power Association. Another one announced that a recently retired former member of the House Ways and Means Subcommittee on Select Revenue Measures is joining a Washington lobbying firm. According to this announcement, he will specialize in tax policy. Mr. President, the problem of revolving door lobbying is quite clear, and in our review, so is the solution.

The bill we are introducing today will strengthen the post-employment restrictions that are already in place. There is currently a one year ban on former members of Congress lobbying the entire Congress as well as senior congressional staff lobbying their former employing entity. Members and senior staff are also prohibited from lobbying on behalf of a foreign entity for one year. Our bill will prohibit members of Congress and senior staff from lobbying the entire Congress for two years, and their former committees and employing entities for five years. The one year ban on lobbying on behalf of a foreign entity will become a lifetime ban. In early 1993, President Clinton issued a strong executive order which bars senior executive branch officials from lobbying their former agencies for five years, and prohibits employees of the Executive Office of the President from lobbying on a matter they had substantial involvement in for five years. It also includes a lifetime ban on lobbying on behalf of a foreign entity. Our bill codifies these regulations for the executive branch, and also imposes a two year ban on political appointees and senior executive branch staff from lobbying other executive branch officials. Finally, our bill will impose a lifetime ban on our senior trade officials either lobbying on behalf of a foreign entity, or advising for compensation a foreign entity on how best to lobby the U.S. government.

This bill is targeted in two ways: First, it only affects legislative and executive branch staff members who earn over 80,000 dollars a year—in other words, senior level employees who are most heavily recruited by Washington lobbying firms. Second, our bill has a longer ban on a former senior level official or staffer lobbying their former agency or employing entity. This five-year ban is necessary because as we all know, and exhibited by the examples I just cited, the Washington lobbying firms thrive on hiring former officials to lobby their former employer. That is exactly why a lobbying firm that specializes in taxes hires a former member of the Ways and Means Committee. And finally, the bill's toughest provisions focus on former U.S. trade officials who decide to switch sides and negotiate for our competitors, as well as on those who wish to lobby on behalf of foreign entities. These provisions, in my view, need no explanation.

Now some might argue that we are inhibiting these talented individuals from pursuing careers in policy matters that they have become extremely proficient. These critics ask why a former high-level staffer on the Senate Subcommittee on Communications cannot accept employment with a telecommunications company? After all, they argue, this person has accumulated years of knowledge of our communication laws and technology. Why should this individual be prevented from accepting private sector employment in the communications field? But that is not what our amendment prevents. They can take the job with the telecommunications company, but what they cannot do is lobby their former subcommittee for five years, and they cannot lobby the rest of Congress for two years. We are only limiting an individual's employment opportunity if they are seeking to use their past employment with the federal government to gain special access or influence with the government in return for personal gain.

Mr. President, we are not here to outlaw the profession of lobbying. Not only would that be unconstitutional, but I do not think it would be addressing the true flaws of our political system. Lobbying is merely an attempt to present the views and concerns of a particular group and there is nothing inherently wrong with that. In fact, lobbyists, whether they are representing Common Cause or Wall Street, can present important information to public representatives that may not otherwise be available. But there are important steps that we should take to ensure that lobbyists do not hold any special advantage or influence with the officials they are lobbying. We should improve our lobbying disclosure laws so that our constituents have accurate and available information as to who is lobbying us and who they represent. We should make sure that lobbyists are no longer able to buy Members of Con-

gress expensive meals and all-expense paid vacation trips. We came close to passing strong gift ban legislation last year, and I hope that we can address that issue as soon as possible. But there is another very important step that this Congress needs to take if we are to recapture the trust of the American electorate and extinguish the firestorm of cynicism and skepticism with which the public views their government. We must clamp down on the widespread custom of entering public service and then trading knowledge and influence gained during that service for personal wealth and gain.

Mr. President, there are those who will argue that our proposal will make it more difficult for the federal government to recruit and attract quality employees. These critics ask, why should a well-educated and knowledgeable individual enter government service if that individual will have difficulty using that service to attain prosperous employment after they leave the federal government? And this question, Mr. President, brings us to the heart of this debate. I believe that this debate, more than anything else, is what we as individual Senators believe the meaning of public service should be.

Quite frankly, I find this sort of suggestion, that we almost need to "bribe" or "lure" people into public service, a telling example of why the American people have lost faith in us. It is also an insult to the thousands of government employees who are in public service for the right reasons. The principal reason why an individual would accept employment as a United States Senator, as an assistant secretary in the Commerce Department or as a negotiator in the Office of the U.S. Trade Representative, should not be to use that service as a stepping stone to personal wealth and gain. The principal reason should be a wish to represent the citizens of your state, or to improve our economic base or to pry open foreign markets for our domestic products. It is essential that we and those considering entering government service recognize that public service is a good within itself. Such service and participation is a cornerstone of our representative form of government, and the fact that our constituents so negatively perceive public service compels us to take forceful action to recapture the prestige that government service once carried.

I am reminded of our former majority leader, Senator Mitchell, who characterized the meaning of government service at a reception that was given in his honor last fall. Senator Mitchell said: "Public service gives work a value and a meaning greater than mere personal ambition and private goals. Public service must be, and is, its own reward. For it does not guarantee wealth, or popularity or respect. It's difficult and often frustrating. But when you do something that will

change the lives of people for the better, then it is worth all of the difficulty and all of the frustration."

In conclusion, Mr. President, I would like to again commend Senator McCAIN for his leadership on this issue. I strongly believe that there is no more noble endeavor than to serve in government. But we need to take immediate action to restore the public's confidence in their government, and to rebuild the lost trust between members of Congress and the electorate. Passing this legislation and curbing the practice of revolving door lobbying is a forceful first step in this much-needed direction. We need to enact legislation that will finally reform the way we finance congressional campaigns and that will level the playing field between incumbents and challengers. We need to enact comprehensive lobbying reform legislation, so that our constituents know exactly whose interests are being represented. And long overdue, Mr. President, is the need to act on legislation that will reform the way Congress deals with the thousands and thousands of gifts and other perks that are offered to Members each year from individuals, lobbyists and associations that seek special access and influence on Capitol Hill.

The notion of public service has been battered and tarnished in recent years. Serving in government is an honorable profession and it deserves to be perceived as such by the people we represent.

By Mr. LIEBERMAN (for himself, Mr. JEFFORDS, Mr. MOYNIHAN, and Mr. LAUTENBERG):

S. 130. A bill to amend title 13, United States Code, to require that any data relating to the incidence of poverty produced or published by the Secretary of Commerce for subnational areas is corrected for differences in the cost of living in those areas; to the Committee on Governmental Affairs.

THE POVERTY DATA CORRECTION ACT OF 1995

Mr. LIEBERMAN. Mr. President. I rise to introduce a bill which will improve the quality of our information on persons and families in poverty, and which will make more equitable the distribution of Federal funds. The Poverty Data Correction Act of 1995 is cosponsored by Senators JEFFORDS, MOYNIHAN, and LAUTENBERG. This bill requires the Bureau of the Census to adjust for differences in the cost of living, on a State-by-State basis, when providing information on persons or families in poverty.

The current method for defining the poverty population is woefully antiquated. The definition was developed in the late 1960's based on data collected in the late 1950's and early 1960's. The assumptions used then about what proportion of a family's income is spent on food is no longer valid. The data used to calculate what it costs to provide for the minimum nutritional needs, not to mention what minimum nutritional needs are, no longer applies. Nearly ev-

eryone agrees that it is time for a new look at what constitutes poverty. And, I am pleased to be able to report that the National Academy of Science, through its Committee on National Statistics, is studying this issue.

But there is a more serious problem with out information on poverty than old data and outdated assumptions. In calculating the number of families in poverty, the Census Bureau has never taken into account the dramatic differences in the cost of living from state to state. Recent calculations from the academic community show that the difference can be as much as 50 percent.

Let me give you an example. Let's say that the poverty level is \$15,000 for a family of four. That is, it takes \$15,000 to provide the basic necessities for the family. In some States, where the cost of living is high, it really takes \$18,750 to provide those basics. In other States, where the cost of living is low, it takes only \$11,250 to provide those necessities. But when the Census Bureau counts the number of poor families, they don't take those differences into account.

But this is more than just an academic problem of definition. These Census numbers are used to distribute millions of Federal dollars. Chapter 1 of the elementary and Secondary Act allocates Federal dollars to school districts based on the number of children in poverty. States like Connecticut, where the cost of living is high, get fewer Federal dollars than they deserve because cost differences are ignored. Other States, where the cost of living is low, get more funds than they deserve.

It is important that we act now to correct this inequity. This bill provides a mechanism for that correction. Thank you Mr. President, I ask unanimous consent that the full text of this bill be included in the record.

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

S. 130

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 "Poverty Data Correction Act of 1995".

SEC. 2. REQUIREMENT.

(a) IN GENERAL.—Chapter 5 of title 13, United States Code, is amended by adding after subchapter V the following:

"Subchapter VI—Poverty Data

"SEC. 197. CORRECTION OF SUBNATIONAL DATA RELATING TO POVERTY.

"(a) Any data relating to the incidence of poverty produced or published by or for the Secretary for subnational areas shall be corrected for differences in the cost of living, and data produced for State and sub-State areas shall be corrected for differences in the cost of living for at least all States of the United States.

"(b) Data under this section shall be published in 1995 and at least every second year thereafter.

"SEC. 198. DEVELOPMENT OF STATE COST-OF-LIVING INDEX AND STATE POVERTY THRESHOLDS.

"(a) To correct any data relating to the incidence of poverty for differences in the cost of living, the Secretary shall—

"(1) develop or cause to be developed a State cost-of-living index which ranks and assigns an index value to each State using data on wage, housing, and other costs relevant to the cost of living; and

"(2) multiply the Federal Government's statistical poverty thresholds by the index value for each State's cost of living to produce State poverty thresholds for each State.

"(b) The State cost-of-living index and resulting State poverty thresholds shall be published prior to September 30, 1996, for calendar year 1995 and shall be updated annually for each subsequent calendar year."

(b) CONFORMING AMENDMENT.—The table of subchapters of chapter 5 of title 13, United States Code, is amended by adding at the end the following:

"SUBCHAPTER VI—POVERTY DATA

"Sec. 197. Correction of subnational data relating to poverty.

"Sec. 198. Development of State cost-of-living index and State poverty thresholds."

By Mr. LIEBERMAN:

S. 131. A bill to specifically exclude certain programs from provisions of the Electronic Funds Transfer Act; to the Committee on Banking, Housing, and Urban Affairs.

THE ELECTRONIC FUNDS TRANSFER ACT

Mr. LIEBERMAN. Mr. President, I rise to introduce the Electronic Benefits Regulatory Relief Act of 1994. This bill is also cosponsored by Senators BREAUX, DOMENICI, FEINSTEIN, PRESLENER, and HATFIELD. When passed, this bill will eliminate one of the major barriers to making the banking system more accessible to those receiving government benefits like Aid to Families with Dependent Children or Food Stamps. If this bill is not passed, we will have missed an opportunity to reduce the cost of government services, and an opportunity to make the delivery of government services, more efficient and humane.

This legislation is necessary to reverse a regulation issued by the Federal Reserve Board. That ruling, issued last March, said that the Electronic Benefit Transfer [EBT] cards issued by States are subject to the same liability limits as ATM or credit cards. On the surface that seems reasonable—a card is a card and there seems little reason to differentiate between cards to withdraw government benefits from a bank and cards to withdraw earnings or savings from a bank. But, as is often the case with regulations, what appears on the surface isn't necessarily the whole story.

With the simple extension of this regulation to EBT cards, the Federal Reserve has dramatically altered social benefits legislation, extended the Electronic Funds Transfer Act into a realm it was not intended to cover, and created for states a new liability of unpredictable size. This bill seeks to reestablish the legislative intent governing

Food Stamps, the legislative intent of the Electronic Funds Transfer Act, and at the same time limit a State's exposure to liability if they choose EBT over checks and coupons.

Electronic Benefit Transfer Cards are simply an extension of current technology into the delivery of government benefits. Instead of receiving checks or coupons, recipients receive an EBT card. With that card they can access the cash benefits whenever and wherever they choose. They can withdraw as little as five dollars, or as much as the system will allow in a single transaction. Recipients can use their card at the supermarket instead of food stamps the way millions of Americans now use credit or debit cards to pay for food.

EBT cards offer recipients greater protection from theft than current methods of payment. Without the associated pin number, the EBT card is useless. Checks are easily stolen and forged. Food Stamp coupons, once stolen, can be used by anyone and can even be used to buy drugs on the black market.

EBT cards provide recipients access to a banking system that is frequently criticized for shunning them. It is often the case that the only way a recipient can get his or her check cashed is by paying an exorbitant fee to some non-banking facility. Several Senators have introduced or supported bills requiring banks to cash government checks. Their goal was to provide these individuals access to the same services most Americans enjoy. Those bills will be unnecessary when EBT cards replace checks. EBT cards can be used at a number of locations at any hour of the day or night and no fee is charged to the recipient for transactions.

The action by the Federal Reserve will stop all of these benefits from happening. State and local governments have indicated that if Regulation E is enforced they will not go forward with EBT. John Michaelson, the director of social services in San Bernardino County, CA, points out that while San Bernardino County was selected as the pilot site for the California EBT development, that project will not go forward as long as Regulation E applies. Similarly, Governor Carlson of Minnesota recently wrote to me indicating that the plans to expand EBT statewide in Minnesota will be halted by the application of Regulation E. Letters of support for this legislation have come from Governor Pete Wilson of California, Governor David Walters of Oklahoma, Governor Mike Sullivan of Wyoming, Governor Edwin W. Edwards of Louisiana, Governor Arne H. Carlson of Minnesota, the National Association of State Auditors, Comptrollers and Treasurers, the American Public Welfare Association, the National Association of Counties the National Governors Association, and the Electronic Funds Transfer Association. I ask unanimous consent that these letters, along with the letter from Mr.

Michaelson, be printed in the RECORD immediately following my statement.

The dilemma that faces States is that simply switching from checks and coupons to EBT cards, because of Regulation E, creates a new liability. Stolen benefit checks and coupons are not replaced except in extreme circumstances. Regulation E requires that all but \$50 of any benefits stolen through an EBT card must be replaced. The effect of the Federal Reserve's action is that the simple act of changing the method of delivery imposes on the States a liability of unknown magnitude.

This action by the Federal Reserve is inconsistent with the legislative intent that created the benefit programs. The legislation for both Food Stamps and Aid to Families with Dependent Children—the two largest programs included in EBT—are quite clear in specifying that lost or stolen benefits will be replaced only in extreme circumstances. We should not allow that legislation to be changed through regulation.

This action is also inconsistent with the legislative intent of the Electronic Funds Transfer Act. The EFTA is about the relationship between an individual and his or her bank. It is designed to protect the individual in that relationship because of the dramatic disparity in power between the individual and the bank. In EBT, any relationship between the bank and the individual is mediated by the State. The State sets up a single account which all recipients draw upon. If there is a mistake, either in the bank's favor or the recipient's, the bank goes to the State, and it is the State's responsibility to contact the individual. It is difficult to accept that the same disparity in bargaining power exists between the State and the bank.

The differences between EBT and other electronic transfers were carefully documented in a letter from Dr. Alice Rivlin, deputy director of OMB, to the Board of Governors of the Federal Reserve. I ask unanimous consent that Dr. Rivlin's letter be included in the RECORD at this point.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,

Washington, DC, May 21, 1993.

Mr. WILLIAM W. WILES,
Secretary, Board of Governors of the Federal Reserve System, Washington, DC.

DEAR MR. WILES: This letter responds to the proposal, published for comment on February 8, 1993, to revise Regulation E to cover electronic benefit transfer (EBT) programs. Please refer to Docket No. R-0796. This letter contains our endorsement of the EBT Steering Committee proposal for modifying Reg E, our views on the differences between program beneficiaries and the consumers with bank accounts, and our recommendations for your consideration.

EBT STEERING COMMITTEE VIEW

We strongly support the recommendations of the Electronic Benefit Steering Committee, which were submitted to the Board on May 11, 1992. The EBT Steering Committee recommended that EBT be treated dif-

ferently from other electronic fund transfers, that specific minimum standards be established for EBT programs, and that agencies be allowed to implement Regulation E fully on a voluntary basis, if appropriate. A copy of the Steering Committee recommendation is enclosed.

In an analysis that is being prepared for the Steering Committee, preliminary data from a study for the Department of the Treasury indicate that the additional cost to government of compliance with Regulation E as proposed could be between \$120 million to \$826 million annually, with the most likely costs of \$498 million. Such cost increases would preclude State and Federal expansion of current EBT programs an could cause termination of some, if not all, programs.

We oppose implementation of Regulation E as proposed by the Board on February 16, 1993 based on the recommendations of the EBT Steering Committee which is composed of senior Federal program policy officials who have given a great deal of deliberation to the issue and who are accountable for the management of federal programs. We believe that the preliminary data shows that States and the Federal government would be exposed to an expense that will seriously limit the potential for EBT in the future. In addition we believe there are significant differences between program beneficiaries and a regular bank customer. OMB urges the Board to exercise its authority under the Electronic Funds Transfer Act (EFTA) to prescribe regulations that consider the economic impact on beneficiaries, State and Federal governments, and other participants.

DIFFERENCES BETWEEN BENEFICIARIES AND BANKED CONSUMERS

The EFTA is intended to protect consumers when EFT services are made available to them. The plastic EBT card gives the beneficiary more choices on where and when to withdraw cash. However, they are not "shopping" for benefits as a customer would shop for a bank card. Benefits are only received from one payment source. Furthermore, regular banking EFT services are not necessarily being "made available" to them. In fact, these beneficiaries may be required to access benefits through EBT in the future. These differences make necessary protections that are different from, and in many ways, greater than, those afforded by Regulation E. The EFTA assumes a contractual relationship between the consumer and the bank, as evident in the provisions for disclosure of terms and conditions of electronic funds transfers (15 USC 1693c(a)). Under EBT, beneficiaries do not enter into contracts with either banks or agencies governing terms and conditions of transfers.

EBT offers great potential benefits to recipients—alleviating the stigma of welfare experienced in grocery checkout lines when presenting food coupons, eliminating check cashing fees, allowing beneficiaries to become proficient with a technology useful in the working world, and eliminating the hazard of carrying cash after cashing a check. Surveys of beneficiaries show overwhelming preference for EBT over checks. The desire to access benefits through this technology is so strong that in at least one locality individual beneficiaries and the private sector are working, without government assistance, to implement EBT.

Individual benefit programs also offer significant protections to beneficiaries that are far greater than any protections afforded by financial institutions to consumers:

Access to funds by eligible beneficiary is a right guaranteed by law and is not conditioned on any prior abuses. Eligibility is based on need.

Improper withdrawals can only be coupled in a way that protects economic interest of beneficiary. For example, reductions of future benefits are strictly limited to 10 percent per month in AFDC.

If beneficiary contests an adverse action, extensive administrative apparatus supports the appeal at no cost to the beneficiary.

OMB RECOMMENDATIONS

The Federal Reserve Board has requested comment on whether modifications to Regulation E for EBT beyond those proposed should be considered. OMB specific recommendations are enclosed.

We recommend that the Board create some exceptions in Regulation E for EBT programs. In summary, we believe the Board has authority under the EFTA to prescribe regulations that provide exceptions for any class of electronic funds transfer that would effectuate the purposes of the EFTA. We believe that the Steering Committee proposal, taken together with existing protections in individual program requirements, establish the rights, liabilities, and responsibilities of participants in EBT programs and are primarily directed to protecting and enhancing the rights of individual beneficiaries.

OMB joins with the Federal Reserve Board in its commitment to protect the rights of individuals in this emerging technology. We look forward to continued progress on this governmentwide initiative.

Sincerely,

ALICE M. RIVLIN,
Deputy Director.

Opponents of this action argue that by exempting EBT cards from the electronic Funds Transfer Act discriminates against the poor. This argument misses two important differences between EBT and ATM cards. First, ATM access is a service that banks give with discretion, and can withdraw. States cannot deny recipients access to benefits. If there is abuse of the system, the State's only alternative is to operate dual systems, thus decreasing the efficiency gains of EBT. Second, EBT extends to recipients greater protection of their benefits than checks or coupons. If stolen, the card can't be used without the pin number. And, recipients are less likely to have all their cash stolen. With checks they must receive all the cash at once, and usually pay a fee for cashing the check. With EBT cards they can withdraw only what they need, and transaction costs are covered by the contract between the State and the bank.

Others suggest that the concern with fraud if EBT is covered by Regulation E unfairly impugns the character of the recipients. That is not so. It only says that they are like everyone else—a small portion will participate in fraudulent activities to the expense of all the rest. One of the major criminal problems with ATM cards, according to the Secret Service, is fraud involving Regulation E protection. An individual can sell his or her ATM card, and as long as the price is greater than \$50, everyone wins but the bank. The Secret Service knows this type of fraud occurs, but proving it is very difficult. States rightly fear that similar fraud will occur with EBT.

Earlier this month the Vice President issued the first report from the EBT task force and called for nation-

wide implementation. Without passage of this legislation, that goal will never be reached. When the Federal Reserve was considering this issue, 40 governors wrote in opposition. The National Association of State Auditors, Comptrollers, and Treasurers; The American Public Welfare Association, the National Association of Counties, the National Conference of State Legislatures, and the National Governors' Association wrote jointly to Vice President GORE and to Chairman Greenspan opposing the application of Regulation E to EBT.

The Federal Reserve has made a mistake. We in Congress now need to act to ensure that benefits cards can become a reality. I urge my colleagues to enact this bill promptly.

I ask unanimous consent that a copy of the bill and letters be printed in the RECORD.

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

S. 131

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

SECTION 1. ELECTRONIC BENEFIT TRANSFERS.

Section 904(d) of the Electronic Fund Transfer Act (15 U.S.C. 1693(d)) is amended—

(1) by inserting "(1)" after "(d)"; and

(2) by adding at the end the following new paragraph:

"(2)(A) The disclosures, protections, responsibilities, and remedies created by this title or any rules, regulations, or orders issued by the Board in accordance with this title, do not apply to an electronic benefit transfer program established under State or local law, or administered by a State or local government, unless payment under such program is made directly into a consumer's account held by the recipient.

"(B) Subparagraph (A) does not apply to employment related payments, including salaries, pension, retirement, or unemployment benefits established by Federal, State, or local governments.

"(C) Nothing in subparagraph (A) alters the protections of benefits established by any Federal, State, or local law, or preempts the application of any State or local law.

"(D) For purposes of subparagraph (A), an electronic benefit transfer program is a program under which a Federal, State, or local government agency distributes needs-tested benefits by establishing accounts to be accessed by recipients electronically, such as through automated teller machines, or point-of-sale terminals. A program established for the purpose of enforcing the support obligations owed by absent parents to their children and the custodial parents with whom the children are living is not an electronic benefit transfer program."

GOVERNOR PETE WILSON,
September 15, 1994.

Hon. JOSEPH I. LIEBERMAN,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

DEAR JOE LIEBERMAN: I am writing to give my support to your proposed legislation to exempt Electronic Benefit Transfer (EBT) programs from the Electronic Funds Transfer Act, Specifically from the Federal Reserve's Regulation E.

California cannot assume the unknown fiscal liability that accompanies subjecting EBT programs to Regulation E, which includes a requirement to replace lost or sto-

len benefits. The State has begun development of a pilot EBT project, but Regulation E greatly increases our potential liability, jeopardizing our ability to meet federal cost neutrality requirements and making EBT economically infeasible, thus, thwarting further development within our state.

I recognize EBT as a tool to help the states provide efficient and effective social welfare programs, and am committed to working with you to resolve the concerns raised by the application of Regulation E to EBT programs.

Sincerely,

PETE WILSON.

STATE OF OKLAHOMA,
OFFICE OF THE GOVERNOR,
June 10, 1994.

Hon. JOSEPH LIBERMAN,
Chairman, Governmental Affairs Subcommittee
on Regulation and Governmental Information,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

DEAR SENATOR LIEBERMAN: I am writing in support of your legislation to exempt electronic benefits transfer (EBT) from the Electronic Funds Transfer Act (EFTA). The prompt passage of this legislation is needed to ensure that EBT becomes a reality in Oklahoma.

Electronic benefits transfer is the future of government benefit distribution. The advantages for recipients and government entities have been studied and validated. The pending implementation of Regulation E in March 1997, will be an irresponsible act in light of the consequences anticipated in liability costs to the states. If Regulation E is implemented, the nationwide costs for replacing food stamps is estimated in excess of \$800 million a year. Estimates are not available for the numerous money payments anticipated for EBT distribution. Current federal regulations provide ample protection to the consumer recipients, in addition to the known advantages of receiving benefits electronically.

Oklahoma is leading a multi-state southwest regional team in procuring an EBT system to distribute food stamps and money payments. This month, the Oklahoma Department of Human Services will publish a Request for Information to be distributed to potential bidders to inform them of our unique approach to procurement, and to provide the opportunity to comment on the proposed system design. We plan to publish a Request for Bids in September 1994 to hire a vendor to provide EBT services. Oklahoma has been working toward this goal for five years. Our investment in EBT is an investment in fiscal responsibility. Please feel free to call Dee Fones (405) 521-3533 if you have any questions or if we can be of further assistance in helping to pass this legislation.

Sincerely,

DAVID WALTERS.

STATE OF WYOMING,
OFFICE OF THE GOVERNOR,
June 21, 1994.

Hon. JOSEPH LIEBERMAN,
Chairman, Government Affairs Subcommittee on
Regulation and Government Information,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

DEAR SENATOR LIEBERMAN: We are writing to you to express full support for your leadership in proceeding with legislation to exempt electronic benefits transfer (EBT) from the Electronic Funds Transfer Act (EFTA), including exception from the Regulation E (Reg E) provision.

Wyoming is developing an off-line smart card system solution to deliver state and federal benefits. Wyoming's first phase is to

conduct a federally approved combined Food Stamp and WIC Supplemental Food Program Demonstration Pilot. As this approach uses off-line distributive technology in contrast to traditional on-line magnetic stripe banking technology, we propose that smart card technology should be exempt as benefits are in the hands of the client/user and not controlled by a mainframe bank processor.

The application of Reg E to EBT represents a major transfer of liability that states are not prepared to embrace. One estimate suggests that for Food Stamps alone, the liability losses could be \$800 million each year.

Of greatest concern is the faulty premise of the Federal Reserve Board. The assumption in applying EFTA to EBT is that the bank/customer relationship in the private sector is analogous to the government/recipient relationship in the public sector. This assumption is false because public assistance recipients are entitled to benefit and must be served. Banks market their services for profits. They get to choose the customers they serve.

Second, customers of government benefit programs are given a card to access and manage their benefits, but they do not own the account and cannot deposit additional resources to the account. Further, banks charge fees to cover the costs of maintaining bank accounts, including complying with Regulation E.

Finally, Congress set up benefit programs like Food Stamps, AFDC and WIC to achieve a public safety net to assure health and welfare for all citizens. States will never be able to apply Regulation E to these programs like banks apply the Regulation because the goals of the relationship with the client/user are fundamentally different.

Once again, thank you for your leadership on this important issue.

Sincerely,

MIKE SULLIVAN,
Governor.

DAVE FERRARI,
State Auditor.

STATE OF LOUISIANA,
OFFICE OF THE GOVERNOR,
June 28, 1994.

Hon. JOSEPH LIEBERMAN,
Chairman, Governmental Affairs Subcommittee
on Regulation and Government Information,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

DEAR SENATOR LIEBERMAN: I am writing in support of your legislation to exempt electronic benefits transfer (EBT) from the Electronic Funds Transfer Act (EFTA). This legislation is needed to ensure the future electronic delivery of governmental entitlement benefits in Louisiana.

Electronic benefits transfer as a method of distribution of government benefits has proven to be viable and secure. Although entitlement programs have been granted exemption from Regulation E until 1997, this regulation threatens the development and growth of EBT because of anticipated liability to the states. Estimated losses to the states could exceed \$1.5 billion a year if Regulation E is implemented in March 1997.

Louisiana is participating in a joint venture with other states in the southwest region in procuring an EBT system to distribute AFDC and food stamp benefits. Proposals from bidders will be solicited in September 1994. Implementation of EBT is an investment that is responsible administratively in addition to being beneficial to recipients. Your efforts in securing the future of EBT are appreciated.

Sincerely,

EDWIN W. EDWARDS.

STATE OF MINNESOTA,
WASHINGTON OFFICE,
Washington, DC, June 29, 1994.

Hon. JOSEPH I. LIEBERMAN,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR LIEBERMAN: I am writing in support of legislation you plan to introduce which would exempt welfare benefit programs from provisions of the Electronic Funds Transfer Act. Without such an exemption, plans to expand Minnesota's statewide Electronic Benefits System (EBS) would be halted.

As you know, the Federal Reserve Board recently ruled that welfare programs using electronic benefit issuance are subject to the consumer protection provisions of Regulation E under the Electronic Funds Act. Welfare programs have been exempted from Regulation E since 1987. Under the new Federal Reserve Board ruling, as of March, 1997, the regulation will be applied.

Minnesota cannot accept the unknown liability inherent in applying Regulation E to benefit programs. The cost of replacing benefits should a card become lost or stolen would fall strictly on the state under this rule, even for the share of the benefit which is federally funded.

Your legislation, if enacted, would permit Minnesota and other states to move forward with developing electronic benefit transfer (EBT) systems which will help state and federal government improve service delivery of welfare benefits to the client.

Warmest regards,

ARNE H. CARLSON,
Governor.

NATIONAL ASSOCIATION OF STATE
AUDITORS, COMPTROLLERS AND
TREASURERS,
May 20, 1994.

Hon. JOSEPH I. LIEBERMAN,
Chairman, Subcommittee on Regulation and
Government Information, Committee on
Governmental Affairs, U.S. Senate, Hart
Senate Office Building, Washington DC.

DEAR SENATOR LIEBERMAN: I am writing in support of your legislation to exclude Electronic Benefit Transfer (EBT) programs from the Electronic Fund Transfer Act. The National Association of State Auditors, Comptrollers and Treasurers (NASACT) supports the establishment of EBT programs, but opposes the decisions of the Board of Governors of the Federal Reserve of March 1994 to apply the liability provisions of Regulation E, which implements the Electronic Fund Transfer Act, to these programs.

Regulation E governs the relationship between a financial institution and its customers. This is a decidedly different relationship from that which exists between a government and benefit recipients. Regulation E is a "show stopper" for EBT. By requiring governments to replace all but \$50 of a benefit that a recipient claims has been lost or stolen, it would change the current policy for benefit replacement and make EBT too expensive to implement. While we support consumer protection and training programs for recipients participating in EBT programs, we believe that the protections provided under Regulation E are inappropriate in a government EBT environment.

Simply stated, governments are not banks. Banks market their services to specific customers whose business will generate increased profits. Banks can choose not to serve customers. Governments, on the other hand, must serve recipients that are entitled to benefits. While banks charge fees or surcharges to cover the cost of maintaining bank accounts—including the cost of Regulation E—governments do not charge recipients to participate in public assistance programs. In addition, unlike banking cus-

tomers, government benefit recipients do not establish individual accounts, they do not own the accounts, they cannot deposit funds into the accounts and they cannot write checks against the accounts.

I want to commend you for introducing legislation addressing this important issue. Your legislation will help assure that governments can improve service delivery without experiencing undue liability. As the legislation progresses, you may want to consider a technical amendment to clarify the scope of the bill. For instance, it might be helpful to more fully explain the meaning of the term "general assistance." NASACT will, of course, be happy to assist you and your staff in any way possible.

Sincerely,

DOUGLAS R. NORTON,
President.

AMERICAN PUBLIC
WELFARE ASSOCIATION,
May 25, 1994.

Hon. JOSEPH LIEBERMAN,
Chairman, Governmental Affairs Subcommittee
on Regulation and Government Information,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

DEAR SENATOR LIEBERMAN: I am writing to give full support to your legislation to exempt electronic benefits transfer (EBT) from the Electronic Funds Transfer Act (EFTA), including from its Regulation E (Reg E) provision.

Across the country, human service agencies are moving toward making EBT a reality for the people they serve. Unfortunately, as you know, the Federal Reserve Board decided on March 7, 1994 to apply Reg E to EBT starting in March, 1997, requiring the issuer of an electronic transfer card to replace all but \$50 of any benefits that are lost or stolen. The Board's decision to apply banking law to EBT expands the liability of government and taxpayers regarding benefit replacement, creating a drastic change in current social policy. Furthermore, making card issuers responsible for benefit replacement shifts costs from the federal domain to the states, creating a new unfunded mandate. Financial estimates conclude that the costs to government and taxpayers for replacing food stamps alone under this ruling could run in excess of \$800 million a year. This estimate does not include the potential costs associated with replacing other benefits that can be transferred electronically, such as AFDC, child support, General Assistance, WIC, and SSI.

Indeed, the Federal Reserve Board's decision effectively will impede state EBT activity due to the prohibitive costs associated with replacing lost or unauthorized transfers of government benefits. Currently, the regulations of the Food Stamp Program (a 100% federally-funded program) prohibit replacing food coupons, unless coupons were not received in the mail, were stolen from the mail, or were destroyed in a "household misfortune." Current AFDC regulations prohibit replacing the federal portion of the amount of an AFDC benefit check unless the initial check has been voided or, if cashed, the federal portion has been refunded (AFDC is jointly funded by federal and state governments). These policies have provided adequate client protection in the past, and when combined with the added safeguard of a properly-used EBT card with a PIN number, would continue offering adequate protections.

In an era when government is striving—both due to necessity and public demand—to deliver services that cut or contain costs rather than provide opportunities for increased costs, Regulation E not only

dampens but may thwart state efforts to benefit from EBT. In fact, in a federal government attempt to have states or localities currently operating EBT programs test the costs associated with the regulation, no state has yet come forward to volunteer for the pilot test due to the financial and political risk.

As the national representative of the 30 cabinet-level state human service departments, hundreds of local public welfare agencies, and thousands of individuals concerned about achieving efficient and effective social welfare policy, APWA is quite concerned about finding a solution that will allow progress on EBT. Our members are the innovators and visionaries bringing EBT to clients at the state and local levels. They are the people who deliver the government benefits such as food stamps, AFDC, child support, and medicaid and are committed to working with you to find a solution to the barrier Reg E presents.

Sincere thanks to you for taking the critical steps needed to mitigate the impact of the Board's decision. We look forward to working with you to help pass this legislation quickly. Please feel free to call either me or Kelly Thompson at 202-682-0100.

Sincerely,

A. SIDNEY JOHNSON III,
Executive Director.

NATIONAL ASSOCIATION
OF COUNTIES,
Washington, DC, June 29, 1994.

Hon. JOSEPH I. LIEBERMAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR LIEBERMAN: The National Association of Counties (NACo) strongly supports the draft legislation that you have recently released exempting electronic funds and benefits delivery system programs established by federal, state or local government agencies from the provisions of Regulation E of the Electronic Fund Transfer Act.

EBT/EFT offers numerous advantages to both the issuing agency and the recipient. Government agencies will save substantial administrative and production costs, as well as costs associated with fraud. Recipients will have the benefit of a secure delivery system, and a more dignified method of receiving public assistance. Also, retail establishments would save the time and money involved in manually processing Food Stamps and vouchers. In all, EBT/EFT benefits everyone, especially the taxpayers.

Presently, numerous counties in six states are operating EBT/EFT programs in various stages of development. Many other counties are considering EBT/EFT implementation, but are reserving initiating a system until the issue of liability under Regulation E of the EFTA is resolved. For many counties, the application of Regulation E would effectively make initiating an electronic delivery system economically unfeasible through the violation of the cost neutrality requirement.

It is also the position of NACo that the consumer rights of welfare and Food Stamp recipients, which appears to be the major concern of the Federal Reserve Board of Governors and the driving force behind their push for Regulation E's application, are protected under extensive federal rules in the authorizing statutes and program regulations. Application of Regulation E would be duplicative in some cases, and costly in all cases.

For these reasons, NACo supports your draft bill excluding government EBT/EFT programs and looks forward to working with you as this bill moves through the legislative process. Please do not hesitate to contact Marilina Sanz, Associate Legislative Director for Human Services and Education at

NACo on 202-942-4260 should you have any questions.

Sincerely,

LARRY E. NAAKE,
Executive Director.

NATIONAL GOVERNORS' ASSOCIATION,
October 4, 1994.

Hon. JOSEPH I. LIEBERMAN,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

DEAR SENATOR LIEBERMAN: We are writing in strong support of legislation that you are introducing to exempt certain electronic benefit transfer programs from the Electronic Funds Transfer Act.

As you know, Governors have been leaders in using technology to improve the delivery of services to the public through such initiatives as distance learning, telemedicine, and electronic benefit transfer (EBT). States and localities have been exploring for over a decade the potential of EBT for providing clients with more convenient and safer access to benefits and for improving the ability of states to manage programs and prevent fraud. More recently, Vice President Albert Gore has promoted nationwide EBT for some federal benefit programs in the near future as part of his Reinventing Government initiative.

Progress toward wider use of EBT has been slowed, however, by the Federal Reserve Board's decision last March to apply Regulation E of the Electronic Funds Transfer Act to EBT programs. This Federal Reserve decision essentially changed federal social policy by creating a new entitlement to replacement of lost or stolen welfare benefits for EBT clients—a new entitlement benefit that clients who receive those same welfare benefits in cash or coupons do not have. Estimates of the cost of this new benefit vary widely but range as high as \$800 million annually.

While the Board's decision created this new entitlement benefit, it did not address how this benefit would be financed. To date the federal government has refused to commit to reimburse states for the EBT benefit replacement costs of even those welfare benefits that are entirely federally financed, such as food stamps. This is true despite the fact that most of the administrative savings from EBT accrue to the federal government, not to the states.

Governors are not opposed to consumer protections for EBT clients. If the consumer protections of Regulation E are applied to EBT programs, however, we believe that Congress must recognize that this is a new entitlement benefit and act accordingly to fund it. Otherwise it will become an unfunded mandate on the states, and Governors will have little choice but to halt their efforts toward creating EBT systems for welfare clients.

If Congress is not able to fund this new entitlement benefit, then we believe that the only alternative is to make it clear that clients who receive welfare benefits through EBT are entitled to the same protections as clients who receive benefits in cash or in coupons—no more, no less. That is exactly what your legislation would do. We believe your bill addresses the following problems created by the Federal Reserve Board decision:

Inequitable treatment of clients—The bill ensures that clients have the same rights and responsibilities regardless of whether their welfare benefits are delivered by check, by coupon or electronically.

Unfunded mandates on states and localities—The bill eliminates the unfunded mandate for states and localities to replace lost or stolen EBT benefits even when the original benefit was entirely federally funded.

Loss of EBT as a viable means of delivering welfare benefits—The bill will remove the Regulation E roadblock to nationwide EBT by making it financially possible for Governors to proceed with EBT to the benefit of clients and federal, state and local governments.

We recognize that there may be other ways to address these problems but all of these other means would necessarily involve some unknown new cost because they would create some level of new entitlement to benefit replacement. Until Governors have a commitment from the federal government to assume the costs of any new EBT entitlement benefits, your bill's exemption approach is the only solution that we can support.

Sincerely,

GOV. MEL CARNAHAN,
Chair, Human Resources Committee.
GOV. ARNE H. CARLSON,
Vice Chair, Human Resources Committee.

ELECTRONIC FUNDS
TRANSFER ASSOCIATION,
October 4, 1994.

Hon. JOSEPH LIEBERMAN,
Chairman, Governmental Affairs Subcommittee on Regulation and Government Information, U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR LIEBERMAN: On behalf of the Board of Directors of the Electronic Funds Transfer Association (EFTA), I wish to express support for your legislation to exempt electronic benefits transfer (EBT) from Regulation E (Reg E) of the Electronic Funds Transfer Act (EFT Act).

The Federal Reserve Board has declared its intention to apply Reg E to EBT starting in March 1997. Under the provisions of the regulation, the issuer of an EBT card will be required to replace all but \$50 of any benefits that are lost or stolen. The replacement costs have delayed indefinitely the implementation of EBT programs in several states, including California. States cannot pass their fraud costs to benefits recipients; they must be borne by taxpayers, who are looking to EBT to cut delivery costs, not increase them. Financial estimates conclude that costs to government and taxpayers for replacing benefits may run as high as \$800 million per year. Currently, the state of Maryland (and possibly others) is considering pursuing legal action against the Federal Reserve Board for regulating a matter that is not within its purview. EFTA agrees with this assessment and believes the three year delay in implementation provides the opportunity for Congress to resolve this matter.

On August 1, 1994, EFTA filed comments with the Federal Reserve Board of Governors in response to the proposed revisions of Reg E. We indicated that the imposition of Reg E's liability and error resolution rules will terminate EBT programs in many states and will substantially delay progress of many other important EBT initiatives. As a fiscal and political matter, states are unwilling to undertake responsibility for liabilities of an undetermined value. If EBT fails to develop, benefits recipients will be substantially disadvantaged. They will not obtain the advantages of convenience, security, speed and dignity that EBT can offer.

EFTA has become a strong advocate of EBT over the past several years, advising the Office of Technology Assessment (OTA) and the Federal EBT Task Force of the myriad benefits associated with EBT. Like Vice President Gore, EFTA's goal is to utilize the current ATM/POS infrastructure in order to facilitate the electronic delivery of federal and state benefits nationwide. However, as Dale Brown, Director of the Maryland statewide EBT project indicated, applying the regulation would be a "show stopper." Ms.

Brown estimates that Maryland could inherit a potential liability of several million dollars. EFTA members include government agencies, EFT processors and networks, card issuers and manufacturers, as well as financial institutions. With a significant increase in costs due to benefit replacement, EBT would no longer be a viable venture for these stakeholders.

EFTA would be pleased to work with you to help pass this legislation. In addition, we offer our assistance in crafting language that would further protect recipients whose benefits have been lost or stolen, while minimizing the opportunities for fraud that currently threaten fledgling EBT programs across the country.

We thank you for your thoughtful analysis and interest in such a significant issue. If EFTA can be of any help in this matter please do not hesitate to call at 703-435-9800.

Sincerely,

H. KURT HELWIG,
Acting President & CEO,
Director, Government Relations.

DEPARTMENT OF PUBLIC
SOCIAL SERVICES,
April 15, 1994.

Mr. WILLIAM LUDWIG,
Administrator, Food and Nutrition Service,
Alexandria, VA.

DEAR BILL: For more than 4 years San Bernardino County has attempted to bring Electronic Benefit Transfer (EBT), not only to our County, but to the entire State of California. Now, as we submit the attached Request for Proposal (RFP), after overcoming many hurdles and after finally being named as the EBT Pilot County for California, yet another mountain stands in our way. That mountain is the Federal Reserve Board's ruling that Regulation E does apply to EBT.

The San Bernardino County Board of Supervisors and I have made EBT a high priority. Besides being a cost-effective use of new technology, it is the best of all worlds (an occurrence not often seen in today's world of government bureaucracy). EBT holds the promise of being more cost effective than our current Food Stamp distribution system, it is also less costly for grocers and is generally viewed favorably by recipients for a number of reasons, not the least of which is having to access their benefits only as they use them.

REGULATION E IMPACT

First, I am not aware of any written definitive statement of shares of cost of Regulation E by any federal agency, in particular FNS or ACF. I have heard verbal statements from FNS that our County Cost cap, which EBT can not exceed, may dictate that all Regulation E costs above that cap must be borne 100% by the state or local government—in our case San Bernardino County.

I cannot, in good conscience, recommend to my Board of Supervisors, a contract which includes an unknown liability for Regulation E. To do so is tantamount to asking them to sign a blank check.

Therefore, with the concurrence of the California Welfare Director's Association, the County of San Diego and the California Department of Social Service, I must put you on notice that our EBT RFP will not be released until we receive a written Federal commitment for relief from the unknown liability of Regulation E, such as assurance that we will not be responsible for any Regulation E costs above our cap.

As you are aware, San Bernardino, a number of other California counties and the State have been committed to bringing EBT to California and, therefore, the above statement was arrived at only after a great deal

of debate and discussion with all affected parties. However, an immediate resolution to the Regulation E cost-sharing issue could resolve this and allow us to move forward.

As always, I and my staff will make ourselves available for any discussion that you think will be helpful in our pursuit of EBT for San Bernardino County and, therefore, California.

Sincerely

JOHN F. MICHAELSON,
Director.

By Mr. MOYNIHAN (for himself
and Mr. INOUE):

S. 132. A bill to require a separate, unclassified statement of the aggregate amount of budget outlays for intelligence activities; to the Committee on Governmental Affairs.

THE DISCLOSURE OF THE AGGREGATE INTELLIGENCE BUDGET ACT OF 1995

Mr. MOYNIHAN. Mr. President, Congress has never met its obligation under the "Statement of Account Clause" of the Constitution (Article I, Section 9, Clause 7) which states:

No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

I rise to point out that Congress has failed to provide the American public with any account of expenditures on intelligence activities. I stress that Congress has failed to satisfy this clause because, although the Executive may have an opinion as to the desirability of disclosing the aggregate amount spent on intelligence, the Supreme Court decided in *United States v. Richardson*, (418 U.S. 166, 178 n. 11) that "it is clear that Congress has plenary power to exact any reporting and accounting it considers appropriate in the public interest." Thus it falls to us to provide a proper accounting of the disbursements of Government funds spent on intelligence activities.

The Framers of the Constitution were no strangers to intelligence work and the importance of secrecy in carrying out certain functions of the State. During the Revolutionary War the Colonies formed Committees of Safety which were charged with security and counterintelligence, and separate Committees of Correspondence which were responsible for securing communication between the Colonies and our allies in Europe. At the end of the War, George Washington submitted a bill for reimbursement of \$17,617 for intelligence expenses incurred during the war. No small sum at that time.

The first part of the Statement and Account Clause, "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law;" was part of an early draft of the Constitution. The second part of the clause was proposed in the final week of the Constitutional Convention (September 14, 1787) by George Mason, who sought an annual account of expenditures. The debate focused on how often was practicable to require such an account, not whether full disclosure was

desirable. James Madison argued that if the Constitution were to "Require too much * * * the difficulty will beget a habit of doing nothing." He then proposed to substitute "from time to time" for "annually" which was then adopted. Thus we have "and a regular Statement and Account of the Receipts and Expenditures of all Public Money shall be published from time to time."

Obviously such an ambiguous formulation of the clause gives Congress a good deal of flexibility. This was exercised from time to time to conceal military and intelligence activities when deemed necessary. Clearly it is vital that some discretion is in order. However, it is also clear that secrecy was not intended to be the norm. The clarity with which Madison understood this is expressed in a letter he wrote to Jefferson in 1793, "Perhaps it is a universal truth that the loss of liberty at home is to be charged to provisions against danger, real or pretended, from abroad."

I do not think that Justice Douglas overstated the case in his dissenting opinion in *United States v. Richardson* where he stated "Secrecy was the evil at which Article I, Section 9, Clause 7 was aimed." Since World War II and throughout the cold war we have chosen not to publish the intelligence budget.

We have won the cold war. The Soviet Union no longer exists. One then might ask, whom are we keeping the aggregate intelligence figure from? In fact, we are not keeping it from anyone and this bill will only codify what in fact has been public knowledge for several years now.

Intelligence budget figures are regularly disclosed. Often the information is leaked to the press, or inferred by close scrutiny of budget figures, and in a few cases numbers will slip out accidentally. Tim Weiner, who reports such matters for the New York Times, called the intelligence budget figure the worst-kept secret in the capital. The latest episode occurred only 2 months ago when the House Appropriations Committee mistakenly published the President's fiscal year 95 intelligence budget request. Not just the aggregate amount, mind, but a detailed account of the requested budgets for the CIA, National Foreign Intelligence Program (NFIP), and Tactical Intelligence and Related Activities (TIARA). This event underscores the point that if only a smaller amount of truly sensitive information were classified, the information could be held more securely. The aggregate intelligence budget clearly is not in that category, for we now see that the figure has been released and we are still waiting for the barbarians to storm the gates.

While we are waiting we might do well to consider how much like the barbarians we have become. James Q. Wilson, the eminent political scientist who has provided many insights into

the study of bureaucracy and its various adversarial modes, holds that organizations come to resemble the organizations they are in conflict with. This is the Iron Law of Emulation. Not an encouraging situation considering our adversary was the Kremlin for so long. We now have an opportunity to reverse some of the emulation of the closed society that was the Soviet Union by shedding some light on our own vast secrecy system.

This is vitally important given that the 104th Congress which convenes today will carefully consider and debate our budget priorities. We cannot afford to fund all we might want to. In fact Mr. President, we are broke. And so publishing the aggregate amount of intelligence expenditures becomes necessary for a truly informed public debate. We then could weigh the importance of Head Start Programs in Topeka and consider the need for agents in Tabriz. Such a debate is already difficult enough given the indications of a recent joint Kaiser/Harvard study which asked voters their impressions of the largest Federal expenses today. Apparently there is the idea that foreign aid is the second largest expense and consumes over a quarter of our budget. In fact the Congressional Budget Office tells us that foreign aid amounts to only two percent of the budget. Clearly there is enough disinformation going around. It is time for use to set the record straight when it comes to the intelligence budget. The Constitution demands it.

By Mr. MOYNIHAN;

S. 133. A bill to establish the Lower East Side Tenement Museum National Historic Site, and for other purposes; to the Committee on Energy and Natural Resources.

THE LOWER EAST SIDE TENEMENT MUSEUM
NATIONAL HISTORIC SITE ACT OF 1995

Mr. MOYNIHAN. Mr. President, I rise to introduce a bill that will authorize a small but most significant addition to the National Park system. For 150 years New York City's Lower East Side has been the most vibrant, populous, and famous immigrant neighborhood in the Nation. From the first waves of Irish and German immigrants to Italians and Eastern European Jews to the Asian, Latin, and Caribbean immigrants arriving today, the Lower East Side has provided millions their first American home.

For many of them that home was a brick tenement; six or so stories, no elevator, maybe no plumbing, maybe no windows, a business on the ground floor, and millions of our forbearers upstairs. The Nation has with great pride preserved log cabins, farm houses, and other symbols of our agrarian roots. We have recently reopened Ellis Island to commemorate and display the first stop for 12 million immigrants who arrived in New York City. Until now we have not preserved a sample of urban, working class life as part of the immigrant experience. For many of those who disembarked on Ellis Island the

next stop was a tenement on the Lower East Side, such as the one at 97 Orchard Street. It is here that the lower East Side Tenement Museum will show us what that next stop was like.

The tenement at 97 Orchard was built in the 1860s, during the first phase of tenement construction. It provided housing for 20 families on a plot of land planned for a single family residence. Each floor has four three-room apartments, each of which had two windows in one of the rooms and none in the others. The privies were out back, as was the spigot that provided water for everyone. The public bathhouse was down the street.

In 1900 this block was the most crowded per acre on earth. Conditions improved after the passage of the New York Tenement House Act of 1901, though the crowding remained. Two toilets were installed on each floor. A skylight was installed over the stairway and interior windows were cut in the walls to allow some light throughout each apartment. For the first time the ground floor became commercial space. In 1918 electricity was installed. Further improvements were mandated in 1935, but the owner chose to board the building up rather than follow the new regulations. It remained boarded up for 60 years until the idea of a museum took hold.

The Tenement Museum will keep at least one apartment in the dilapidated condition in which it was found when reopened, to show visitors the process of urban archaeology. Others will be restored to show how real families lived at different periods in the building's history. At a nearby site there will be interpretive programs to better explain the larger experience of gaining a foothold on America in the Lower East Side of New York.

There are also plans for programmatic ties with Ellis Island and its precursor, Castle Clinton. And the museum plans to play an active role in the immigrant community around it, further integrating the past and present immigrant experience on the Lower East Side.

This bill designates the Tenement Museum a national historic site. It authorizes the Secretary of the Interior to acquire the site or to enter into cooperative agreements with the museum. Such agreements could include technical or financial assistance to help restore, operate, maintain, or interpret the site. Agreements can also be made with the Statute of Liberty/Ellis Island and Castle Clinton to help with the interpretation of life as an immigrant. It will be a productive partnership.

Mr. President, I believe the Tenement Museum provides an outstanding opportunity to preserve and present an important stage of the immigrant experience and the move for social change in our cities at the turn of the century. I know of no better place than 97 Orchard Street to do so, and no other place in the National Park system doing so already. I look forward to

the realization of this grand idea, and I ask my colleagues for their support.

I ask that the bill be printed in the RECORD.

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

S. 133

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 "Lower East Side Tenement Museum National Historic Site Act of 1995".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Lower East Side Tenement Museum at 97 Orchard Street is an outstanding survivor of the vast number of humble buildings that housed immigrants to New York City during the greatest wave of immigration in American history;

(2) the Museum is well suited to represent a profound social movement involving great numbers of unexceptional but courageous people;

(3) no single identifiable neighborhood in the United States absorbed a comparable number of immigrants;

(4) the Lower East Side Tenement Museum is dedicated to interpreting immigrant life on the Lower East Side and its importance to United States history, within a neighborhood long associated with the immigrant experience in America; and

(5) the National Park Service found the Lower East Side Tenement Museum to be nationally significant, suitable, and feasible for inclusion in the National Park System.

(b) PURPOSES.—The purposes of this Act are—

(1) to ensure the preservation, maintenance, and interpretation of this site and to interpret in the site and in the surrounding neighborhood, the themes of early tenement life, the housing reform movement, and tenement architecture in the United States;

(2) to ensure the continuation of the Museum at this site, the preservation of which is necessary for the continued interpretation of the nationally significant immigrant phenomenon associated with the New York City's Lower East Side, and its role in the history of immigration to the United States; and

(3) to enhance the interpretation of the Castle Clinton National Historic Monument and Ellis Island National Historic Monument through cooperation with the Museum.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) HISTORIC SITE.—The term "historic site" means the Lower East Side Tenement Museum designated as a national historic site by section 4.

(2) MUSEUM.—The term "Museum" means the Lower East Side Tenement Museum at 97 Orchard Street, New York City, in the State of New York, and related facilities owned or operated by the Museum.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 4. ESTABLISHMENT OF HISTORIC SITE.

To further the purposes of this Act and the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935 (16 U.S.C. 461 et seq.), the Lower East Side Tenement Museum at 97 Orchard Street, in the city of New York, State of New York, is designated as a national historic site.

SEC. 5. ACQUISITION OR COOPERATIVE AGREEMENT.

(a) IN GENERAL.—The Secretary may—

(1) acquire the historic site with donated or appropriated funds; or

(2) enter into a cooperative agreement with the Lower East Side Tenement Museum to carry out this Act.

(b) TECHNICAL AND FINANCIAL ASSISTANCE.—The agreement may include provisions by which the Secretary will provide—

(1) technical assistance to mark, restore, interpret, operate, and maintain the historic site; and

(2) financial assistance to the Museum to acquire ownership of and to maintain the historic site, or to mark, interpret, and restore the historic site, including the making of preservation-related capital improvements and repairs.

(c) ADDITIONAL PROVISIONS.—The agreement may also contain provisions that—

(1) permit the Secretary, acting through the National Park Service, to have a right of access at all reasonable times to all public portions of the property covered by the agreement for the purpose of conducting visitors through the properties and interpreting the portions to the public; and

(2) prohibit changes or alterations in the properties except by mutual agreement between the Secretary and the other parties to the agreement.

SEC. 6. LAND ACQUISITION.

The Secretary may acquire properties owned, occupied, or used by the Museum, or assist the Museum in acquiring properties that the Museum occupies or uses, through the use of appropriated funds, donation, or purchase with donated funds.

SEC. 7. APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

By Mr. MOYNIHAN:

S. 134. A bill to provide for the acquisition of certain lands formerly occupied by the Franklin D. Roosevelt family, and for other purposes; to the Committee on Energy and Natural Resources.

THE HYDE PARK ACT OF 1995

Mr. MOYNIHAN Mr. President, I rise to introduce a bill which would authorize the Secretary of the Interior to purchase land that belonged to President Roosevelt and his family members at the time of his death. His estate at Hyde Park was declared a National Historic Site in 1944. At the time it included some 1,200 acres. Since then some parcels have been sold, and currently the site has only 480 acres.

Hyde Park was the lifelong residence of President Roosevelt. It is inextricably linked with his place in history and his legacy. The list of prominent Americans and foreign leaders who visited there is enormous. That the National Park Service has been preserving and protecting Hyde Park for us is a great blessing. Now there is the opportunity to acquire 40 acres known as Roosevelt Cove, the land between the estate and the Hudson. It was the only view of the river and its bluffs from the estate, though years of inattention have allowed the view to be obscured, by trees.

This bill would allow the Park Service to purchase the tract, to restore the integrity of the view towards the river for visitors to Hyde Park. This would

be a significant addition to the site, a great improvement over the current situation. The parcel is now threatened with development, which would spoil the setting irrevocably. We need this authorization while the opportunity exists. Dutchess County is growing, and the pressure on such a river location will only increase.

Mr. President, I ask that my fellow Senators support this bill in recognition of its importance to Hyde Park. Roosevelt Cove was an integral part of FDR's estate, and should be part of it once again. The Park Service is now authorized to acquire the land only through donation. This is not likely to happen. But the cost of the parcel is not great. Neither is our window of opportunity. I ask your support for the restoration of a crucial part of FDR's home for the thousands of visitors that come each year. We will have their thanks.

I ask 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. 134

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

SECTION 1. ACQUISITION OF ROOSEVELT FAMILY LANDS.

(a) IN GENERAL.—

(1) GENERAL AUTHORITY.—The Secretary of the Interior (referred to in this section as the "Secretary") may acquire, by purchase with donated or appropriated funds, donation, or otherwise, lands and interests in land (including development rights and easements) in the properties located at Hyde Park, New York, that were owned by Franklin D. Roosevelt or his family at the time of his death, as depicted on the map entitled "Roosevelt Family Estate" and dated November 19, 1993.

(2) LIMITATIONS.—

(A) RESIDENTIAL PROPERTY.—The Secretary may only acquire those residential properties on the lands and interests in land depicted on the map referred to in subsection (a) that were owned or occupied by Franklin D. Roosevelt or his family, including his parents, siblings, wife, and children.

(B) STATE LANDS.—Lands and interests in land depicted on the map referred to in subsection (a) that are owned by the State of New York, or a political subdivision of the State, may only be acquired by donation.

(3) PRIORITY.—In acquiring lands and interests in land pursuant to this section, the Secretary shall, to the extent practicable, give priority to acquiring the tract of lands commonly known as the "Open Park Hodhome Tract", as generally depicted on the map referred to in subsection (a).

(4) COSTS.—The Secretary may pay the costs, including the costs of title searches and surveys, associated with the acquisition of lands and interests in land pursuant to this section.

(b) ADMINISTRATION.—Lands and interests in land acquired by the Secretary pursuant to this section shall be added to, and administered as part of, the Franklin Delano Roosevelt National Historic Site or the Eleanor Roosevelt National Historic Site, as appropriate.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this Act.

By Mr. HATCH:

S. 135. A bill to establish a uniform and more efficient Federal process for protecting property owners' rights guaranteed by the fifth amendment; to the Committee on the Judiciary.

THE PROPERTY RIGHTS LITIGATION RELIEF ACT OF 1995

Mr. HATCH. Mr. President, I am pleased today to introduce the "Property Rights Litigation Relief Act of 1995." This Act is designed to protect private property from Federal Government intrusion. The citizens of Utah understand that the right to own property is a precious fundamental right, one which is vulnerable to an overbearing Federal Government.

This bill encompasses property rights litigation reform and establishes a distinct Federal fifth amendment "takings" claim against Federal agencies by aggrieved property owners, thus clarifying the sometimes incoherent and contradictory constitutional property rights case law. It also resolves the jurisdictional dispute between the Federal district courts and the Court of Federal Claims over fifth amendment "takings" cases. The bill is a refinement of a proposal I placed in the CONGRESSIONAL RECORD on October 7, 1994.

IMPORTANCE OF PRIVATE PROPERTY

The private ownership of property is essential to a free society and is an integral part of our Judeo-Christian culture and the Western tradition of liberty and limited government. Private ownership of property and the sanctity of property rights reflects the distinction in our culture between a preexisting civil society and the State that is consequently established to promote order. Private property creates the social and economic organizations that counterbalance the power of the State by providing an alternative source of power and prestige to the State itself. It is therefore a necessary condition of liberty and prosperity.

While government is properly understood to be instituted to protect liberty within an orderly society and such liberty is commonly understood to include the right of free speech, assembly, religious exercise and other rights such as those enumerated in the Bill of Rights, it is all too often forgotten that the right of private ownership of property is also a critical component of liberty. To the 17th century English political philosopher, John Locke, who greatly influenced the Founders of our Republic, the very role of government is to protect property: "The great and chief end therefore, on Men uniting into Commonwealths, and putting themselves under Government, is the preservation of their property." [J. Locke, Second Treatise ch. 9, §124, in J. Locke, Two Treatises of Government (1698)]. the Framers of our Constitution likewise viewed the function of government as one of fostering individual liberties through the protection of property interests. James Madison, termed the "Father of the Constitution," unhesitatingly endorsed this Lockean

viewpoint when he wrote in *The Federalist* No. 54 that “[government] is instituted no less for the protection of property, than of the persons of individuals.” Indeed, to Madison, the private possession of property was viewed as a natural and individual right both to be protected against government encroachment and to be protected by government against others.

To be sure, the private ownership of property was not considered absolute. Property owners could not exercise their rights as a nuisance that harmed their neighbors, and government could use, what was termed in the 18th century, its “despotic power” of eminent domain to seize property for public use. Justice, it became to be believed, required compensation for the property taken by government. The earliest example of a compensation requirement is found in chapter 28 of the *Magna Carta* of 1215, which reads, “No constable or other baliff of ours shall take corn or other provisions from anyone without immediately tendering money therefor unless he can have postponement thereof by permission of the seller.” But the record of English and colonial compensation for taken property was spotty at best, although it has been argued by some historians and legal scholars that compensation for takings of property became recognized as customary practice during the American colonial period. [See W. Stoebeck, “A General Theory of Eminent Domain,” 47 *Wash. L. Rev.* 53 (1972)].

Nevertheless, by American independence the compensation requirement was considered a necessary restraint on arbitrary governmental seizures of property. The Vermont Constitution of 1777, the Massachusetts Constitution of 1780, and the Northwest Ordinance of 1787, recognized that compensation must be paid whenever property was taken for general public use or for public exigencies. And although accounts of the 1791 congressional debate over the Bill of Rights provide no evidence over why a public use and just compensation requirement for takings of private property was eventually included in the fifth amendment, James Madison, the author of the fifth amendment, reflected the views of other supporters of the new Constitution who feared the example to the new Congress of uncompensated seizures of property for building of roads and forgiveness of debts by radical state legislatures. Consequently, the phrase “[n]or shall private property be taken for public use, without just compensation” was included within the fifth amendment to the Constitution.

THE MODERN THREAT TO PROPERTY RIGHTS

Despite this historical pedigree and the constitutional requirement for the protection of property rights, the America of the mid and late 20th century has witnessed an explosion of Federal regulation of society that has jeopardized the private ownership of property with the consequent loss of

individual liberty. Indeed, the most recent estimate of the direct (that is, not counting indirect costs such as higher consumer prices) cost of Federal regulation was \$857 billion for 1992. Today, the cost to the society probably is approaching \$1 trillion. According to economist Paul Craig Roberts, the number of laws Americans are forced to endure has risen a staggering 3000 percent since the turn of the century. Every day the Federal Register grows by an incredible 200 pages, containing new rules and obligations imposed on the American people by supposedly their government.

Furthermore, even the very concept of private property is under attack. Indeed, certain environmental activists have termed private property an “out-moded concept” which presents an “impediment” to the Federal Government’s resolution of society’s problems. It is this type of thinking that has led regulators, in the rush of governmental social engineering, to ignore individual rights. Here are just a few of the hundreds—if not thousands—of examples that occur nationwide:

Ocie Mills, a Florida builder, and his son were sent to prison for 2 years for violating the Clean Water Act for placing sand on a quarter-acre lot he owned;

Under this same Act, a small Oregon school district faced a Federal lawsuit for dumping clean fill to build a baseball-soccer field for its students and had to spend thousands of dollars to remove the fill;

Ronald Angelocci was jailed for violating the Clean Water Act for dumping several truckloads of dirt in the backyard of his Michigan home to help a family member who had acute asthma and allergies aggravated by plants in the backyard; and

A retired couple in the Poconos, after obtaining the necessary permits to build their home was informed by the Army Corps of Engineers—4 years later—that they built their home on wetlands and faced penalties of \$50,000 a day if they did not restore most of the land to its natural state.

[See B. Bovard, *Lost Rights*, 35 (1994); N. Marzulla, “The Government’s War on Property Rights,” *Defenders of Property Rights* (1994)].

CURRENT PROTECTION OF PROPERTY RIGHTS FALL SHORT

Judicial protection of property rights against the regulatory state has been both inconsistent and ineffective. Physical invasions and government seizures of property have been fairly easy for courts to analyze as a species of eminent domain, not so the effect of regulations which either diminish the value of the property or appropriate a property interest. This key problem to the regulatory takings dilemma was recognized by Justice Oliver Wendell Holmes in *Pennsylvania Coal Co. v. Mahon*, 260 U.S. 393 (1922). Just how do courts determine when regulation amounts to a taking? Holmes’ answer, “if regulation goes too far it will be

recognized as a taking,” 260 U.S. at 415, is nothing more than an *ipse dixit*. In the 73 years since *Mahon*, the Court has eschewed any set formula for determining how far is too far, preferring to engage in ad hoc factual inquiries, such as the three-part test made famous by *Penn Central Transportation Co. v. City of New York*, 438 U.S. 104 (1978), which balances the economic impact of the regulation on property and the character of the regulation against specific restrictions on investment-backed expectations of the property owner.

Despite the valiant attempt by the Rehnquist Court to clarify regulatory takings analysis in *Nollan v. California Coastal Comm’n*, 483 U.S. 825 (1987), *Lucas v. South Carolina Coastal Council*, 112 S.Ct. 2886 (1992), and in its recent decision of *Dolan v. City of Tigard*, No. 93-518 (June 24, 1994), takings analysis is basically incoherent and confusing and applied by lower courts haphazardly. The incremental, fact-specific approach that courts now must employ in the absence of adequate statutory language to vindicate property rights under the fifth amendment thus has been ineffective and costly. There is, accordingly, a need for Congress to clarify the law by providing “bright line” standards and an effective remedy. As Chief Judge Loren A. Smith of the Court of Federal Claims, the court responsible for administering takings claims against the United States, opined in *Bowles v. United States*, 31 Fed. Cl. 37 (1994), “[j]udicial decisions are far less sensitive to societal problems than the law and policy made by the political branches of our great constitutional system. At best courts sketch the outlines of individual rights, they cannot hope to fill in the portrait of wise and just social and economic policy.”

This incoherence and confusion over the substance of takings claims is matched by the muddle over jurisdiction of property rights claims. The “Tucker Act,” which waives the sovereign immunity of the United States by granting the Court of Federal Claims jurisdiction to entertain monetary claims against the United States, actually complicates the ability of a property owner to vindicate the right to just compensation for a government action that has caused a taking. The law currently forces a property owner to elect between equitable relief in the Federal district and monetary relief in the Court of Federal Claims. Further difficulty arises when the law is used by the government to urge dismissal in the district court on the ground that the plaintiff should seek just compensation in the Court of Federal Claims, and is used to urge dismissal in the Court of Federal Claims on the ground that plaintiff should first seek equitable relief in the district court. This “Tucker Act shuffle” is aggravated by section 1500 of the Tucker Act, which denies the Court of Federal Claims jurisdiction to entertain a suit which is pending in another court and

brought by the same plaintiff. Section 1500 is so poorly drafted and has brought so many hardships, that Justice Stevens, in *Keene Corporation v. United States*, 113 S.Ct. 2035, 2048 (1993), has called for its repeal or amendment.

The Property Rights Litigation Relief Act addresses these problems. In terms of classifying the substance of takings claims, it first clearly defines property interests that are subject to the Act's takings analysis. In this way a "floor" definition of property is established by which the Federal Government may not eviscerate. This Act also establishes the elements of a takings claim by codifying and clarifying the holdings of the *Nollan*, *Lucas*, and *Dolan* cases. For instance, *Dolan's* "rough proportionality" test is interpreted to apply to all exaction situations whereby an owner's otherwise lawful right to use property is exacted as a condition for granting a Federal permit. And a distinction is drawn between a noncompensable mere diminution of value of property as a result of Federal regulation and a compensable "partial" taking, which is defined as any agency action that diminishes the fair market value of the affected property by the lesser of either 20 percent or more, or \$10,000 or greater. The result of drawing these "bright lines" will not end fact specific litigation, which is endemic to all law suits, but it will ameliorate the ever increasing ad hoc and arbitrary nature of takings claims.

The Act also resolves the jurisdictional confusion over takings claims. Because property owners should be able fully to recover for a taking in one court, the Tucker Act is amended giving both the district courts and the Court of Federal Claims concurrent jurisdiction to hear all claims relating to property rights. Furthermore, to resolve any further jurisdictional ambiguity, section 1500 of the Tucker Act is repealed.

Finally, I want to respond to any suggestion that may arise that this Act will impede Government's ability to protect the environment or promote health and safety through regulation. This legislation does not emasculate the government's ability to prevent individuals or businesses from polluting. It is well established that the Constitution only protects a right to reasonable use of property. All property owners are subject to prior restraints on the use of their property, such as nuisance laws which prevents owners from using their property in a manner that interferes with others. The government has always been able to prevent harmful or noxious uses of property without being obligated to compensate the property owner, as long as the limitations on the use of property inhere in the title itself. In other words, the restrictions must be based on background principles of State property and nuisance law already extant. The Act codifies this principle in a nuisance exception

to the requirement of the Government to pay compensation.

Nor does the Act hinder the Government's ability to protect public health and safety. The Act simply does not obstruct the Government from acting to prevent imminent harm to the public safety or health or diminish what would be considered a public nuisance. Again, this is made clear in the provisions of the Act that exempts nuisance from compensation. What the Act does is force the Federal Government to pay compensation to those who are singled out to pay for regulation that benefits the entire public. In other words, it does not prevent regulation, but fulfills the promise of the fifth amendment, which the Supreme Court in *Armstrong v. United States*, 364 U.S. 40, 49 (1960), opined is "to bar Government from forcing some people alone to bear public burdens, which in all fairness and justice, should be borne by the public as a whole."

I invite all Senators to join me in sponsoring this legislation.

By Mr. THURMOND:

S. 136. A bill to amend title 1 of the United States Code to clarify the effect and application of legislation; to the Committee on the Judiciary.

THE EFFECT AND APPLICATION OF LEGISLATION
ACT OF 1995

Mr. THURMOND. Mr. President, I introduce S. 136 today and ask unanimous consent to have it printed in the RECORD.

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

S. 136

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

SECTION 1. CLARIFICATION OF THE EFFECT AND APPLICATION OF LEGISLATION.

(a) IN GENERAL.—Chapter 1 of title 1 of the United States Code is amended by adding at the end thereof the following:

"§ 7. Rules of application and effect of legislation

"Any Act of Congress enacted after the effective date of this section—

"(1) shall be prospective in application only;

"(2) shall not create a private claim or cause of action; and

"(3) shall not preempt the law of any State,

unless a provision of the Act specifies otherwise by express reference to the paragraph of this section intended to be negated."

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 1 of title 1, United States Code, is amended by adding at the end thereof the following:

"7. Rules for application and effect of legislation."

(c) EFFECTIVE DATE.—The amendments made by this Act shall take effect 180 days after the date of enactment of this Act.

Mr. President, I rise today to introduce an act to clarify the application and effect of legislation in order to reduce uncertainty and confusion which is often caused by congressional enactments. This act would provide that unless future legislation specified otherwise, new enactments would be applied

prospectively, would not create private rights of action, and would not preempt existing State law. This would significantly reduce unnecessary litigation and court costs, and would benefit both the public and the judicial system.

The purpose of this legislation is quite simple. Many congressional enactments do not expressly state whether the legislation is to be applied retroactively, whether it creates private rights of action, or whether it preempts existing State law. The failure or inability of the Congress to address these issues in each piece of legislation results in unnecessary confusion and litigation and contributes to the high cost of litigation in this country.

In the absence of action by the Congress on these critical threshold questions of retroactivity, private rights of action and preemption, the outcome is left up to the courts. The courts are frequently required to resolve these matters without any guidance from the legislation itself. Although these issues are generally raised early in the litigation, a decision that the litigation can proceed generally cannot be appealed until the end of the case. If the appellate court eventually rules that one of these issues should have prevented the trial, the litigants have been put to substantial burden and unnecessary expense which could have been avoided.

Trial courts around the country often reach conflicting and inconsistent results on these issues, as do appellate courts when the issues are appealed. As a result, many of these cases are eventually resolved by the Supreme Court. This problem was dramatically illustrated after the passage of the Civil Rights Act of 1991. District courts and courts of appeal all over this Nation were required to resolve whether the 1991 Act should be applied retroactively, and the issue was ultimately considered by the United States Supreme Court. But by the time the Supreme Court resolved the issue in 1994, well over 100 lower courts had ruled on this question, and their decisions were split. Countless litigants across the country expended substantial resources debating this threshold procedural issue.

In the same way, the issues of whether new legislation creates a private right of action or preempts State law are frequently presented in courts around the country, yielding expensive litigation and conflicting results.

The bill I am introducing today would eliminate this problem by providing a presumption that, unless future legislation specifies otherwise, new legislation is not to be applied retroactively, does not create a private right of action, and does not preempt State law. Of course, my bill does not in any way restrict the Congress on these important issues. The Congress may override this presumption by simply referring to this act when it wishes legislation to be retroactive, create

new private rights of action or preempt existing State law.

My act will eliminate uncertainty and provide rules which are applicable when the Congress fails to specify its position on these important issues in legislation it passes. Although it is difficult to obtain statistics on this issue, one United States District judge in my State informs me that he spends up to 10 to 15 percent of his time on these issues. Regardless of the precise figure, it is clear that this legislation would save litigants and our judicial system millions and millions of dollars by avoiding much uncertainty and litigation which currently exists over these issues.

Mr. President, if we are truly concerned about reducing the costs of litigation and relieving the backlog of cases in our courts, we should help our judicial system to spend its limited resources, time and effort on resolving the merits of disputes, rather than deciding these preliminary matters.

I sent the bill to the desk and ask unanimous consent that it be printed in the RECORD in its entirety immediately following my remarks.

By Mr. BRADLEY (for himself, Mr. CAMPBELL, Mr. COATS and Mr. ROBB):

S. 137. A bill to create a legislative item veto by requiring separate enrollment of items in appropriations bills and tax expenditure provisions in revenue bills; to the Committee on Rules and Administration.

THE TAX EXPENDITURE AND LEGISLATIVE APPROPRIATIONS LINE-ITEM VETO ACT OF 1995

Mr. BRADLEY. Mr. President, we begin this Congress with two obligations: first, to change the way we do business, and, second, to cut government spending. Reforms that have been bottled up for years in partisan finger-pointing need to be released and must become our first priorities. Both the Congress and White House must learn to say no: no to unnecessary programs, no to those Members who would build monuments to themselves, and a firm no to those lobbyists who would work every angle to slip special provisions into the tax code that benefit a wealthy few and cost every other American millions. For decades, Presidents of both parties have insisted that the deficit would be lower if they had the power to say no, in the form of the line item veto.

I rise to introduce the Tax Expenditure and Legislative Appropriations Line Item Veto Act of 1995, legislation that, if enacted, would grant the President the power to say no. In sponsoring this legislation, I urge our colleagues in both the Senate and House of Representatives to pass a line item veto that covers spending in both appropriations and tax bills. Any line item veto that fails to give the President the ability to prevent additional loopholes from entering the tax code only does half the job.

Although I did not support the line item veto when I initially joined the Senate, I watched for twelve years as the deficit quintupled, shameless porkbarrel projects persisted in appropriations and tax bills, and our Presidents again and again denied responsibility for the decisions that led to these devastating trends. Therefore, in 1992, I decided that it was time to change the rules.

Rather than simply joining one of the appropriations line item veto bills then in existence, I felt that we needed to be honest about the fact that for each example of unnecessary, special-interest pork-barrel spending through an appropriations bill, there are similar examples of such spending buried in tax bills. The tax code provides special exceptions from taxes that total over \$400 billion a year, more than the entire federal deficit. For every \$2.48 million, earmarked in an appropriations bill, to teach civilian marksmanship skills, there is a \$300 million special provision allowing wealthy taxpayers to rent their homes for two weeks without having to report any income. For every \$150,000 appropriated for acoustical pest control studies in Oxford, Mississippi, there is a \$2.9 billion special tax exemption for ethanol fuel production. As a member of the Finance Committee, I have seen an almost endless stream of requests for preferential treatment through the tax code, including special depreciation schedules for rental tuxedos, an exemption from fuel excise taxes for crop-dusters, and tax credits for clean-fuel vehicles.

In singling out these pork-barrel projects, I do not mean to pass judgment on their merits. However, because these provisions single out narrow subclasses for benefit, the rest of us must pay more in taxes. Therefore, I have developed an alternative that would authorize the President to veto wasteful spending not just in appropriations bills but also in the tax code.

If the President had the power to excise special interest spending, but only in appropriations we would simply find the special interest lobbyists who work appropriations turning themselves into tax lobbyists, pushing for the same spending in the tax code. Spending is spending whether it comes in the form of a government check, or in the form of a special exception from the tax rates that apply to everyone else. Tax spending does not, as some pretend, simply allow people to keep more of what they have earned. It gives them a special exception from the rules that oblige everyone to share in the responsibility of our national defense and protecting the young, the aged, and the infirm. The only way to let everyone keep more of what they have earned is to minimize these tax expenditures along with appropriated spending and the burden of the national debt so that we can bring down tax rates fairly, for everyone. Therefore, Mr. President, I urge all of our colleagues, particularly

those in leadership positions in the Senate and House of Representatives, to pass a line item veto bill that includes both appropriations and tax provisions.

Although it is true that the line-item veto would give the President more power than our founders probably envisioned, there is also truth in the conclusion of the National Economic Commission in 1989 that the balance of power on budget issues has swung too far from the Executive toward the Legislative branch. There is no tool to precisely calibrate this balance of power, but if we have to swing a little too far in one direction or another, at this critical moment, we should lean toward giving the President the power that he, and other Presidents, have said they need to control wasteful spending. We have a right to expect that the President will use this power for the good of all.

I also agree with the more recent economic commission chaired by my colleagues, Senators DOMENICI and NUNN, that a line-item veto is not in itself deficit reduction. But if the President is willing to use it, it is the appropriate tool to cut a certain kind of wasteful spending—the pork-barrel projects that tend to crop up in appropriations and tax bills. Presidential leadership can eliminate these projects when Congress, for institutional reasons, usually cannot. Individual Senators and Representatives, who must represent their own local interests, find it difficult to challenge their colleagues on behalf of the general interest.

Pork-barrel spending on appropriations and taxes is only one of the types of spending that drive up the deficit, and is certainly not as large as the entitlements for broad categories of the population that we are starting to tackle. But until we control these expenditures for the few, we cannot ask for shared sacrifice from the many who benefit from entitlements, or the many who pay taxes.

The particular legislation that I am introducing today is identical to a bill I introduced in the 103d Congress and is modeled on a bill my colleague Senator HOLLINGS has introduced in several Congresses. I want to thank and commend Senator HOLLINGS for working so hard to develop a workable line item veto strategy, one that goes beyond political demagoguery to the real question of how to limit spending. This bill will require that each line item in any appropriations bill and any bill affecting revenues be enrolled as a separate bill after it is passed by Congress, so that the President can sign the full bill or single out individual items to sign and veto. It differs from other bills in that it avoids obvious constitutional obstacles and in that it applies to spending through the tax code as well as appropriated spending.

Although I acknowledge that separate enrollment, especially separate

enrollment of appropriations provisions, may prove difficult at times, in the face of a debt rapidly approaching \$5 trillion, I do not believe that we have the luxury of shying away from making difficult decisions. If, because of our appropriations process, we are unable to easily disaggregate appropriations into individual spending items for the President's consideration, then, rather than throw out this line item veto proposal, I believe that we should reconsider how we appropriate the funds that are entrusted to us.

The legislation that I am proposing would remain in effect for just 2 years. That period should constitute a real test of the idea. First, it will provide enough time for the Federal courts to address any questions about whether this approach is constitutionally sound, or if a constitutional amendment is necessary. Only courts can answer this question, which is in dispute among legal scholars. Second, we should have formal process to determine whether the line item veto works as intended: Did it contribute to significant deficit reduction? Did the President use it judiciously to cut special-interest spending, or, as some worry, did he use it to blackmail members of Congress into supporting his own special interest expenditures? Did it alter the balance of power over spending, either restoring the balance or shifting it too far in the other direction?

As the recent elections amply demonstrated, the American people have no more patience for finger-pointing or excuses. We can no longer tolerate a deficit that saps our economic strength while politicians in Washington insist that it's someone else who really has the power to spend or cut spending. This President or any other must have no excuses for failing to lead.

I list Mr. CAMPBELL, Mr. COATS, and Mr. ROBB as original sponsors of this legislation.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 138. A bill to amend the Act commonly referred to as the "Johnson Act" to limit the authority of States to regulate gambling devices on vessels; to the Committee on Commerce, Science, and Transportation.

LEGISLATION AMENDING THE "JOHNSON ACT"
RELATING TO CRUISE SHIPS

• Mrs. BOXER. Mr. President, today Senator FEINSTEIN and I are introducing legislation to make a technical amendment to the law passed by the 102d Congress to allow gambling on U.S.-flag cruise ships and to allow States to permit or prohibit gambling on ships involved in intrastate cruises only.

This bill is essential to restoring California's cruise ship industry which has lost more than \$250 million in tourist revenue last year and hundreds of jobs. Many California cruise ship companies have bypassed second and third ports of call within California. Ships

which used to call at Catalina and San Diego after departing Los Angeles en route to Mexico no longer make those interim stops. According to industry estimates, San Diego alone has lost more than 104 cruise ship port calls last year—66 percent of its cruise ship business. The State's share of the global cruise ship business has dropped from 10 percent to 7 percent at the same time growth in the cruise ship business overall has climbed 10 percent a year.

Historically, gambling has been prohibited aboard U.S.-flag cruise ships, putting them in a competitive disadvantage in the growing and lucrative cruise ship business where foreign-flagged vessels calling at U.S. ports have had no such restriction. In order to level the playing field, Congress in 1992 amended the Johnson Act, the 1951 law outlawing the transportation of gambling devices from State to State, to allow gambling on U.S.-flag cruise ships. At the same time, Congress provided that States could pass their own laws allowing or prohibiting gambling on intrastate cruises.

The California Legislature, in an effort to prohibit gambling-only type cruises, subsequently passed legislation prohibiting ships with gambling devices from making multiple ports of call within the State. The legislature also was concerned that without such action to expressly prohibit gambling on intrastate cruises, the State could be required to permit certain gambling enterprises by Indian tribes under the Indian Gaming Act. Some Indian tribes contended that if the State permitted casino gambling on the high seas between State ports of call, then it should also permit full-fledged casino gambling within the State. California's efforts to prohibit gambling "cruises to nowhere" have had the effect of prohibiting gambling on cruise ships traveling between California ports, even if part of an interstate or international journey. In effect, a cruise ship traveling from Los Angeles to San Diego could no longer open its casinos, even in international waters. But if the ship bypassed San Diego and sailed directly to a foreign port, it could open its casinos as soon as it was in international waters.

My legislation would resolve this problem by allowing a cruise ship with gambling devices to make multiple ports of call in one state and still be considered to be on an interstate or international voyage for purposes of the Johnson Act, if the ship reaches out-of-State or foreign port within 3 days. The legislation should alleviate California's concern regarding the Indian gaming law by removing such voyages from its jurisdiction and it should allow the California cruise ship industry to continue to make multiple ports of call in the State.

Gambling operations still would only be permitted in international waters. The effect would expand only the nongambling aspects of cruise ship

tourism by permitting more ports of call within the State. California is the only State affected by this bill because it is the only State which responded to the 1992 changes to the Johnson Act and enacted a State law to prohibit gambling.

Specifically, my legislation adds a new subparagraph to the Johnson Act, providing that a state prohibition does not apply on a voyage or segment of a voyage that: first, begins and ends in the same State; second, is part of a voyage to another State or country; and third, reaches the other State or country within 3 days after leaving the State in which it begins. The legislation does not affect a voyage or segment of a voyage that occurs within the boundaries of the State of Hawaii.

I urge my colleagues to support this legislation to overcome this serious impediment to California's tourism industry, the top industry of the State. I also urge prompt consideration of this bill in order to forestall further loss of jobs and revenue to California in the coming cruise ship season.

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

S. 138

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

SECTION 1. LIMITATION ON AUTHORITY OF STATES TO REGULATE GAMBLING DEVICES ON VESSELS.

Subsection (b)(2) of section 5 of the Act of January 2, 1951 (commonly referred to as the "Johnson Act") (64 Stat. 1135, chapter 1194; 15 U.S.C. 1175), is amended by adding at the end the following new subparagraph:

"(C) EXCLUSION OF CERTAIN VOYAGES AND SEGMENTS.—Except for a voyage or segment of a voyage that occurs within the boundaries of the State of Hawaii, a voyage or segment of a voyage is not described in subparagraph (B) if such voyage or segment includes or consists of a segment—

"(i) that begins and ends in the same State;

"(ii) that is part of a voyage to another State or to a foreign country; and

"(iii) in which the vessel reaches the other State or foreign country within 3 days after leaving the State in which such segment begins."•

• Mrs. FEINSTEIN. Mr. President, I am pleased to cosponsor Senator BOXER's legislation that is critical to the ports of California. Ports are a vital component of the infrastructure of those States located along the coasts of this country. Commercial cruises are an important contributor to the well-being of our ports, and are critical to the economies of a number of port cities in California.

In 1993, the Johnson Act was amended to allowing gaming on U.S.-flag cruise ships with the provision that States could regulate gambling on intrastate cruises. Since that time, California has passed a law prohibiting gambling on intrastate cruises for reasons that were in fact unrelated to the cruise industry. Because of California's coast line is so long, cruise ships with onboard gaming are unable to make

more than one port of call in the state without being subject to State regulation.

Consequently, cruise ships bypass cities where they would otherwise stop, with a detrimental impact resulting to those ports that are passed over. The San Diego Port of Port Commissioners estimate that San Diego alone has lost 77 cruise line calls, and \$30 million in tourism benefit. Smaller port cities such as Eureka are struggling to attract cruise vessels to bolster its economy, but will likely be bypassed by cruise lines if the lines are limited to one stop within the State.

This legislation in no way promotes the proliferation of gaming cruises. It simply allows interstate cruises with onboard gaming, that would otherwise be allowed to make one stop within a State's borders, to make additional stops within that State as part of a longer voyage.

What this legislation will do is provide an important economic boost to port cities in California, and we urge its quick consideration and passage.●

By Ms. SNOWE:

S. 139. A bill to provide that no State or local government shall be obligated to take any action required by Federal law enacted after the date of the enactment of this Act unless the expenses of such government in taking such action are funded by the United States; to the Committee on Governmental Affairs.

UNFUNDED MANDATES LEGISLATION

● Ms. SNOWE. Mr. President, today marks a day of historic opportunity for all Americans. On November 8th, a message was delivered to Congress by the citizens of Bangor, ME and San Luis Obispo, CA—residents of International Falls, MN and Corpus Christi, TX. The message was simple: change the manner in which Congress does business and change the course our nation has taken.

Ironically, many people thought this same message delivered in 1992—but most Americans believe it fell on deaf ears once it reached the Beltway. Congress continued to pursue legislative efforts that were either out of sync with the American people or ran in direct opposition to their demands. I heard the message from the citizens of Maine loud and clear and recognize that my election is revocable trust. If we fail to respond to the message of the electorate now, the trust which has been placed in our hands will be taken away from us and placed in the hands of others. I intend to treat that trust with humility and respect.

The legislation which I first introduced in 1991 and am introducing again today strikes at the heart of what it is Americans don't like about the way Congress does business and it is a necessary step toward regaining the trust of the American people. The people are tired of a Government that shows reckless disregard for responsibility and accountability—the people are tired of unfunded mandates.

In recent years, Congress has approved measures that require State and local governments to provide certain services and meet certain standards. At the same time it has approved this legislation, Congress has neglected to provide adequate federal funds for States and localities to meet these mandates. We must, as a fundamental matter of responsibility, ensure that the costs of mandates are reasonably capable of being met by other levels of government. Assuming that the State and local governments have the funds to foot the bill is not responsible policy.

The costs of existing mandates are staggering. In the State of Maine, the two most intrusive and expensive mandates are the Safe Drinking Water Act and Clean Water Act. It is estimated that the citizens of my state will be forced to pay \$1.5 billion to comply with these two mandates alone. While the intentions of these laws are not malicious—the effects of these unfunded mandates are devastating to local communities.

The Combined Sewer Overflow (CSO) mandate contained in the Clean Water Act will cost the communities of Maine more than \$960 million to correct. In the City of Lewiston, \$35 million will buy a small improvement in water quality, while Auburn will spend \$10 million for the same limited end. The CSO requirement in Augusta, Maine may cost as much as \$100 million and would produce an average sewer bill of more than \$1,500 annually for 30 years. Finally, the residents of Oakland, Maine will see their water rates increase by 174 percent in 1995—all as a result of the Act.

My bill directly addresses the essence of the problem. It would prohibit the Government from imposing requirements on States and local governments that did not include funding to meet the costs. Quite simply, it would end unfunded mandates. This legislation represents a comprehensive and straight-forward effort on the part of the Federal Government to live up to its responsibility to provide resources for programs it requires States and municipalities to implement.

Mr. President, the impression exists among many State and local officials that the Federal Government, no longer satisfied with simply bankrupting itself, is determined to bankrupt their governments. We know that is not our goal, and we can take a simple step to make that clear: end unfunded mandates. We have it within our prerogative to do so. And I hope that Congress will see fit now to end these unfair requirements.

I urge my colleagues to join me in co-sponsoring this vital legislation. The American people demand responsibility and accountability—now, we need to recommit ourselves to the task of accomplishing it.●

By Mrs. KASSEBAUM (for herself, Mr. BENNETT and Mr. BROWN):

S. 140. A bill to shift financial responsibility for providing welfare assistance to the States and shift financial responsibility for providing medical assistance under title XIX of the Social Security Act to the Federal Government, and for other purposes; to the Committee on Finance.

THE WELFARE AND MEDICAID RESPONSIBILITY EXCHANGE ACT OF 1995

Mrs. KASSEBAUM. Mr. President, I rise today to introduce the Welfare and Medicaid Responsibility Exchange Act of 1995 with Senator BENNETT and Senator BROWN. When I introduced this legislation last year, debate about welfare reform was just beginning. That debate has moved to the top of the charts in both congress and the media.

The history of our repeated attempts to reform welfare demonstrates that good intentions never guarantee success. If we want to succeed this time, and I believe we must, then we must go beyond patchwork, piecemeal change and fundamentally rethink our approach to helping families with children.

For me, the first basic question to be addressed is not how to reform welfare but who should do the reforming. I believe a critical flaw in the present system is not only a lack of personal responsibility—it is a lack of responsibility at every level of Government.

Our largest welfare programs today are hybrids of State and Federal funding and management. The States do most of the administration, within a basic framework of Federal regulation, while the Federal Government provides most of the money. The result is a hodgepodge of State and Federal rules and regulations, conflicting eligibility and benefit standards, and constant push-and-pull between State and Federal bureaucracies.

This may suit the needs of Government bureaucracy. It clearly is not meeting the needs of children in poverty.

The first step toward real welfare reform, I believe, is to make a clear-cut decision about who will run the plan, who will have the power to make key decisions, and who will be held responsible for the outcome.

The legislation we are introducing answers that question: It would give the States complete control and responsibility for Aid to Families with Dependent Children, the Food Stamp Program, and the Women, Infants and Children Nutrition Program. In order to free State funding to meet these needs, I would have the Federal Government assume a greater share of the Medicaid Program.

This idea is fundamentally different from the block grant proposals which have been put forward. A block grant would continue to utilize Federal money with corresponding rules and regulations with which the States must comply—albeit fewer rules and more flexibility than the present system provides. But in the end it will

still be Federal funds with Federal strings.

With this legislation, the States will use their own money, and will carry the full responsibility for designing and operating a system which provides a safety net for low-income individuals and families. This draws a clear distinction between the role of the Federal Government and the States—a distinction which makes sense for two reasons:

First, giving states both the power and the responsibility for welfare—with their own money at stake—would create powerful incentives for finding more effective ways to assist families in need. Nearly half the states already are experimenting with welfare reforms. This would give them broad freedom to test new ideas.

Second, I do not think Washington can reform welfare in any meaningful, lasting way. The reality is that we cannot write a single welfare plan that makes sense for five million families in fifty different and very diverse states.

Washington does not have a magic answer to the welfare problem. The Governors and State legislators have no magic solutions either, but they have the potentially critical advantage of being closer to the people involved, closer to the problems, and closer to the day-to-day realities of making welfare work.

In this case, I believe proximity does matter, perhaps powerfully so. One of the most important factors in whether families succeed or fail is their connection to a community, to a network of support.

For some families, this is found in relatives or friends. For others, it might be a caring caseworker, a teacher or principal, a local church, a city or county official. These human connections are not something we can legislate, and they are not something that money can buy.

True welfare reform will require a renewal of local and state responsibilities for children and families in need. I believe that can only happen if the Federal Government steps aside and allows the States to get on with this work.

At the same time, the Medicaid Program is badly in need of reform. Like the largest welfare programs, responsibility for both financing and administration of Medicaid is split between the State and Federal Governments.

As a result, Medicaid is now a baffling maze of inconsistent standards and dramatic variations from State to State. The system sometimes leads to illogical, or even unfair, results. Some States will cover an infant up to 185 percent of poverty, while leaving his penniless father with no coverage at all. While most people believe that Medicaid provides a safety net for the poor, in reality it covers only half of those Americans living in poverty.

Medicaid's design has also encouraged the Federal Government to heap costly benefit and eligibility mandates on the States. These mandates have added fuel to Medicaid costs that were

already burning out of control. Medicaid costs doubled between 1989 and 1992, and have become the fastest-growing component of State budgets. The share of State revenue devoted to Medicaid has jumped from 9 percent in 1980 to nearly 20 percent today, and is expected to double again by the end of the decade.

In addition, Medicaid is virtually the only source of long-term care protection in a society that is now aging faster than at any time in its history. While elderly and disabled Americans make up only 27 percent of Medicaid beneficiaries, they consume nearly 70 percent of all Medicaid costs. These 9 million Americans represent an irreducible—and rapidly growing—group of patients whose medical expenses are often too large, and of too long duration, for anyone other than the Government to pay the bill.

The legislation I am introducing today will immediately begin addressing these problems. Later this year, I plan to introduce legislation to simplify the crazy-quilt of Medicaid eligibility standards, streamline the scope of benefits offered, and bring costs under control by transforming Medicaid into a more market-based system.

Mr. President, I ask unanimous consent that the text of the bill appear in the RECORD.

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

S. 140

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 "Welfare and Medicaid Responsibility Exchange Act of 1995".

SEC. 2. EXCHANGE OF FINANCIAL RESPONSIBILITIES FOR CERTAIN WELFARE PROGRAMS AND THE MEDICAID PROGRAM.

(a) IN GENERAL.—In exchange for the Federal funds received by a State under section 3 for fiscal years 1997, 1998, 1999, 2000, and 2001 such State shall provide cash and non-cash assistance to low income individuals in accordance with subsection (b).

(b) REQUIREMENT TO PROVIDE A CERTAIN LEVEL OF LOW INCOME ASSISTANCE.—

(1) IN GENERAL.—The amount of cash and non-cash assistance provided to low income individuals by a State for any quarter during fiscal years 1997, 1998, 1999, 2000, and 2001 shall not be less than the sum of—

(A) the amount determined under paragraph (2); and

(B) the amount determined under paragraph (3).

(2) MAINTENANCE OF EFFORT WITH RESPECT TO FEDERAL PROGRAMS TERMINATED.—

(A) QUARTER BEGINNING OCTOBER 1, 1996.—The amount determined under this paragraph for the quarter beginning October 1, 1996, is an amount equal to the sum of—

(i) one-quarter of the base expenditures determined under subparagraph (C) for the State,

(ii) the product of the amount determined under clause (i) and the estimated increase in the consumer price index (for all urban consumers, United States city average) for the preceding quarter, and

(iii) the amount that the Federal Government and the State would have expended in

the State in the quarter under the programs terminated under section 4 solely by reason of the increase in recipients which the Secretary of Health and Human Services and the Secretary of Agriculture estimate would have occurred if such programs had not been terminated.

(B) SUCCEEDING QUARTERS.—The amount determined under this paragraph for any quarter beginning on or after January 1, 1997, is an amount equal to the sum of—

(i) the amount expended by the State under subsection (a) in the preceding quarter,

(ii) the product of the amount determined under clause (i) and the estimated increase in the consumer price index (for all urban consumers, United States city average) for the preceding quarter, and

(iii) the amount that the Federal Government and the State would have expended in the State in the quarter under the programs terminated under section 4 solely by reason of the increase in recipients which the Secretary of Health and Human Services and the Secretary of Agriculture estimate would have occurred if such programs had not been terminated.

(C) DETERMINATION OF BASE AMOUNT.—The Secretary of Health and Human Services, in cooperation with the Secretary of Agriculture, shall calculate for each State an amount equal to the total Federal and State expenditures for administering and providing—

(i) aid to families with dependent children under a State plan under title IV of the Social Security Act (42 U.S.C. 601 et seq.),

(ii) benefits under the food stamp program under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), including benefits provided under section 19 of such Act (7 U.S.C. 2028), and

(iii) benefits under the special supplemental program for women, infants, and children established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786),

for the State during the 12-month period beginning on July 1, 1995.

(3) MAINTENANCE OF EFFORT WITH RESPECT TO STATE PROGRAMS.—The amount determined under this paragraph for a quarter is the amount of State expenditures for such quarter required to maintain State programs providing cash and non-cash assistance to low income individuals as such programs were in effect during the 12-month period beginning on July 1, 1995.

SEC. 3. PAYMENTS TO STATES.

(a) IN GENERAL.—The Secretary of Health and Human Services shall make quarterly payments to each State during fiscal years 1997, 1998, 1999, 2000, and 2001 in an amount equal to one-quarter of the amount determined under subsection (b) for the applicable fiscal year and such amount shall be used for the purposes described in subsection (c).

(b) PAYMENT EQUIVALENT TO FEDERAL WELFARE SAVINGS.—

(1) IN GENERAL.—The amount available to be paid to a State for a fiscal year shall be an amount equal to the amount calculated under paragraph (2) for the State.

(2) AMOUNTS AVAILABLE.—

(A) FISCAL YEAR 1997.—In fiscal year 1997, the amount available under this subsection for a State is equal to the sum of—

(i) the base amount determined under paragraph (3) for the State,

(ii) the product of the amount determined under clause (i) and the increase in the consumer price index (for all urban consumers, United States city average) for the 12-month period described in paragraph (3), and

(iii) the amount that the Federal Government and the State would have expended in

the State in fiscal year 1997 under the programs terminated under section 4 solely by reason of the increase in recipients which the Secretary of Health and Human Services and the Secretary of Agriculture estimate would have occurred if such programs had not been terminated.

(B) SUCCEEDING FISCAL YEARS.—In any succeeding fiscal year, the amount available under this subsection for a State is equal to the sum of—

(i) the amount determined under this paragraph for the State in the previous fiscal year,

(ii) the product of the amount determined under clause (i) and the estimated increase in the consumer price index (for all urban consumers, United States city average) during the previous fiscal year, and

(iii) the amount that the Federal Government and the State would have expended in the State in the fiscal year under the programs terminated under section 4 solely by reason of the increase in recipients which the Secretary of Health and Human Services and the Secretary of Agriculture estimate would have occurred if such programs had not been terminated.

(3) DETERMINATION OF BASE AMOUNT.—The Secretary of Health and Human Services, in cooperation with the Secretary of Agriculture, shall calculate the amount that the Federal Government expended for administering and providing—

(A) aid to families with dependent children under a State plan under title IV of the Social Security Act (42 U.S.C. 601 et seq.),

(B) benefits under the food stamp program under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), including benefits provided under section 19 of such Act (7 U.S.C. 2028), and

(C) benefits under the special supplemental program for women, infants, and children established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786),

in each State during the 12-month period beginning on July 1, 1995.

(c) PURPOSES FOR WHICH AMOUNTS MAY BE EXPENDED.—

(1) MEDICAID PROGRAM.—

(A) IN GENERAL.—Notwithstanding any other provision of law, during fiscal years 1997, 1998, 1999, 2000, and 2001 a State shall—

(i) except as provided in subparagraph (B), provide medical assistance under title XIX of the Social Security Act in accordance with the terms of the State's plan in effect on January 1, 1995, and

(ii) use the funds it receives under this section toward the State's financial participation for expenditures made under the plan.

(B) CHANGES IN ELIGIBILITY.—A State may change State plan requirements relating to eligibility for medical assistance under title XIX of the Social Security Act if the aggregate expenditures under such State plan for the fiscal year do not exceed the amount that would have been spent if a State plan described in subparagraph (A)(i) had been in effect during such fiscal year.

(C) WAIVER OF REQUIREMENTS.—The Secretary of Health and Human Services may grant a waiver of the requirements under subparagraphs (A)(i) and (B) if a State makes an adequate showing of need in a waiver application submitted in such manner as the Secretary determines appropriate.

(2) EXCESS.—A State that receives funds under this section that are in excess of the State's financial participation for expenditures made under the State plan for medical assistance under title XIX of the Social Security Act shall use such excess funds to provide cash and non-cash assistance for low income families.

(d) DENIAL OF PAYMENTS FOR FAILURE TO MAINTAIN EFFORT.—No payment shall be

made under subsection (a) for a quarter if a State fails to comply with the requirements of section 2(b) of the preceding quarter.

(e) ENTITLEMENT.—This section constitutes budget authority in advance of appropriations Acts, and represents the obligation of the Federal Government to provide the payments described in subsection (a).

SEC. 4. TERMINATION OF CERTAIN FEDERAL WELFARE PROGRAMS.

(a) TERMINATION.—

(1) AFDC.—Part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) is amended by adding at the end the following new section:

“TERMINATION OF AUTHORITY

“SEC. 418. The authority provided by this part shall terminate on October 1, 1996.”.

(2) JOBS.—Part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.) is amended by adding at the end the following new section:

“TERMINATION OF AUTHORITY

“SEC. 488. The authority provided by this part shall terminate on October 1, 1996.”.

(3) SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC).—Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) is amended by adding at the end the following new subsection:

“(q) The authority provided by this section shall terminate on October 1, 1996.”.

(4) FOOD STAMP PROGRAM.—The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) is amended by adding at the end the following new section:

“SEC. 24. TERMINATION OF AUTHORITY.

“The authority provided by this Act shall terminate on October 1, 1996.”.

(b) REFERENCES IN OTHER LAWS.—

(1) IN GENERAL.—Any reference in any law, regulation, document, paper, or other record of the United States to any provision that has been terminated by reason of the amendments made in subsection (a) shall, unless the context otherwise requires, be considered to be a reference to such provision, as in effect immediately before the date of the enactment of this Act.

(2) STATE PLANS.—Any reference in any law, regulation, document, paper, or other record of the United States to a State plan that has been terminated by reason of the amendments made in subsection (a), shall, unless the context otherwise requires, be considered to be a reference to such plan as in effect immediately before the date of the enactment of this Act.

SEC. 5. FEDERALIZATION OF THE MEDICAID PROGRAM.

Beginning on October 1, 2001—

(1) each State with a State plan approved under title XIX of the Social Security Act shall be relieved of financial responsibility for the medicare program under such title of such Act,

(2) the Secretary of Health and Human Services shall assume such responsibilities and continue to conduct such program in a State in any manner determined appropriate by the Secretary that is in accordance with the provisions of title XIX of the Social Security Act, and

(3) all expenditures for the program as conducted by the Secretary shall be paid by Federal funds.

SEC. 6. SECRETARIAL SUBMISSION OF LEGISLATIVE PROPOSAL FOR TECHNICAL AND CONFORMING AMENDMENTS.

The Secretary of Health and Human Services shall, within 90 days after the date of enactment of this Act, submit to the appropriate committees of Congress, a legislative proposal providing for such technical and conforming amendments in the law as are required by the provisions of this Act.

WELFARE AND MEDICAID RESPONSIBILITY EXCHANGE ACT

Mr. BROWN. Mr. President, today, the first day of the 104th Congress, Senators KASSEBAUM, BENNETT and I are introducing our bill to reform our welfare system. This bill adheres to two fundamental principles: First, welfare programs designed and administered by Washington, D.C. do not meet the needs of our citizens, and second, Federal mandates on our States cost money, create huge bureaucracies and grow without solving the problems. This bill returns to the States the responsibility to design and administer welfare programs, but it does so without Federal strings.

As Senator KASSEBAUM has described, our bill gives States complete control and responsibility for three of the largest welfare programs: Aid to Families with Dependent Children [AFDC], Food Stamps, and the Women, Infants and Children [WIC] Nutrition Program. Currently, States administer these programs under an impossibly complex, and often conflicting and contradictory, set of Federal and State rules.

To free up State funds to assume full responsibility for these programs, this proposal has the Federal Government assume more of the cost of the Medicaid Program. In the past several years, Federal mandates in the Medicaid Program have created substantial draws on State treasuries and have created a true patchwork of eligibility, benefits and administration. This bill would have the Federal Government take back more of the funding and administration of the Medicaid Program.

Under this bill, States can design their own programs to help low-income people out of poverty and off of welfare. States can develop programs to stem rising illegitimacy and encourage parental responsibility. They can set eligibility criteria to meet the needs of their State and its citizens. They can strengthen work or education requirements in their welfare programs without having to come to Washington, DC for a waiver of Federal requirements. States want this flexibility, 22 states have already gotten waivers and 26 more waivers have been requested.

My own State of Colorado has obtained one of the waivers, though it took a year for the bureaucracies here in Washington to grant it. Before Colorado came to Washington, a Republican state legislature and a Democrat governor developed the welfare reform program. The bipartisan Colorado program: limits welfare benefits for able-bodied adults after two years unless they are employed or participating in the Colorado's JOBS program; provides incentives for welfare recipients to get a high school diploma; requires AFDC parents to have their toddlers immunized against childhood diseases; and eliminates earned income and asset restrictions which have hampered AFDC recipients to become self sufficient.